CONFIDENTIAL

10 DOWNING STREET

THIS FILE MUST NOT GO OUTSIDE 10 DOWNING ST

FILE TITLE:	SERIES
ELECTIONS	CONSTITUTION
	PART 2
PART BEGINS	PART ENDS
1 OCT 2002	20 SEP 2003

CAB ONE

9 PREM 49/2945

LABOUR ADMINISTRATION

Part closed

CONFIDENTIAL

T.S.O. Order No. N0064510 3/98 C5 59064

PART

CLOSED

DATE CLOSED	20 Sept 2002

Series : **CONSTITUTION**

File Title : **ELECTIONS**

Part : **2**

Date	From	To	Subject	Class	Secret
09/10/2002	MS/DPMO	DPM	Political parties, elections and referndums act 2000; Paid time off for	U	
14/10/2002	SO	DPM	Combining Local, GLA & European Elections 2004	U	
16/10/2002	CST	ms/ODPM	& to LCD: Combinging Local,GLA and European Elections 2004	U	
16/10/2002	SS/NIO	MS/DPMO	Political parties, elections and referndums act 2000; Paid time off for	C	
17/10/2002	SS/WO	DPM	Date of elections to English local authorities and the GLA in 2004	U	
18/10/2002	SO	DPM	Political Parties, Elections & Referendums Act 2000: Paid Time off f	U	
18/10/2002	SS/WO	ms/ODPM	Political Parties, Elections and Referendums Act 2000 : Paid Time of	U	
22/10/2002	LP	DPM	Political Parties, Elections and Referendums Act	U	
22/10/2002	CST	MS/DPMO	Political Parties, Elections & Referendums Act 2000: Paid Time off f	C	
23/10/2002	MS/LCD	MWP	Combinging Local,GLA and European Elections	C	
29/10/2002	MWP	DPM	Combining Local, GLA and European Elections	U	
01/11/2002	LP	ms/ODPM	Political Parties, Elections and Referendums Act: Paid Time Off for	U	
05/11/2002	CST	SS/WO	Commission on the powers and electoral arrangements of the Nation	C	
08/11/2002	ss/dti	SS/WO	commission on the powers and electoral arrangements of the NA for	C	
12/11/2002	SS/DWP	SS/WO	Commission on the Powers and Electoral Arrangements of the Natio	U	
18/11/2002	FCS	SS/WO	Commission on the Powers and Electoral Arrangements for the Nati	U	
25/11/2002	LCD	SOC	Note about how specific legislation and generic rules will be needed	C	
27/11/2002	DPM	dpmo	Political Parties, Elections and Referendums Act: Paid Time Off for	C	
28/02/2003	ss/dti	DPM	Referendum on Elected Regional Assemblies: Appropriate Conduct	R	
10/03/2003	DPM	LP	Implications of the May 2003 devolved elections	C	
25/03/2003	MS/DPMO	LP	E-Voting	U	
11/04/2003	PUS/HO	LP	E-Voting	C	
17/04/2003	LP	ms/ODPM	Possible Legislation to Allow Electoral Pilots in European Elections	U	
24/04/2003	MWP	LP	Possible Legislation to allow electoral Pilots in European Elections	U	
24/04/2003	ms/cabinet office	LP	e-Voting	U	
24/04/2003	HS	DPM	Combining Local, GLA and European Elections 2004	U	
25/04/2003	ms/cabinet office	DPM	Combining Local, GLA and European Elections 2004	U	
28/04/2003	CST	MS/DPMO	Combining Local, GLA & European Elections 2004	U	
28/04/2003	SS/SO	DPM	Combining Local, GLA and European Elections 2004	U	
30/04/2003	ss/dfes	DPM	Combining Local, GLA and European Elections 2004	U	
02/05/2003	SS/NIO	DPM	Forthcoming Announcement of Government response to Combine E	U	
06/05/2003	ms/ODPM	LP	Possible Legislation to Allow Electoral Pilots in European Elections	U	
16/05/2003	MS/FCO	LP	Possible Legislation to allow electoral pilots in European elections	U	
16/05/2003	PD(AMc)	PM	Regional Assemblies - Referenda	R	
20/05/2003	dpmo	LCD	Pilot Scheme's at the 2004 Elections	U	
21/05/2003	ms/cabinet office	LCD	All-Postal Voting at the 2004 Elections	U	
22/05/2003	DPM	MS/DPMO	Combining Local, GLA and European Elections 2004	C	
23/05/2003	POL	PM	Election/Decision Making Structures	C	
29/05/2003	ms/cabinet office	DPM	Choosing the regions to proceed towards referendums about an elec	C	
02/06/2003	ms/ODPM	DPM	Referendums on Elected Regional Assemblies : Appropriate Conduc	U	
09/06/2003	CST	DPM	Functioning of Elections in Scotland	U	
10/06/2003	PD(AMc)	PD(AA)	Postal voting roll out	C	
23/06/2003	DCA	DPM	Piloting of innovative Voting Methods at the 2004 combined Europea	U	
23/06/2003	ms/ODPM	LGA	Implementation of revised warding arrangements in the metropolitan	U	
26/06/2003	CDL	DPM	Piloting of innovative voting methods at the 2004 combined Europea	U	
26/06/2003	DPM	MS/DPMO	Referndums on elected regional assemblies - Appropriate conduct of	U	
26/06/2003	PUS/MOD	pus/DCA	Piloting of innovative voting methods at the 2004 combined Europea	U	
27/06/2003	HS	DCA	Piloting of innovative voting methods at the 2004 combined europea	U	
30/06/2003	SS/SO	DPM	Piloting of innovative voting methods at the 2004 combined europea	U	
01/07/2003	MWP	DPM	Piloting of innovative voting methods at the 2004 combined europea	U	
02/07/2003	MS/DPMO	DPM	Piloting of innovative voting methods at the 2004 combined europea	U	

Series : **CONSTITUTION**

File Title : **ELECTIONS**

Part : **2**

Date	From	To	Subject	Class	Secret
09/07/2003	HS	PM	Campaigning - 2004 Elections	C	
15/07/2003	HMT	DPM	Piloting of Innovative Methods at the 2004 Combined European Parli	U	
18/07/2003	DPM	pus/DCA	Piloting of Innovative voting methods at 2004 cpombined European	U	
25/07/2003	SS/DCA	LPS	Electoral Administration and Reform Bill	U	
31/07/2003	odpm	CST	Piloting og Innovative voting methods at the 2004 combined Europea	U	
18/08/2003	CO	DPM	Piloting of innovative voting methods at the 2004 combined Europea	R	
10/09/2003	dpmo	LP	Electoral pilots in 04 and the governments response to the electoral	C	
12/09/2003		HOC - Leader	from Ian McCartney MP European Parliamentary and Local Election	U	
15/09/2003	SS/SO	LP	European Parliamentary and local elections Bill	U	
15/09/2003	SS/SO	LP	Electoral pilots in 2004 and Government response to electoral comm	U	
15/09/2003	CWO	LP	European Parliamentary and local elections bill	U	
15/09/2003	ms/ODPM	LP	European Parliamentary and local elections bill	U	
16/09/2003	SS/DCA	LP	Electoral pilots in 2004 and the Govts response to the electoral evalu	U	
16/09/2003	CO	HOC - Leader	Electoral Pilots in 2004 and the governments response to the elector	U	
16/09/2003	CO	HOC - Leader	European Parliamentary and local elections	U	
16/09/2003	HOC - Leader	DCA	LP Correspondence : Introduction of the European Parliamentary an	U	
16/09/2003	HOC - Leader	odpm	Electoral Pilots in 2004 and the governemtn response to the electora	R	
17/09/2003	SS/NIO	SS/DCA	European Parliamentary and Local Elections (Pilots) Bill	U	
20/09/2003	DCA	PM	Outstanding Manifeston Commitment for new systems of elections	U	
10/09/2004	pus/DCA	LP	European Parliamentary & Local Elections (Pilots) Bill	U	

Fde CS
CCJ
JJH
AA
VMC

From the Secretary of State and Lord Chancellor
The Right Honourable Lord Falconer of Thoroton

The Department for Constitutional Affairs
Selborne House
54-60 Victoria Street
London SW1E 6QW

DX 117000
Telephone: 020 7210 8380
Fax 020 7210 8597

25th Sept 2003

PRIME MINISTER

There is an outstanding manifesto commitment to review the experience of new systems of elections and the Jenkins report to assess whether changes might be made to the electoral system for the House of Commons. Now that the second set of elections to the devolved assemblies have taken place, there will be pressure to make progress. I therefore propose to begin a Departmental review, but not until the new year, when the final results of an independent review which is currently under way will be known.

You will no doubt recall our 2001 manifesto commitment to review the system for elections to Westminster in the light of the Jenkins report and the experience of the devolved legislatures. We subsequently accepted that it would not be sensible to begin any review until after last May's elections for Scotland and Wales were over. We have therefore said in answer to enquiries on the issue that no decision has yet been made on the structure or timing of any review.

In the meantime, an Independent Commission on Proportional Representation (ICPR) – a collection of electoral experts set up by the Constitution Unit at University College London and jointly chaired by David Butler and Peter Riddell - has been carrying out a review of how proportional representation has worked in the UK to date and has produced an interim report, with a final report due at the end of the year. The effect is to place the issue on the agenda and to draw attention to our commitment.

We therefore need to decide what we want to do about this. Clearly, we cannot simply ignore the commitment. But at the same time we do not want to hand the review over to a completely independent body (such as the Electoral Commission) in case they come up with unrealistic recommendations which we could not deliver.

I have therefore decided that we should set up a departmental review which would, of course, draw upon the work which has been done - and is continuing - elsewhere (for

instance, the Jenkins report, the ICPR review, and the Electoral Commission's reports on the elections to the devolved assemblies). Because some of this material will not be available until the end of the year, I propose to defer any review until after then – perhaps beginning in the new year. We can decide upon the terms of reference for the review at that stage, but in the meantime, I suggest that we respond to any queries by saying that we intend to set up a departmental review in early 2004, and that that review may take into account any previously published relevant literature.

I am copying this to Peter Hain, Alistair Darling and Paul Murphy.

LORD FALCONER
25th **September 2003**

Top: PD(CG)
cc Q
PD(AMc)

RESTRICTED - LEGISLATION

LEADER OF THE HOUSE OF COMMONS

THE RT HON PETER HAIN MP

2 Carlton Gardens LONDON SW1Y 5AA
Tel: 020 7210 1025 Fax: 020 7210 1075

Our Ref: 0019291

16 September 2003

Dear Nick,

ELECTORAL PILOTS IN 2004 AND THE GOVERNMENT RESPONSE TO THE ELECTORAL COMMISSION EVALUATION OF THE 2003 PILOTS

You wrote to me on 10 September seeking agreement to publish on the day the European Parliamentary and Local Elections (Pilots) Bill is published (17 September): a consultation paper on the detail of the proposed pilots; the terms of reference for the Electoral Commission seeking its recommendations on choice of regions; and the Government's response to the Electoral Commission's evaluation of the 2003 pilots. This letter gives you MISC 24 clearance to proceed, subject to the comments recorded below.

Responses were received from Lord Falconer, Alistair Darling, Douglas Alexander and Ian McCartney.

Charles, being in the lead on the Pilots Bill, is happy to agree. He confirms that agreement is being reached on the funding arrangements between HMT, DCA and ODPM.

Alistair agrees the proposals, suggesting that it might be useful to include a Scotland Office contact in the text of the consultation paper so that councils can seek advice - should Scotland be selected as a plot region.

Douglas supports the proposals, writing that we should not waste the opportunity that the combined European and local elections present for further piloting to demonstrate that all-postal voting can be scaled up to larger elections. He is keen to keep the electronic component on the agenda, is pleased with the Government Response to the Electoral Commission's evaluation and offers to do further work with Nick on our overall strategy for e-democracy.

Finally, Ian offers his full support.

SKP 19/9/03

RESTRICTED - LEGISLATION

LEADER OF THE HOUSE OF COMMONS

I am copying this letter to the Prime Minister, members of MISC 24 Committee and to Sir Andrew Turnbull.

PETER HAIN

Rt Hon Nick Raynsford MP
ODPM

File

NORTHERN IRELAND OFFICE
11 MILLBANK
LONDON
SW1P 4PN

Top: PD (AMc)
cc PD (CS)
Qs
PSD
PSI (PMc)

SECRETARY OF STATE
FOR
NORTHERN IRELAND

The Lord Falconer
Secretary of State
Department for Constitutional Affairs
Selborne House
54-60 Victoria Street
London
SW1E 6QW

17 September 2003

Dear Charlie,

EUROPEAN PARLIAMENTARY AND LOCAL ELECTIONS (PILOTS) BILL

I am writing in response to Chris Leslie's letter of 10 September to Peter Hain, copied to LP Committee seeking agreement to introduce the European Parliamentary and Local Elections (Pilots Bill) in the House of Commons on 17 September.

I am very sorry that you are proceeding without including our provision to change the method of filling vacancies for Northern Ireland MEP who resign or die in office.

I recognise that preparations are at an advanced stage but even so I very much hope that it will still be possible to include our provision in the Bill. I understand that you remain of the view that by including our provision it would open the Bill up to other general amendments that would endanger the Bill receiving Royal Assent in time for the planned elections next June. As I have said previously, the Northern Ireland parties at Westminster are firmly in favour of what we are proposing and will

INVESTOR IN PEOPLE

SRP 18/9/03

SOFS PRIVATE OFFICE

not endanger the progress of the Bill by laying other amendments. With regard to the other political parties including the Scottish and Welsh Nationalists, I suggest that the Government try and seek agreement from them not to lay amendments outside the main scope of the Bill. I am happy to take this forward.

This is a delicate time in our attempts to achieve lasting stability in Northern Ireland. I very much believe that this proposed provision on MEP vacancies will be of great help to us as we try to move forward. Therefore, on the premise that I will try and minimise the opportunity of widening the scope of the Bill, I should be very grateful if you would reconsider the inclusion of our provision.

I have copied this letter to the Prime Minister, members of LP Committee, Nick Raynsford, Sir Andrew Turnbull and First Parliamentary Counsel.

Yours ever,

Paul

Rt Hon Paul Murphy MP
Secretary of State for Northern Ireland

INVESTOR IN PEOPLE

Top: PSD(PMc)
✓ PSD (PMc)

Douglas Alexander MP

Minister for the Cabinet Office and
Chancellor of the Duchy of Lancaster

CABINET OFFICE
70 Whitehall
London
SW1A 2AS

Tel: **020 7276 0652**
Fax: **020 7276 0655**

The Rt Hon Peter Hain MP
Leader of the House of Commons and Secretary of State for Wales
2 Carlton Gardens
London
SW1Y 5AA

16 September 2003

Dear Peter –

ELECTORAL PILOTS IN 2004 AND THE GOVERNMENT'S RESPONSE TO THE ELECTORAL COMMISSION'S EVALUATION OF THE 2003 PILOTS

The Government has made substantial progress so far with its electoral modernisation programme. If further piloting in the combined European and local elections next year can be managed - and afforded - we should certainly not waste the opportunity they represent.

The highest priority should be to demonstrate that all-postal voting - which has succeeded quite spectacularly in the local pilots as a means of increasing turnout - can be scaled up to larger elections, and applied successfully in local authority areas which have not volunteered to trial it.

I accept that there is still time to arrange the proposed three pilots successfully, although there are undoubtedly timetable risks - particularly for the pilot in which electronic channels are to be made available. The proposed public consultation is a sensible way to identify the pitfalls, and to establish a realistic assessment of those risks. I am content that, at this stage, we should keep the electronic component on the agenda, particularly as the proposed e-pilot is being

SKP 17/9/03

presented as a postal election to which internet and telephone channels have been added. We should, however, be prepared - in the light of the consultation - to forego the electronic component if we judge that to press on would cause unacceptable risk either to the elections, or to credibility of the longer term e-voting programme.

I also endorse the terms of reference being put to the Electoral Commission. I think it is right that we ask them to recommend where pilots should be held, as we will thereby avoid suggestions that the regions are chosen for narrow party political advantage. On the other hand, it would be wrong to ask them to decide, or to consult on, the detailed arrangements for the pilots or, indeed, on their viability. That is rightly assigned to the Government's own consultation, to which the Commission can of course respond. To do otherwise would threaten the independence of their eventual evaluation of any pilots we do run.

In the light of the above observations on policy, I am satisfied that we must press ahead with the enabling legislation as soon as possible, and have written to LP accordingly.

The remaining issue is the Government Response to the Electoral Commission's evaluation of the 2003 pilots. I am content with it, and would like to comment on three aspects particularly. First, the Response broadly endorses the Commission's recommendation of a statutory assumption in favour of all-postal local elections. In view of the democratic dividend available (and providing the door is kept open for e-voting later) this must be the right direction for our policy to go. It is clear, however, that there will be substantial resource implications for local authorities, and we should therefore be careful not to will the ends without the means: a matter for the next Spending Review, I assume.

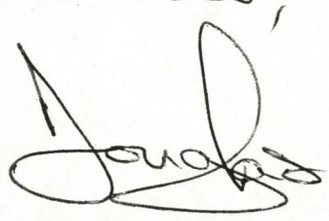
Second, I am pleased to see the response to the Commission's recommendation relating to a road map for electronic voting. It rightly refutes the idea that we are already committed to a "major IT project". It recognises instead that the e-voting field is immature and that our roadmap should focus, initially, on identifying the conditions we must establish - by piloting and otherwise - in order to take the major investment steps (which in my view is probably some years away).

Third, with the Commission's support for further pilots, we repeat our commitment to the exploration and development of e-voting with the aim of an e-enabled general election sometime after 2006. I am pleased to see that confirmation that our strategic aim remains unchanged.

Finally, Nick Raynsford's covering letter floats the idea that the next iteration of the roadmap could be presented with our (long-overdue) response to the consultation last year based on *In the service of democracy*. The two policy strands we set out there were, of course, e-voting at elections; and - through e-participation - enhancing communication and democratic engagement between elections. An approach re-consolidating our explanation of our overall strategy for e-democracy and, in the process, of achieving policy closure on the previous consultation, would have considerable merit. If we can manage it, such an approach therefore seems sensible to me. If you agree, I will ask my officials to work with Nick's to enable us to come back to the committee with a joint draft as soon as possible, with a view to publication - probably as a command paper - around the end of the year.

I am copying this letter to the Prime Minister, members of MISC24 and LP Committees and to Sir Andrew Turnbull.

Yours ever,



DOUGLAS ALEXANDER

Top: PD (AMc)
cc PD (O)
Qs
PQs (PMc)

CABINET OFFICE
70 Whitehall
London
SW1A 2AS

Douglas Alexander MP

Minister for the Cabinet Office and
Chancellor of the Duchy of Lancaster

***Tel:* 020 7276 0652**
***Fax:* 020 7276 0655**

The Rt Hon Peter Hain MP
Leader of the House of Commons and Secretary of State for Wales
2 Carlton Gardens
London
SW1Y 5AA

16 September 2003

Dear Peter

EUROPEAN PARLIAMENTARY AND LOCAL ELECTIONS (PILOTS) BILL

The Government has made substantial progress so far with its electoral modernisation programme. If further piloting in the combined European and local elections next year can be managed - and afforded - we should certainly not waste the opportunity they represent.

It is important that we maintain the momentum with regards to the piloting programme and I therefore fully support Chris Leslie's proposals for the European Parliamentary and Local Elections (Pilots) Bill and the supporting presentation and publicity arrangements surrounding its introduction.

I know that Nick Raynsford has written to you setting out proposals for the supporting arrangements for the bill, including a consultation exercise on the detail of the pilots. I have responded to these issues in a separate letter to you expressing my support for these proposals. The speedy introduction of the legislation and the supporting arrangements are vital to the Government's longer term e-democracy agenda.

Web site: www.cabinet-office.gov.uk
Email: psdalexander@cabinet-office.x.gsi.gov.uk

INVESTOR IN PEOPLE

SKP 17/9/03

I am copying this letter to the Prime Minister, members LP Committee, Nick Raynsford, Sir Andrew Turnbull and First Parliamentary Counsel.

Yours ever,

Douglas

DOUGLAS ~~ALEXANDER~~

LEADER OF THE HOUSE OF COMMONS

THE RT HON PETER HAIN MP

2 Carlton Gardens LONDON SW1Y 5AA
Tel: 020 7210 1025 Fax: 020 7210 1075

Our Ref: LP/03/222/JN

HA
cc: SSU
RL
CS
Ans.

16 September 2003

Dear Alun.

LP CORRESPONDENCE: INTRODUCTION OF THE EUROPEAN PARLIAMENTARY AND LOCAL ELECTION (PILOTS) BILL

Thank you for your letter of 10 September in which you sought LP agreement to introduce the European Parliamentary and Local Election (Pilots) Bill on 17 September.

Replies were received from Alistair Darling, Nick Raynsford, Ian McCartney and Douglas Alexander who were content for the Bill to be introduced. Bruce Grocott also replied, registering his concern that the Lords Handling Strategy does not identify potential concessions; does not take sufficient account of the likely views of the Lords Delegated Powers and Deregulation Committee on the use of the affirmative resolution for pilot orders and the disapplication of the hybrid instrument procedure from the main orders; does not set out clearly the views of the Local Government Association; and does not set out any steps to deal with the potentially controversial issues of piloting already taking place on a voluntary basis which the Bill might stop and the powers given to the Secretary of State to restrict Returning Officers.

You may therefore take it that you have LP clearance to introduce the Bill in the House of Commons on 17 September, subject to Bruce's concerns about the Lords Handling Strategy being addressed. Lords handling is of course particularly important when a bill has a demanding timetable for enactment, as this one will.

I should be grateful if your officials would keep in close touch with LP Secretariat throughout the passage of the Bill. You will of course need to approach the Committee to seek clearance for any amendments that are required during its passage. As you know, except in exceptional circumstances, LP Committee is only prepared to consider amendments that are needed in order to respond to points raised in Parliament, or to real world events.

I am copying this letter to the Prime Minister, members of LP and MISC24 Committees, Sir Andrew Turnbull, First Parliamentary Counsel.

PETER HAIN

Chris Leslie MP
Parliamentary Under-Secretary of State
Department for Constitutional Affairs

02072108362

Lufar

From the Secretary of State
The Right Honourable Lord Falconer of Thoroton

The Department for Constitutional Affairs
Selborne House
54-60 Victoria Street
London SW1E 6QW

DX 117000
Telephone: 020 7210 8380
Fax 020 7210 8597

The Rt Hon Peter Hain MP
President of the Council
Leader of the House of Commons
2 Carlton Gardens
London
SW1Y 5AA

A Mac

cc CS
AA

Dear Peter

RE: ELECTORAL PILOTS IN 2004 AND THE GOVERNMENT'S RESPONSE TO THE ELECTORAL COMMISSION'S EVALUATION OF THE 2003 PILOTS.

On 10 September 2003, Nick Raynsford wrote to you requesting MISC24's agreement to:

(a) the publication, on the same day as the European Parliamentary and Local Elections (Pilots) Bill, of a consultation paper on the detail of the proposed pilots;
(b) the terms of reference to be given to the Electoral Commission, in which the Commission's recommendations about the regions in which electoral pilots should be held during the combined elections in June 2004 and the method(s) are sought; and
(c) the Government's response to the Electoral Commission's report evaluating the 2003 pilots.

As you will be aware, the Department for Constitutional Affairs is the lead Department on the European Parliamentary and Local Elections (Pilots) Bill and has been involved in drawing up the above documents. I therefore agree to Nick's proposals.

There has been some discussion whether there was a need for the Office of the Deputy Prime Minister to produce a consultation paper, given that the Electoral Commission are consulting on the identity of regions and that in reaching their conclusions they will inevitably have to consider the mechanics of proposed pilots. It was agreed that ODPM's central/local partnership required it to do so, given the potential imposition of piloting on some local authorities. We will have to be prepared for some criticism from respondents that we are asking the same questions twice, while the Electoral Commission may feel that its own consultation is too restricted in scope. There are some further points of detail which my officials and those in ODPM are resolving but these are not of such significance as to need inclusion here.

On the subject of the Pilots Bill, you are aware that there is an ongoing discussion in relation to central funding arrangements for the pilots the Bill enables. You will be pleased to hear that discussions between HM Treasury, the Department for Constitutional Affairs and the Office of the Deputy Prime Minister are now reaching their conclusion.

I am copying this letter to the Prime Minister, members of MISC24 and LP Committees and to Sir Andrew Turnbull.

Yours

Charlie

EU par

The Rt Hon Nick Raynsford MP
Minister of State for Local and Regional Government

OFFICE OF THE DEPUTY PRIME MINISTER

26 Whitehall
London SW1A 2WH

Tel: 020 7944 3013
Fax: 020 7944 4539
E-Mail: nick.raynsford@odpm.gsi.gov.uk

Web site: www.odpm.gov.uk

The Rt. Hon. Peter Hain MP
President of the Council
Leader of the House of Commons
2 Carlton Gardens
London
SW1Y 5AA

15 SEP 2003

Attch. SW JH FL CS

Dear Peter

EUROPEAN PARLIAMENTARY AND LOCAL ELECTIONS (PILOTS) BILL

I have seen Chris Leslie's letter of 10 September seeking agreement to introduce the European Parliamentary and Local Elections (Pilots) Bill on 17 September. In the light of recent discussions on the provision of central funds for next years elections, I am now satisfied that the Bill may be introduced as drafted.

As Chris makes clear, the introduction of this Bill is dependent on the necessary central funding being found. Such funding must include cover for all extra costs to local government stemming from piloting in the combined European Parliamentary and Local Elections as required by our agreed new burdens principle.

I am grateful to colleagues for the progress that had been made in agreeing a suitable way forward on funding. Recent pilots in local elections have had a substantial effect on increasing public engagement and participation in the democratic process. This is vital to the health of our democracy. It is, therefore, important that we maintain the momentum in the forthcoming combined elections, both in regards to voter participation and in terms of building on what we have learned already.

I am copying this letter to the Prime Minster, members of LP and MISC24 Committees and to Sir Andrew Turnbull.

Yours ever

Nick

NICK RAYNSFORD

HOUSE OF LORDS

From the Government Chief Whip
House of Lords
London SW1A 0PW

Tel: 020-7219 3131

AMcG
SW
JTo
RL
CS

The Rt Hon Peter Hain MP
Leader of the House of Commons and
The President of the Council
2 Carlton Gardens
LONDON
SW1Y 5AA

15 September 2003

Dear Peter,

EUROPEAN PARLIAMENTARY AND LOCAL ELECTIONS (PILOTS) BILL

I have seen Christopher Leslie's letter of 10 September seeking LP clearance to introduce this bill. While content in principle, I would make the following observations on the Lords Handling Strategy.

Main points

First and foremost, this will be a bill in a hurry. If it is amended at all in the Lords, it will take at least a week longer to get Royal Assent. Therefore Government amendments in the Lords, and defeats in the Lords, must be averted if at all possible. This may mean making concessions at Commons remaining stages.

Para 22 refers to the Conservative proposition that pilot orders should be subject to affirmative resolution. Baroness Hanham raised this in Committee on the Local Government Bill; she did not in fact bring it back at 3rd Reading. The Liberal Democrats did not speak on the amendment in Committee, but might support it on the Pilots Bill, in which case we would be defeated. The decisive factor will probably be the view of the Lords Delegated Powers Committee (DPRRC). Therefore we must either make the orders affirmative in the first place, or make a very convincing case to the DPRRC.

Another point which might be taken by the DPRRC does not feature in the Handling Strategy at all. This concerns Clause 10(6), which disapplies hybrid instrument procedure from main orders. This means that voters and local authorities in an area chosen for piloting will be deprived of the right, which hybrid instrument procedure would give them, to be formally consulted. This is clearly necessary, if pilots are to be implemented in June 2004; but it may need to be defended, both to the DPRRC and in the House.

Para 36 points out that the bill may compel some local authorities to run pilots against their will. The view of the Local Government Association will be important in the Lords, and should be established soon and stated.

Paras 37 and 40 appear to flag up real weaknesses in the bill: that it might put a stop to piloting in areas where it is already taking place on a voluntary basis; and that it allows the Secretary of State to restrict the freedom of action of Returning Officers in areas where they have personal responsibility and liability. The Strategy does not suggest either defensive lines or fall-back positions. The Department must make every effort to resolve these issues before the bill reaches the Lords; otherwise we set ourselves up for defeat and delay.

Secondary points

With regard to para 24, I suggest that it would be unwise to make any point about peers being unelected, given that in the continuing argument on Lords Reform we are being criticised in some quarters for not moving towards an elected Second Chamber.

Para 39 points out that the provisions affecting by-elections might be seen as affecting parliamentary privilege. The attitude of Mr Speaker will be important, and should be established and stated.

Para 47 refers to Conservative amendments to the Local Government Bill which aimed to prevent combined elections. On this issue the Liberal Democrats voted with us; so, if the matter resurfaces on this Bill, defeat is unlikely.

I am copying this to the Prime Minister, LP colleagues, Nick Raynsford, Sir Andrew Turnbull and First Parliamentary Counsel.

Sincerely,

Bruce

BRUCE GROCOTT

SECRETARY OF STATE FOR SCOTLAND

SCOTLAND OFFICE
DOVER HOUSE
WHITEHALL
LONDON SW1A 2AU
www.scottishsecretary.gov.uk

AMcG
SL
JP
M
CS

The Rt Hon Peter Hain MP
President of the Council
Leader of the House of Commons
2 Carlton Gardens
LONDON
SW1Y 5AA

15 September 2003

Dear Peter

ELECTORAL PILOTS IN 2004 AND GOVERNMENT RESPONSE TO ELECTORAL COMMISSION EVALUATION OF 2003 PILOTS

I refer to Nick Raynsford's letter of 10 September seeking MISC 24's agreement to the publication of a consultation paper on proposed pilots associated with European elections next year and to the Government's response to the Electoral Commission's evaluation of the 2003 pilots.

I agree with the proposals set out in Nick's letter. My officials have suggested to his that it might be useful to include a Scotland Office contact in the text of the consultation paper so that Councils here can seek any advice and support necessary if Scotland were to be selected as a pilot region.

I am copying this letter to the Prime Minister, Members of MISC 24 and to Sir Andrew Turnbull.

Yours

ALISTAIR DARLING

Recycled

SECRETARY OF STATE FOR SCOTLAND

SCOTLAND OFFICE
DOVER HOUSE
WHITEHALL
LONDON SW1A 2AU

www.scottishsecretary.gov.uk

The Rt Hon Peter Hain MP
President of the Council
Leader of the House of Commons
2 Carlton Gardens
LONDON
SW1Y 5AA

AMcG SW JRB RE CS

15 September 2003

Dear Peter

EUROPEAN PARLIAMENTARY AND LOCAL ELECTIONS (PILOTS) BILL

I refer to Christopher Leslie's letter of 10 September seeking LP Committee agreement to introduction of the above Bill on 17 September.

I agree with what is proposed and have noted the arrangements reached in respect of local government and Scottish parliamentary by-elections conflicting with any piloting arrangements that may be eventually decided for Scotland. As Chris' letter indicates, the approach designed to avoid combination with by-elections in Scotland is acceptable to me and to Scottish Ministers.

I am copying this letter to the Prime Minister, Members of LP Committee, Nick Raynsford, Sir Andrew Turnbull and First Parliamentary Counsel.

Yours ever

ALISTAIR DARLING

Recycled

Already rec'd by fax

Minister without Portfolio

CABINET OFFICE

70 Whitehall ▪ London SW1A 2AS
TELEPHONE: 020 7276 1091 ▪ FAX: 020 7276 1088 EMAIL: psianmccartney@cabinet-office.x.gsi.gov.uk

12 September 2003

AMCG
cc: CS
PMCT
SW.

Rt Hon Peter Hain MP
Leader of the House of Commons
2 Carlton Gardens
London SW1Y 5AA

Dear Peter,

EUROPEAN PARLIAMENTARY AND LOCAL ELECTIONS (PILOTS) BILL

I have seen a copy of Chris Leslie's letter to you of 10 September seeking LP's agreement to the introduction of a Bill allowing the piloting of innovative voting methods at next year's European and combined elections in England, Scotland and Wales.

I offer my full support to Chris' proposals. I understand the question of funding for the pilots has been resolved. It is essential that we encourage public participation and do not cap the cost of democracy.

I am copying this to the Prime Minister, LP, Nick Raynsford and Sir Andrew Turnbull and First Parliamentary Counsel.

RT HON IAN McCARTNEY MP

DMc cc SW MR JH

From the Parliamentary Under Secretary of State
Christopher Leslie MP

The Department for Constitutional Affairs
Selborne House
54-60 Victoria Street
London SW1E 6QW

DX 117000
Telephone: 020 7210 8683
Fax 020 7210 8620
e mail: chris.leslie@dca.gsi.gov.uk

The Rt. Hon Peter Hain MP
Leader of the House of Commons
2 Carlton Gardens
London
SW1Y 5AA

10 September, 2003

Dear Peter

EUROPEAN PARLIAMENTARY AND LOCAL ELECTIONS (PILOTS) BILL

This letter seeks your agreement to introduce the European Parliamentary and Local Elections (Pilots) Bill in the House of Commons on 17 September 2003. This Bill provides for the piloting in certain regions of innovative voting methods at the European and combined elections in England, Scotland and Wales in June 2004. Its purpose is, for the 2004 European and combined elections and in certain regions only to:

a) **enable compulsory piloting of innovative voting methods at the European Parliamentary general Election, and at local government elections where combined with the European Parliamentary general election, to be held on 10 June 2004; and to**

b) **(i) extend the power of arrest for personation to any location, rather than just at polling stations; and**

b) **(ii) extend - in exceptional circumstances and where the prosecution has demonstrated all due diligence - from 12 to 24 months the period within which prosecution for any offence under the Representation of the People Act must be commenced.**

The Bill and the associated papers are now ready to be sent to LP Committee for approval and I would appreciate a response by 12.00 noon on Monday 15 September.

LP Committee gave approval in principle in May 2003 for the introduction of the European Parliamentary and Local Elections (Pilots) Bill late in the 2002/2003 session.

The Deputy Prime Minister's letter of 18 July gave DA clearance to proceed with the Bill (providing, specifically, for point (a), above) subject to a small number of mostly straightforward comments from the Committee. After DA approval was sought, the

decision was made to add provisions for the 2 extensions to electoral law outlined in (b) above. This makes no change to the policy rationale for the Bill. This is merely an initial response to recommendations made by The Electoral Commission in their recent report 'Voting for Change', and is designed to help increase security and public confidence.

Some clarification is necessary following one of the comments made by DA Committee in response to my letter of 23 June seeking DA clearance for the Bill. Denis McShane stated he supports the decision to exclude Gibraltar from the scope of the pilots proposed for next year, but does not wish to see excluded the European Parliamentary region with which Gibraltar will be combined. The draft Bill does, in fact, provide that whole region to be combined with Gibraltar should not be eligible for piloting because the whole of any combined region must vote in the same way, and to allow piloting to extend to Gibraltar and the rest of the region with which it combines would be to further complicate an already complex election. Therefore, if it is accepted that Gibraltar should be excluded from the scope of the proposed pilots the Bill can only go forward on the basis that the region with which it combines will be excluded as well. (The Electoral Commission recently reported on its consideration as to which region this should be and it has recommended the South West.)

The timetable for the Bill is extremely tight. Currently it looks unlikely that the Bill will be in a position to receive Royal Assent before March 2004. This is extremely late if we and those involved directly in organising the elections are to be able to ensure everything is in place to enable piloting to take place at the combined and European elections next year, although we are doing all we can to identify and meet the difficulties such a precarious timetable will cause us. Given this timetable, it will be particularly important to try and ensure that the focus of debate is maintained and extraneous amendments are not introduced.

To maximise the time available to the Electoral Commission to consult and to select regions for piloting and, subsequently, for those regions to plan and prepare for June 10 2004, Charlie Falconer will use his power under section 6 of the Political Parties Elections and Referendums Act 2000 to ask the Electoral Commission to report to him on which electoral regions should be chosen for pilots, thus enabling the Commission to begin its consultative process.

As you are aware, there is currently an on-going discussion in relation to central funding for the pilots that will result from this Bill. DCA ministers are consulting with ministerial colleagues in order to identify where funding will come from to allow us to proceed on the basis described above. It is hoped that this will be resolved in the next few days.

Given that this Bill is being dealt with in correspondence, I have included below the information that would have been incorporated into a Memorandum for a Committee meeting for your further information:

Territorial Extent and Devolution

The Bill extends to England, Wales and Scotland but not Northern Ireland, for reasons including: complexity; questions over what lessons can usefully be learned by the rest of

the UK from pilots run using atypical electoral systems; and security. The possibility of by-elections in the devolved administrations occurring on 10 June raises some devolution issues.

Piloting new voting methods on a regional scale at the same time as combining European Parliamentary elections with local authority elections will be a major challenge for electoral administrators. In order to minimize complexity the Bill will make provision to avoid any other elections taking place on the same day. However in some cases this approach is difficult for political reasons, such as the requirement to make a Sewel motion. Therefore, as the main problems with elections occurring on the same day will, in this case, arise from combination, the alternative approach will be to seek informal undertakings that by-elections will not be held on the same day and where necessary ensure by order that the elections cannot be combined.

Thus the Bill will provide mechanisms for ensuring that Westminster by-elections and National Assembly for Wales by-elections are not held on the same day. With respect to Scottish Parliamentary elections, no provision will be made in the Bill, but the Presiding Officer's agreement not to schedule any by-election on 10 June will be indicated formally in exchange of Ministerial letters if the Government chooses Scotland as a pilot area. As the Presiding Officer has no discretion to combine Scottish Parliamentary elections with European elections, no further provision is necessary. With respect to Scottish local by-elections (a devolved matter), the local returning officer does have a discretion to combine local and European elections. Therefore, if Scotland is chosen as a region for pilots, the order under the Bill will disapply the local returning officers' discretion to combine local with European elections, and we understand that this process should be acceptable and not require a Sewel motion (as the order would be a consequence of European election which is a reserved matter).

The Scotland Office and the Scottish Executive have confirmed this approach is acceptable. In respect of Wales, the Wales Minister awaits confirmation of the agreement of the appropriate Minister in the National Assembly for Wales, but it is not anticipated there will be any difficulty in securing this.

Effect on Public Expenditure and Public Service Manpower

The additional overall cost to Central Government flowing from the Bill is estimated to be £25-30million This takes into account the likely extra cost of 1 e-pilot, estimated at around £15m, and 2 all-postal pilots, estimated at around £12m in total. There is expected to be little or no change to public service manpower as a result of this Bill – none of the estimated £25-30million is for additional staff.

Cost to Business and Regulatory Impact

No Regulatory Impact Assessment is needed for this Bill. This was confirmed by the Regulatory Impact Unit on 19 August 2003.

European Convention on Human Rights

I have certified that I believe the Bill to be compatible with the Convention rights defined by the Human Rights Act 1998; a separate memorandum is attached.

EU Implications

The Bill will apply to voting procedures for European Parliamentary elections and the manner in which the elections are conducted. The intended objective is to pilot methods which might increase participation at such elections and further develop e-voting methodology. European Parliamentary elections are affected by EU legislation relating to the franchise and also to a lesser extent the procedures for an election. The pilots will need to be compliant with these measures where relevant. The key legislation is the 1976 Act concerning the election of the representatives of the European Parliament by direct universal suffrage. On the whole this should not impact on the pilots, but Council Decision (2002/772) of 25 June and 23 September 2002, amends the 1976 Act by providing that elections "shall be free and secret". Hence in addition to the ECHR obligation to hold free elections to the legislature by secret ballot, there is also an EU obligation. This is a recent decision so there is no case law on how secrecy is to be interpreted. If the arguments put forward in the ECHR memorandum are acceptable to the ECHR, it is likely that the ECJ would accept similar arguments. In addition, as there is postal voting to some extent in a number of member states, it is unlikely that the ECJ would find that the postal voting and remote voting per se is in breach of obligations regarding secrecy.

In addition, there are EU implications with respect to procurement procedures. On 20 October 2002 ODPM commenced an EU tender process for suppliers of electronic services to implement election pilots. The resulting framework agreement has eleven companies supplying the following e-voting services: Internet voting, telephone voting, SMS voting, DTV voting, e-voting kiosks, hosting systems, and e-counting systems. It is expected that this framework agreement will be used for the implementation of pilots for the EP and combined elections. This sort of scalability was written into the original contract. There is no need for an additional procurement exercise.

Queen's/Prince of Wales' Consent

Counsel does not envisage that it will be necessary to seek the Queen's or Prince of Wales' consent for the Bill.

Parliamentary Handling

Preferred House of Introduction

The Bill is ready for introduction. Our preferred House of introduction is the House of Commons as the Bill deals with electoral issues. In addition, although the Bill is uncontroversial and not expected to attract widespread opposition, if it were to attract any significant opposition this is more likely to come in the Lords than the Commons. Introduction into the Lords may, therefore, risk delaying the Bill at an early stage.

Royal Assent

Following Royal Assent to the Bill, the Secretary of State must make an order under (current) clause 1 of the Bill, naming the region and describing the manner in which the election is to be held. Following this there will be a more detailed, and probably lengthy order under clause 2 of the Bill establishing a precise scheme for conducting the election in that manner.

We need to make known as soon as possible which regions and methods have been chosen, so that the organisations to be involved in the running of the election have time to make preparations – although we will take steps to ensure that as much work as possible can be carried out much pre-enactment. However, an order to that effect cannot be made until after Royal Assent, which, Parliamentary Business Managers tell us, is extremely unlikely before March 2004. We would, therefore, like to eliminate the customary period between enactment and commencement. To this end, DCA lawyers wrote to the Law Officers covering England and Wales, and Scotland. They have all indicated they are content with our proposals for early commencement.

Readiness of the DPRR Memorandum

The Memorandum for the Delegated Powers and Regulatory Reform Select Committee will be ready by the time of the Bill's introduction in the House of Lords.

Presentation and Publicity

On the day the Bill is introduced, it is envisaged that DCA and ODPM will publish other related documents. Specifically:

- ODPM are to publish the Government's response to the Electoral Commission's recommendations following this year's local election pilots;
- DCA/ODPM are to send a joint letter to the Electoral Commission with guidelines for selecting regions and methods for next year's pilots;
- ODPM are to issue a consultation document to local government on implementation issues for next year's pilots.

Given the level of overlap between the above documents and the Bill, DCA and ODPM officials believe it would appropriate for publicity arrangements to be combined and handled jointly by the two departments. It is planned that on 17 September:

- a joint DCA/ODPM press notice will be issued;
- a joint DCA/ODPM written parliamentary statement will be published.

DCA officials will take the lead on the press notice and written parliamentary statement, commissioning contributions from ODPM where required.

In conclusion I invite you to agree that, subject to any minor drafting amendments, the European Parliamentary and Local Elections (Pilots) Bill should be introduced in the Commons on 17 September.

I have copied this letter to the Prime Minster, members of LP Committee, Nick Raynsford, Sir Andrew Turnbull and First Parliamentary Counsel.

Yours

Chris

CHRISTOPHER LESLIE

European Parliamentary and Local Elections (Pilots) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Constitutional Affairs, are published separately as ...

EUROPEAN CONVENTION ON HUMAN RIGHTS

M has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the European Parliamentary and Local Elections (Pilots) Bill are compatible with the Convention rights.

LP(a)

10.09.03

European Parliamentary and Local Elections (Pilots) Bill

CONTENTS

Piloting

1 Piloting conduct at European and local elections
2 Pilot order
3 Pilot schemes under the 2000 Act

Reports

4 Electoral Commission report
5 Revision of procedures in light of report

Offences

6 Personation: arrestable offence
7 Time limit for prosecution of offences

Other elections, etc.

8 Other elections, etc.

General

9 Interpretation
10 Orders
11 Expenditure
12 Extent
13 Short title

Schedule — Other elections, etc

LP(a)

10.09.03

A

BILL

TO

Make provision for piloting in certain regions different methods of voting at the European Parliamentary general election in 2004 and at certain local elections held at the same time. Date Of Enactment

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Piloting

1 Piloting conduct at European and local elections

(1) The Secretary of State may by order require that in relation to any of the pilot matters an election to which this section applies must be conducted—

(a) in the manner described in the order;

(b) in accordance with such provision made by order under section 2 which differs in any respect from that made by or under a relevant enactment.

(2) The Secretary of State must not make an order under this section unless he first consults the Electoral Commission.

(3) It is immaterial whether such consultation occurs before or after the passing of this Act.

(4) The following are elections to which this section applies—

(a) the European Parliamentary general election of 2004 in a region specified in the order;

(b) a local government election in England and Wales if the poll at such an election is combined with the poll at the European Parliamentary general election in a region specified in the order.

(5) An order under this section must not specify—

(a) London;

(b) the combined region established by order under section 11 of the European Parliament (Representation) Act 2003 (c. 7) (region to be combined with Gibraltar).

2 Pilot order

(1) If the Secretary of State makes an order under section 1 (the main order) he must also make an order under this section (the pilot order).

(2) The pilot order must make provision in connection with such of the pilot matters to which the main order relates for the manner in which the conduct of an election to which section 1 applies may differ from provision made by or under a relevant enactment.

(3) In particular, the pilot order may make provision for voting to take place—

(a) on more than one day (whether or not each of the days is a day appointed as a day of the poll); or

(b) at places other than polling stations.

(4) The Secretary of State must send a copy of the pilot order to—

(a) each relevant local authority in a region specified in the main order;

(b) the Electoral Commission;

(c) the person who is by virtue of section 6 of the European Parliamentary Elections Act 2002 (c. 24) the returning officer for each region specified in the main order.

(5) A local authority to whom a copy of the pilot order is sent must publish the order in their area in such manner as they think fit.

(6) Subsections (2) and (3) of section 1 apply in relation to the pilot order as they apply in relation to the main order.

3 Pilot schemes under the 2000 Act

Section 10 of the Representation of the People Act 2000 (c. 2) (pilot schemes for local elections in England and Wales) does not apply to a local government election if the poll at the election is to be taken on the same day as the poll at the European Parliamentary general election of 2004.

Reports

4 Electoral Commission report

(1) After any elections have been held in a region in accordance with provision made by order under section 2, the Electoral Commission must prepare a report in relation to the pilot matters on—

(a) the manner in which the elections were conducted;

(b) the different provision.

(2) The Electoral Commission must consult such relevant local authorities in the region as they consider appropriate in connection with the preparation of the report.

(3) Every relevant local authority in the region must give the Commission such assistance as they may reasonably require in connection with the preparation of the report.

(4) The assistance may include—

(a) making arrangements for ascertaining the views of voters about the administration of the elections;

(b) reporting to the Commission allegations of personation and of other electoral offences or malpractice.

(5) The report must include a copy of the orders made under sections 1 and 2.

(6) The report must also include an assessment of the extent to which the manner in which the elections were conducted and the different provision—

(a) facilitated voting at the elections;

(b) encouraged voting at the elections;

(c) affected the incidence of personation or other electoral offences or malpractice;

(d) assisted the counting of votes at the elections;

(e) provided opportunities for savings in the costs of administering the elections or led to any increase in such costs.

(7) The assessment must include a statement by the Electoral Commission as to whether in their opinion—

(a) the turnout of voters was higher than it would otherwise have been;

(b) voters found the procedures provided for their assistance easy to use.

(8) Not later than the end of the period of three months beginning with the date of the declaration of the result of the European Parliamentary general election in the region the Electoral Commission must—

(a) send a copy of the report to the Secretary of State; and

(b) publish the report in such manner as they think fit.

(9) Different provision is provision made by order under section 2.

(10) This section does not affect the duty of the Electoral Commission to prepare and publish under section 5 of the Political Parties, Elections and Referendums Act 2000 (c. 41) a report on the administration of the election.

5 Revision of procedures in light of report

(1) If a report is made under section 4 above on the conduct of a local government election section 11 of the Representation of the People Act 2000 (c. 2) (revision of procedures in the light of pilot schemes) applies as it applies if a report is made under section 10 of that Act, subject to the following modifications.

(2) The reference in section 11(1) to provision similar to that made by a scheme under section 10 is to be read as a reference to provision similar to that made by an order under section 1 or 2 above for the conduct of the local government election.

(3) Subsection (4) of section 11 is to be read as if it required the Secretary of State, when laying a draft of an order under that section, to lay a copy of each report of the Electoral Commission under section 4 above on the conduct of a local government election held in accordance with provision similar to that made by the order.

Offences

6 Personation: arrestable offence

(1) For the purposes of any election held in accordance with provision made by order under section 2, the offence of personation under section 60 of the Representation of the People Act 1983 (c. 2) must be treated as if it is an offence to which section 24(2) of the Police and Criminal Evidence Act 1984 (c. 60) (offences which are arrestable offences) applies.

(2) Subsection (1) does not affect anything which may be done in pursuance of Rule 36 of Schedule 1 to the Representation of the People Act 1983.

7 Time limit for prosecution of offences

(1) This section applies for the purposes of any election held in accordance with provision made by order under section 2.

(2) A magistrates' court or (in Scotland) the sheriff may act under subsection (3) if it or he (as the case may be) is satisfied on an appropriate application—

(a) that there are exceptional circumstances which justify the granting of the application, and

(b) that there has been no undue delay in the investigation of the offence to which the application relates.

(3) The magistrates' court or the sheriff (as the case may be) may extend the time within which proceedings for an offence must be commenced in pursuance of section 176(1) of the Representation of the People Act 1983 (time limit for prosecution of offences under that Act) to not more than 24 months after the offence is committed.

(4) An appropriate application is—

(a) in relation to England and Wales an application by a constable or Crown Prosecutor;

(b) in relation to Scotland an application by the procurator fiscal.

Other elections, etc.

8 Other elections, etc.

(1) The Schedule (which makes provision for certain other elections and referendums) has effect.

(2) An order under section 1 may make provision in consequence of anything required or permitted in pursuance of the Schedule (including provision modifying any enactment mentioned in the Schedule).

General

9 Interpretation

(1) A region is an electoral region for the purposes of the European Parliamentary Elections Act 2002 (c. 24).

(2) Local government election has the meaning given by section 203(1) of the Representation of the People Act 1983 (c. 2) (except that it does not include an election to the Greater London Authority).

(3) The pilot matters are—

(a) when, where and how voting at an election is to take place;

(b) how the votes cast at the election are to be counted.

(4) The relevant enactments are enactments relating to the conduct of European Parliamentary or local government elections (including the combination of polls at such elections).

(5) A relevant local authority is—

(a) in relation to England, the council of a county or district, the Council of the Isles of Scilly or the council of a parish if the pilot order makes provision for the conduct of an election to the council;

(b) in relation to Wales, the council of a county or county borough or the council of a community if the pilot order makes provision for the conduct of an election to the council;

(c) in relation to Scotland, a local authority constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39).

(6) This section applies for the purposes of this Act.

10 Orders

(1) This section applies to orders made under this Act.

(2) An order—

(a) may modify or disapply any provision made by or under any enactment relating to the conduct of European Parliamentary or local government elections (including the combination of polls at such elections);

(b) may contain such consequential, incidental, supplementary or transitional provision or savings (including provision amending, replacing, suspending or revoking provision made by or under any enactment) as the Secretary of State considers appropriate.

(3) An order may make different provision for different purposes.

(4) An order under section 1 must be made by statutory instrument.

(5) But no such order may be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.

(6) If a draft of an order under section 1 would apart from this subsection be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument it must proceed in that House as if it were not such an instrument.

11 Expenditure

There shall be paid out of money provided by Parliament—

(a) any expenses of the Secretary of State in making arrangements for the purposes of this Act in connection with the holding of the European Parliamentary general election of 2004;

(b) any increase attributable to this Act in the sums so payable under any other enactment.

12 Extent

This Act does not extend to Northern Ireland.

13 Short title

This Act may be cited as the European Parliamentary and Local Elections (Pilots) Act 2003.

SCHEDULE

Section 8

OTHER ELECTIONS, ETC

Parliamentary by-elections

1 (1) Rule 1 of the Parliamentary Elections Rules (timetable for elections) in Schedule 1 to the Representation of the People Act 1983 (c. 2) must be construed subject to this paragraph.

(2) The writ for a by-election in a constituency which is situated in a region specified in an order under section 1 must not be issued on a day which by virtue of the timetable is likely to result in the by-election being held—

(a) on the same day as the European Parliamentary general election of 2004, or

(b) on a day within the period which begins three weeks before, and ends three weeks after, that day.

Welsh Assembly by-elections

2 (1) If Wales is a region specified in an order under section 1, section 8 of the Government of Wales Act 1998 (c. 38) must be construed subject to this paragraph.

(2) The presiding officer of the National Assembly for Wales must not fix the date of the poll for an election to fill a vacancy in the seat of a constituency member of the Assembly for a day which will result in the election being held—

(a) on the same day as the European Parliamentary general election of 2004, or

(b) on a day within the period which begins three weeks before, and ends three weeks after, that day.

(3) If, before the commencement of this paragraph, the presiding officer has fixed a date for such a poll and the date falls within that period—

(a) the poll must not be held on that date, and

(b) the presiding officer must fix a new date in accordance with sub-paragraph (2).

Local government by-elections: England and Wales

3 (1) This paragraph applies to an election to fill a casual vacancy in the office of councillor (the local election) in pursuance of section 89 of the Local Government Act 1972 (c. 70) if the election is held in a region specified in an order under section 1.

(2) The date of the poll for the local election must not be fixed for a day within the period which begins four weeks before and ends three weeks after the day of the European Parliamentary general election of 2004 (the European election).

(3) But sub-paragraph (2) does not apply if—

(a) not later than the beginning of the period of nine weeks which ends on the day of the European election, the day of the local election is fixed as the same day as the day of the European election, and

(b) the polls at the elections are taken together in pursuance of section 15(2) of the Representation of the People Act 1985 (c. 50).

(4) If, before the commencement of this paragraph, a day has been fixed for a local election which is within the period mentioned in sub-paragraph (2) then unless sub-paragraph (3) applies—

(a) the local election must not be held on that day, and

(b) another day which does not fall within that period must be fixed for the local election.

Mayoral elections, etc

4 (1) This paragraph applies to—

(a) an election for the elected mayor of a local authority;

(b) a referendum to be held in pursuance of Part 2 of the Local Government Act 2000 (c. 22) (referendums on proposals for local authority executive arrangements),

if the election or referendum is held in a region specified in an order under section 1.

(2) If the date of the election or referendum is to be fixed without reference to any time or timetable the date must not fall within the period which begins three weeks before and ends three weeks after the day of the European Parliamentary general election of 2004.

(3) If the date of the election or referendum is to be calculated by reference to any time or timetable that period must be ignored.

(4) If, before the commencement of this paragraph, the date of the election or referendum was fixed or calculated as a date which falls within that period—

(a) the election or referendum must not be held on that date, and

(b) a new date must be fixed or calculated as mentioned in sub-paragraph (2) or (3) (as the case may be).

(5) Local authority has the same meaning as in Part 2 of the Local Government Act 2000.

Local government by-elections: Scotland

5 If Scotland is a region specified in an order under section 1, the order may provide that section 15(2) of the Representation of the People Act 1985 does not apply to the poll at an election in Scotland under section 37 of the Local Government (Scotland) Act 1973 (c. 65) (election to fill casual vacancy in the office of councillor) if it is taken on the same day as the poll at the European Parliamentary general election of 2004.

Modification of European election timetable immaterial

6 For the purposes this Schedule any modification of the timetable for the European Parliamentary general election by an order under section 2 which permits voting to take place on more than one day must be ignored.

European Parliamentary and Local Elections (Pilots) Bill

A

B I L L

Sponsor names go in here
and can run onto
more than one line if required.
Use a soft return to start a new line.
The table width can be resized if necessary

Ordered, by the House of Commons,
to be Printed, XXth Month 200X.

© Parliamentary copyright House of Commons 2003
Applications for reproduction should be made in writing to the Copyright Unit,
Her Majesty's Stationery Office, St. Clements House, 2-16 Colegate, Norwich, NR3 1BQ

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON: THE STATIONERY OFFICE
Printed in the United Kingdom by
The Stationery Office Limited
£x.xx net

LP(a)

(xxxxxx)

xxxbarxxx

These notes refer to the European Parliamentary and Local Elections (Pilots) Bill as introduced in the House of Commons on _ September 2003

EUROPEAN PARLIAMENTARY AND LOCAL ELECTIONS (PILOTS) BILL

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the European Parliamentary and Local Elections (Pilots) Bill as introduced into the House of Commons on ** September 2003. They have been prepared by the Department for Constitutional Affairs in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.

2. These notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require any explanation or comment, none is given.

SUMMARY

3. This Bill extends to Great Britain. It does not extend to Northern Ireland.

4. The purpose of the Bill is to provide for piloting of innovative voting methods:

   a) at the European Parliamentary general election to be held on 10 June 2004.

   b) at local government elections where these are combined with the European Parliamentary general election to be held on 10 June 2004.

BACKGROUND

5. The government intends to move the date of the local government elections, currently due in May 2004, to be on the same date as the European Parliamentary general election due on 10 June 2004. An order-making power to move the date of the local elections is included in the Local Government Bill currently before Parliament and due to receive Royal Assent in autumn 2003. The Secretary of State intends to make an order under that Bill for the date of the local government elections in England to be moved. The National Assembly for Wales has yet to make a final decision as to whether to make a corresponding order for Wales.

6. Under section 10 of the Representation of the People Act 2000, local

authorities in England and Wales are able to submit a proposal to the Secretary of State to run pilot schemes of innovative electoral procedures at local government elections. Section 10 was couched in broad terms to cover various innovative voting methods, and pilot schemes have been held both for all-postal and "multi-channelled" voting (which may include electronic voting). Ministers intend to continue the programme of pilot voting as part of a programme working towards a multi-channelled, e-enabled general election sometime after 2006. Piloting at next year's European Parliamentary elections would represent a scaling up of previous schemes and be a further step towards this goal.

7. However, there are no legislative provisions for piloting of innovative voting in relation to European Parliamentary elections. The Bill is intended to fill that gap, for the June 2004 elections only, so that piloting can take place.

8. This Bill:

- allows the Secretary of State to order innovative voting methods to be piloted in one or more European Parliamentary electoral regions in the 2004 European Parliamentary general election and local elections combined with European elections in those regions;

- does not specify the regions to hold the pilots, but explicitly rules out consideration of London, Northern Ireland and whichever European Parliamentary electoral region is to include Gibraltar. The Electoral Commission has recommended this to be South West Region;

- does not specify the types of innovative voting to be carried out in each region. The identity of the regions, and the type of voting to be used in each, will be for the Secretary of State, with Parliament's approval and in consultation with the Electoral Commission, to decide.

Territorial application: Wales

9. The Bill applies to Wales. The Secretary of State may by order under the Bill designate Wales as a region under which innovative methods of voting may be piloted in the European Elections on 10 June 2004, or combined local government and European elections on 10 June 2004. The Bill provides that the Presiding Officer in Wales must not fix the date of the poll for a by-election to the National Assembly for Wales to be held on the same date as the European Parliamentary Elections. Clause 8 and schedule 1 are relevant in relation to this.

COMMENTARY ON CLAUSES

Clause 1: Piloting conduct at European and local elections

10. This clause provides for a power for the Secretary of State to make an order requiring that the European Parliamentary general election to be held on 10 June 2004 should, in certain regions, be conducted in a manner differing from the normal procedure. An order made under this clause would set out the region or regions in which piloting is to occur and, in broad terms, the manner in which the election is to be conducted in each region. The Secretary of State must not make an order under this clause unless he has consulted the Electoral Commission. Any such order will also apply to any combined local elections taking place in the region or regions selected. By virtue of clause 10, this order is to be subject to affirmative resolution procedure.

Clause 2: Pilot order

11. This clause requires the Secretary of State to make a supplementary order to implement and give effect to any order under clause 1 above. This order would contain the details of the manner in which the elections may differ from the way in which they would be normally be run. The Secretary of State is required to send copies of this order to the local authorities to be involved in the pilots, the Electoral Commission, and the relevant Regional Returning Officers. Local authorities must then publish the order in their area in such manner as they think fit. An order made under this clause is not subject to Parliamentary procedure.

Clause 3: Pilot schemes under the 2000 Act

12. This clause disapplies section 10 of the Representation of the People Act 2000 ("RPA 2000"), under which local authorities can apply to use innovative voting methods in local government elections, for any local government election held on the same day as the European Parliamentary election. This applies solely to local government elections held on 10 June 2004. This is important in order to contain costs and to retain other elections as a 'control' with which pilot results can be compared.

Clause 4: Electoral Commission report

13. This clause extends the Electoral Commission's duties so that not only must the Commission report on the election in general, but also on the pilot itself. This reflects the Commission's duty to report on pilot schemes that may take place under section 10 RPA 2000 and is included in order that the success, or otherwise, of pilot schemes can be properly evaluated.

Clause 5: Revision of procedures in light of report

14. This clause ensures that section 11 RPA 2000 may be used with respect to local government elections held under this Bill. Section 11 RPA 2000 provides that if the Secretary of State considers that any of the pilot provisions in the Pilot Order under the RPA 2000 should be applied generally on a permanent basis to local

government elections in England and Wales, he can do so by an order that is subject to affirmative resolution.

Clause 6: Personation: arrestable offence

15. This clause extends the powers of arrest for the offence of personation (when someone votes as someone else but without their consent). The existing power of arrest is restricted to arrest in relation to personation at polling stations, and this provision reflects a recommendation by the Electoral Commission that the police be given the power of arrest at any location. This would only apply to regions where piloting is taking place under the Bill and solely to the June 2004 elections. Although there has no specific evidence of an increase in fraud at previous pilots, this clause is included in order to address security concerns surrounding innovative voting methods in general.

Clause 7: Time limit for prosecution of offences

16. This clause provides that the magistrates court is given a power to allow, on application from the police or a Crown Prosecutor, an extension of time up to a maximum of 24 months after the date of the offence for a prosecution to be commenced. The application must not be granted unless the court is satisfied that there are exceptional circumstances requiring the application to be granted, and that the investigation of the offence has been pursued with all reasonable diligence. The existing legislation provides that the prosecution for any offence under the Representation of the People Act is commenced within one year after the offence was committed. This provision again reflects a recommendation by the Electoral Commission, and would again only apply to regions where piloting is taking place under the Bill and to the June 2004 elections.

Clause 8: By-elections

17. This clause gives effect to schedule 1. This prevents Westminster by-elections, by-elections for the National Assembly for Wales, and mayoral referendums, elections and by-elections, from taking place on the day of the European Parliamentary general election in 2004, or at any time within three weeks before or after that date. With respect to local government by-elections in England and Wales, the treatment is different as the bill provides that by-elections can be piloted if the local returning officer exercises his discretion to combine these elections with the European elections. If these elections are not combined, provision is made to ensure that local government by-elections are not held on the same day, or in the period four weeks before and three weeks after, the European Parliamentary election. If Scotland is chosen as a region under section 1, the order under section 1 may disapply the local returning officers discretion to combine Scottish local by-elections with the European elections.

FINANCIAL EFFECTS OF THE BILL

18. The additional overall cost to Central Government flowing from the Bill is estimated to be up to 30m. Actual costs will be dependent on the types of piloting and regions chosen by the Secretary of State after consultation with the Electoral Commission. [There is currently an on-going discussion in relation to central funding for the pilots that will result from this Bill.]

PUBLIC SERVICE MANPOWER

19. The Bill will not lead to any changes in the staff of Government Departments and their agencies or local authorities

SUMMARY OF REGULATORY APPRAISAL

20. No Regulatory Impact Assessment is needed for this Bill as there will be no direct or indirect regulatory burdens on business, charities or the voluntary sector.

COMMENCEMENT

21. The Bill has no commencement provision. The effect is that the Bill comes into force on Royal Assent.

EUROPEAN CONVENTION ON HUMAN RIGHTS

22. Section 19 of the Human Rights Act 1998 requires the Minister in charge of a Bill in either House to make a statement before Second Reading on the compatibility of the provisions of the Bill with the Convention rights (as defined by section 1 of that Act). [Name of Minister] has made the following statement under section 19(1)(a):

> "In my view the provisions of the European Parliamentary and Local Elections (Pilots) Bill are compatible with the Convention rights."

23. The principal Convention right that may be engaged by the Bill is Article 3 of Protocol 1 (right to free elections). In the light of Matthews v UK (28 EHRR 361), the Government recognises that the European Parliament is part of the legislature for the purposes of Article 3. Any electoral system that undermines the secrecy of the ballot, or the free expression of the electorate's opinion, would therefore raise an issue under that Article.

24. The effect of the innovative voting systems on the secrecy, security and accessibility of the ballot is something on which the piloting scheme is designed to

generate evidence, in order that decisions on the wider use of these or other systems can be proportionate and soundly based.

25. The scheme will also produce evidence on any effect the innovative schemes may have on voter participation, and similar wider benefits to the community. These matters will also be relevant to the consideration of any issue under Article 3.

26. In the meantime, the piloting scheme addresses the issue of secrecy with a number of safeguards, both statutory and non-statutory.

EUROPEAN PARLIAMENTARY AND LOCAL ELECTIONS (PILOTS) BILL

EUROPEAN CONVENTION ON HUMAN RIGHTS

Summary

1. The Bill raises important issues under the Convention, particularly Article 3 of Protocol 1 (right to free elections); but on balance the Department takes the view that the Bill is compatible with the Convention rights. *[The minister proposes to make a statement under section 19(1)(a) of the Human Rights Act.]*

Purpose of Bill

2. The Bill will allow innovative voting methods to be piloted in the European Parliamentary election scheduled for June 2004. In some parts of the United Kingdom, local elections will be combined with the European poll. Where that happens in a pilot area, the whole of the combined poll will be subject to the pilot.

3. Current law allows piloting at local elections but not at European (or Westminster) elections.

4. The innovative voting methods likely to be piloted at the 2004 election are:

   (a) all-postal voting, where postal ballot papers are sent to all registered electors automatically. There are no traditional polling stations – voters return the ballot paper by post or may deliver the ballot paper by hand to any place designated for the purpose of the delivery of ballot papers;

   (b) e-enabled, an election where voting is possible by a number of channels where at least one of those channels is electronic.

Article 3 of Protocol 1

5. The main Convention issue raised by the Bill is under Article 3 of Protocol 1:

   Right to free elections

   The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

Principles

6. The case of *Matthews v UK* confirms that the European Parliament is, for the purpose of Article 3, a part of "the legislature", and that elections to the European Parliament must comply with Article 3. By contrast, there is a strong argument that local elections are not covered by Article 3.

7. An argument raised by some commentators and researchers is that innovative voting methods compromise the secrecy of the ballot, and obstruct the ability of vulnerable members of the electorate freely to express their opinion. In particular, it is suggested that all-postal voting tends to subject the decisions of some electors to the undue influence of family members, carers, and canvassers.

8. This is an argument that is likely to be the subject of litigation, using Article 3 of Protocol 1.

9. The Department recognises that:

   (a) the UK is under a positive obligation by virtue of Article 3 to guarantee the secrecy of the ballot, and to protect voters from undue influence;

   (b) any voting system which reduces the secrecy of the ballot, or allows voters to be unduly influenced in casting their vote, will raise an issue under Article 3;

   (c) there is some public concern whether the methods to be piloted in 2004 may indeed increase the ability of some people to influence others in the casting of votes: the extent to which this is likely is discussed below.

10. However, the Department regards the following as important in establishing the compatibility of the Bill:

   (a) Article 3 gives the UK freedom to devise its own voting procedures, provided those procedures do not remove the essence of the rights guaranteed by Article 3.

   (b) The right to a "secret" ballot does not imply an absolute standard of privacy; a fair balance must be struck between the degree of protection given to individual voters, and the general interest of the community.

   (c) Innovative voting methods promote greater turn-out and participation, which are legitimate purposes likely to be recognised by the courts.

   (d) The courts are likely to respect the decision taken by Parliament on how the balance between individual rights and wider benefit should be achieved.

   (e) And one of the purposes of the pilot scheme is to gather information on the benefits and disadvantages of the various methods, so that future decisions on how here the balance should be achieved may be better informed. The courts are likely to be particularly cautious about finding incompatibility in these circumstances.

   (f) The Bill, together with existing law and practice and with provisions intended to be made by subordinate legislation, will put in place a number of safeguards designed to protect voting secrecy.

   (g) The courts are likely to have regard to the practice in other European states.

Evidence of effect on secrecy

11. The degree to which the innovative voting methods proposed for the 2004 election are likely to have an adverse effect on secrecy and freedom from influence must, at this stage, be a matter of speculation.

12. In their evaluation of the 2003 pilots, the Electoral Commission said that the number of complaints about lack of secrecy had risen with the wider application of electoral pilots. There were strong concerns expressed about breaches of secrecy but the majority of voters were reassured with simple explanations about the security in place and how this was managed.

13. Many people still removed or de-faced barcodes on ballot papers but it is also clear that these people were unaware of the existence of serial numbers on ballot papers used in traditional elections. The Commission concluded that the technology often had the effect of illuminating practices that were hitherto unnoticed.

14. Some members of the public, as well as candidates and agents, express concern over the possibility that postal voting could increase the likelihood of dominant members of a household coercing others in the house to vote the way they wanted. Scope (the national disability charity) also points out that remote voting forces many disabled people to ask for assistance from family members or enablers; some report they prefer to ask polling officials.

Evidence of effect on turnout, participation and access

15. Participation rates in electoral pilots have been encouraging. The average turnout of approximately 49% for all-postal pilots was significantly higher than the turnout across England as whole, where 34.9% of the electorate voted. The Electoral Commission's indicative figure of the size of increase in e-voting is in the region of 0-5%.

16. The Electoral Commission engaged Scope to conduct a disability access audit of the 2003 electronic pilot schemes. Scope's overall assessment was that access to electronic voting systems would benefit from the use of consistent terminology across systems, and standardisation of some elements such as the length of voter identification codes. Authorities should also keep in mind the access requirements unrelated to the technology, such as access to the kiosk location and the design and availability of voter information materials. The majority of disabled people surveyed by Scope found voting by post easy and often commented positively that they no longer had to fight their way into inaccessible polling stations. Postal voting was also easier for some disabled people (especially those with variable conditions) as they could take more time with their ballot.

Safeguards

17. It is an offence to exercise undue influence on a voter to cause him or her to vote or to refrain from voting, or on account of having voted or not voted (section 115 of the Representation of the People Act 1983). Bribery – offering money to vote or not to vote or as an inducement to procure the election of a particular candidate (section 113) and treating – that is, offering inducements other than money for voting or not voting – (section 114) are also offences. In addition, section 66(3) of the 1983 Act also makes it an offence for any person *'to interfere with or attempt to interfere with a voter when recording his vote'* or to induce a voter to show how he has voted to any other person. Personation – that is, pretending to be another voter, living, dead or fictional – is also an offence. All these offences apply as much to proxy voters as to voters casting their own votes.

18. There is therefore a range of existing offences in place to protect electors who wish to vote by post from duress. The Department, however, acknowledges that a voter subject to undue influence or interference may not be in a position to resist it, or be aware that such actions are illegal, or have any wish to take the matter forward. It therefore intends to put in place, in the legislation enabling the pilots to go forward, measures which will assist voters to be aware of their rights and give them the opportunity to exercise them.

19. The Electoral Commission recommended a number of improvements to aid secrecy of the ballot in remote voting. Secrecy warnings attached to the literature accompanying postal voting papers will make it plain both to electors and others that voting is an important and private matter for an individual voter. Votes should be cast in secret, even if a voter does not mind their voting intentions being known. Although a voter may seek assistance in voting from family members or friends, such assistance should only be sought and given when it is absolutely necessary. The warnings will point out that influencing voters, or inducing them to vote for particular candidates, or interfering with them whilst they are voting, or inducing them to show their ballot paper to anyone else, are all offences. Provision of these secrecy warnings will be required by the detailed Orders made under section 2 of the Bill. Extra publicity aimed at getting these messages across will also be provided.

20. In addition, in the pilot areas, there will be some limited provision for electors to attend in person and cast their votes in a supervised environment. The equivalent of polling stations will therefore be provided – at least one in each local authority area – to allow electors to take their ballot papers and mark them (or use the electronic voting equipment) secretly, but under the protection of an election official. This choice will give those who fear lack of secrecy at home the opportunity to vote more or less in the traditional way.

Article 14

Prohibition of discrimination

The enjoyment of the rights and freedom set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

21. The Article is only engaged where a person's treatment comes within the ambit of another Convention right; here, Article 14 would be read with Article 3 of Protocol 1. The argument would be that a voter in a pilot region enjoys a lower guarantee of secrecy and free expression than a voter in a region where traditional polling methods are used.

22. The Department may wish to argue, were a case to be brought, that a person's location in a particular region of the UK is not a "status" for the purpose of Article 14. However, it recognises that the argument may not succeed; recent case-law suggests that geographical place of residence does indeed amount to a "status": see, for example, *R (Carson) v Secretary of State for Work and Pensions*, Court of Appeal, 17 June 2003.

23. The Department would accept, assuming that an argument on "status" does not succeed, that a voter in a pilot region and a voter elsewhere are in a comparable position, so that any difference in treatment between them would need to be justified.

24. The Department would therefore seek to establish a reasonable and objective justification for the difference in treatment.

25. The Department's arguments would be similar to those raised under Article 3 itself. In particular, the Department would draw attention to the benefits likely to accrue from the introduction of innovative voting methods on a pilot basis rather than nationwide:

(a) turnout may be measured as between pilot and non-pilot regions, ensuring a more accurate evidential basis for deciding whether innovative voting should be introduce more widely;

(b) introducing innovative voting methods nationwide before they have been piloted would increase the risk of failure, which would obstruct the effective administration of the entire election (and would jeopardise the Article 3 rights of the entire electorate).

26. Finally, the Department has considered the compatibility of the provisions introducing different rules of criminal law and procedure between different electoral regions.

27. In particular, the lengthening of the time limit for prosecutions from one year (nationwide, except in the pilot areas) to two years in exceptional circumstances (in the pilot areas) may be thought to raise an issue under Article 6 (right to a trial within a reasonable time), read with Article 14. The Department has concluded that time spent investigating an offence, before a charge is brought, does not engage this guarantee in Article 6; the right is therefore unlikely to be engaged.

28. The fact that an offence of personation is arrestable without warrant in one part of the country, but not in another, may raise an issue under Article 5 (right to liberty) read with Article 14; but the difference in treatment between those in pilot regions and those elsewhere is relatively small: all offences are arrestable with a warrant; and the fact that an offence is arrestable does not remove the requirement for a person to be brought promptly before a court. The Department therefore regards the need for stronger anti-abuse measures to attend the innovative voting methods as providing adequate justification for the difference in treatment.

Department for Constitutional Affairs
28 August 2003

EUROPEAN PARLIAMENTARY AND LOCAL ELECTIONS (PILOTS) BILL

HOUSE OF LORDS HANDLING STRATEGY

Introduction

1. The scope of the Bill is quite narrow and should not prove too controversial (but see later, Possible Areas of Contention: Within the Scope of the Bill), as it continues an already established process. Its purpose is:

   a) to provide for piloting of innovative voting methods at the European Parliamentary general election to be held on 10 June 2004, by order of the Secretary of State.

   b) to provide for piloting of innovative voting methods at local government elections where combined with the European Parliamentary general election to be held on 10 June 2004, by order of the Secretary of State.

   c) as currently drafted, to order Parliamentary by-elections, and National Assembly for Wales by-elections not to take place on the same day as the European elections in regions where pilot is taking place, in order to prevent possible complication of the elections.

2. As currently drafted, other electoral law matters are included in the Bill, and will apply only to the regions where piloting is taking place under the Bill, and for the June 2004 elections only. These are:

   i. extending the power of arrest for personation to any location, instead of just polling stations;

   ii. extending the time limit for prosecutions under the Representation of the People Act 1983 (RPA 1983) in exceptional cases to 24 months rather than 12 months, on application to a magistrates court from the police rank or a Crown Prosecutor where there are exceptional circumstances, and investigation of the offence has been pursued with all reasonable diligence;

   iii. to prescribe by the orders allowing pilots that it should become a legal requirement that secrecy warnings are included on postal and proxy voting literature.

3. The Bill will not specify the regions to hold the pilots, but will explicitly rule out consideration of London, and whichever European Parliamentary electoral region is to include Gibraltar. The Bill will not extend to Northern Ireland. Currently, we envisage two regions conducting all-postal voting and one region conducting a multi-channelled pilot. The identity of the

regions, and the type of voting to be used in each, will be for the Secretary of State, with Parliament's approval and in consultation with the Electoral Commission, to decide.

4. Whilst we do not regard the arrangements for the above as particularly contentious, there are inevitably some areas that may provoke debate. In addition, there is a risk that some may see it as an opportunity to raise questions about the European Union and its expansion, the European Parliament, and the whole issue of the different voting systems currently used in elections. Also contentious may be the idea of local authorities being required by law to conduct pilot voting schemes where the Secretary of State so decides (although this applies only to combined and European elections in June 2004). Previous piloting of innovative voting methods by local authorities has been voluntary.

5. The timetable is extremely tight. We have been advised by the business managers that Royal Assent would be highly unlikely before March. This means that local authorities and Regional Returning Officers would need to start their preparatory work for the running of the pilot schemes before Royal Assent. They may need to sign contracts and spend money before Royal Assent, possibly even before the Bill has completed its passage. This could prove contentious, and encourage amendments and delaying tactics to slow down or block the bill, with the intention of causing maximum disruption and embarrassment to the Government.

Background

Combined local government and European elections

6. The government intends to move the date of the local government elections, currently due in May 2004, to be on the same date as the European Parliamentary general election due on 10 June 2004. An order-making power to move the date of the local elections is included in the Local Government Bill currently before Parliament and due to receive Royal Assent in autumn 2003. The Secretary of State intends to make an order under that Bill for the date of the local government elections in England to be moved. Decisions on the combination of the elections in Wales are for the National Assembly for Wales. We do not yet know their decision.

7. There are nine European Parliamentary electoral regions in England, and one each covering Scotland, Wales and Northern Ireland. The regions are co-terminous with the local authority districts and councils – i.e. the boundaries of the European regions align with and do not cross the boundaries of the local government regions.

Pilot Schemes

8. Under section 10 of the Representation of the People Act 2000 (RPA 2000), local authorities in England and Wales are able to submit a proposal to the Secretary of State to run pilot schemes of innovative electoral procedures at local government elections. Section 10 was couched in broad terms to cover various innovative voting methods. Since 2000, the Government in partnership with others, including local authorities and the Electoral Commission, has been promoting a successful programme of pilot schemes, encompassing all-postal and "multi-channelled" voting, and electronic counting.

9. The Government is keen to maintain the momentum built up in the local election pilots, and to scale up their size. However, there are no legislative provisions for piloting of innovative voting in relation to European Parliamentary elections. The Bill is intended to fill that gap, for the June 2004 elections only, by allowing the Secretary of State to order pilot schemes in the European and combined local and European elections.

10. It follows that the existing provisions for piloting at local elections should have no effect in respect of local elections in European Parliamentary regions with combined elections in 2004; either the whole region will be the subject of a piloting order under the Bill, or there will be no piloting anywhere in the region.

11. This means that, assuming England does combine the European Parliamentary and local government elections, piloting in England would only take place by order from the Secretary of State under this Bill.

12. Decisions on the combination of the elections in Wales are for the National Assembly for Wales. If Wales does not combine, voluntary piloting for local elections taking place in May 2004 could continue in Wales under s10 RPA2000, and the European Parliamentary general elections in Wales could also be piloted under an order under the Bill. If Wales does combine, it is possible that the Secretary of State will order piloting at both local and EP elections, acting on a recommendation from the Electoral Commission.

13. Scotland will not be holding local government elections in 2004. However, the powers given under the Bill will enable the Secretary of State to order piloting in the European Parliamentary election in Scotland. Such an order would cover the whole of Scotland as it is a single electoral region.

14. The Bill will not extend to Northern Ireland.

Other issues

15. As currently drafted and following official discussion, the Bill will provide mechanisms for ensuring that Westminster by-elections and National Assembly for Wales by-elections are not held on the same day. With respect to Scottish Parliamentary elections, no provision will be made in

the Bill, but the Presiding Officer's agreement not to schedule any by-election on 10 June will be indicated formally in exchange of Ministerial letters if the Government chooses Scotland as a pilot area. As the Presiding Officer has no discretion to combine Scottish Parliamentary elections with European elections, no further provision is necessary. With respect to Scottish local by-elections (a devolved matter), the local returning officer does have a discretion to combine local and European elections. Therefore, if Scotland is chosen as a region for pilots, the order under the Bill will disapply the local returning officers' discretion to combine local with European elections, and we understand that this process should be acceptable and not require a Sewel motion (as the order would be a consequence of European election which is a reserved matter). This is because the complexity of running two (or more) elections, whether in parallel or as combined elections, possibly using different methods of voting would be unmanageable. Provisions regarding the possible combination of mayoral elections, mayoral by-elections or mayoral referendums with the European Parliamentary elections are still under discussion.

16. As currently drafted, the Bill also contains provisions amending the general law on elections, but only as it applies to the regions where pilot voting schemes are taking place under this Bill, and only for the 2004 combined and European elections. These are, as stated above, extending the power of arrest for personation; extending the time limit for prosecutions to 24 months in extreme circumstances where reasonable diligence in pursuing the investigation can be shown; and that it should become a legal requirement that secrecy warnings are included on postal and proxy voting literature. The issues are still under discussion.

Possible Areas of Contention – Within the scope of the Bill

Innovative voting schemes in general

17. Responding on the 31st July 2003 to the Electoral Commission's report The Shape of Elections to Come on the conduct of the pilots at the 2003 local elections, Bill Cash MP (Shadow Attorney General and spokesman for Constitutional Affairs) raised the following concerns:
    a) lack of safeguards against election fraud regarding postal voting and e-voting
    b) possibility of imposition by executive order of an innovative voting scheme by Secretary of State without Parliamentary scrutiny
    c) allowing politicians unrestricted power to change the manner in which elections take place risks the possible abuse of electoral systems by politicians for partisan advantage

18. Regarding the lack of safeguards against election fraud, it is worth noting that the Electoral Commission's report states that they found only very limited evidence of any increase in fraud or electoral offences. The Commission makes recommendations about increasing both secrecy and

security, and the public perception of secrecy and security, which the Government is currently considering. Two of these recommendations have already been incorporated into this Pilots Bill as currently drafted, and should come into effect for the regions in which pilot voting schemes are to be used for the European Parliamentary and combined elections in 2004. The intention is that a third recommendation, about secrecy warnings in voting literature, will be prescribed in secondary legislation.

19. Regarding the second point, the Bill proposes that the Secretary of State will order innovative voting methods to be piloted in one or more European Parliamentary electoral regions. Where this election will be combined with a local election, it would allow him to order pilot schemes in these combined elections. In this case a local authority would be required to conduct pilot schemes: currently pilot schemes are at the discretion of the local authority. This could easily be a point of contention regarding the Secretary of State's powers in relation to local government, and the relationship between local and central government. This power is designed, though, to prevent elections being held on the same day using different methods of voting, and would only apply to the combined European Parliamentary and local elections in regions where pilot schemes have been ordered under the Bill to be held in June 2004. It would defeat the purpose of combination, and be incomprehensible for electors, if they were required to turn out to vote conventionally for one election and by post (or electronically) for another on the same day.

20. Regarding the third point, there are counter-measures already in place. The choice of regions to use innovative voting methods will be made by the Secretary of State, but with Parliament's approval, and only following recommendations from the Electoral Commission.

21. There could therefore be criticism of the Government's handling of the whole issue of pilot schemes, especially focusing on the issue of Parliamentary scrutiny. There will, however, be Parliamentary debate on this Bill, and there has already been Parliamentary debate regarding pilot schemes under the RPA 2000. Furthermore, it is proposed that the drafts of the orders regarding piloting at combined and European elections next year will be ready during the passage of the Bill, and that the Bill will only apply to the European and combined elections in June 2004.

22. During the debate in the House of Lords on the Local Government Bill 2003 [23 June 2003], Baroness Hanham tabled an amendment that pilot orders should follow the affirmative procedure, to enable Parliamentary scrutiny of the Secretary of State's decision, and to ensure that the Electoral Commission's views were taken fully into account. This amendment was withdrawn, but may return at Third Reading in the House of Lords which will take place on the 10th of September. The Government resisted this amendment as the large numbers of orders issued would make it extremely difficult for Parliament to follow the affirmative procedure, and would therefore cause unacceptable delays to the election timetable. Furthermore, the Government argued that the RPA 2000

prescribes an affirmative resolution procedure for the Electoral Commission's assessment and roll-out orders, and therefore a debate at that time would be more appropriate.

23. There may also be those who see pilot schemes as being too expensive, especially e-voting, and not seen as a good use of public money. It is estimated that pilot voting at the European and combined elections could cost an extra £25-30 million.

24. The introduction of pilot schemes has not proved particularly controversial so far. However, there must be some risk that the opposition sees an opportunity to undermine work towards the successful implementation of a Government policy. The Government is working to a very tight timetable and the opposition may attempt to take advantage of this fact by delaying the Bill's progress. Opposition to this Bill could be portrayed as a way of defending the constitution or the integrity of the electoral system. The counter-argument could be that the electoral system does not regard unelected Peers, and that opposition to this Bill purely for partisan political advantage is itself undermining the integrity of the electoral system.

Secret Ballot

25. Article 3 of Protocol 1 of the European Convention on Human Rights (1950), incorporated under the Human Rights Act (1998), states that:

> The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

26. The term legislature applies to the European Parliamentary elections (although possibly not to local elections).

27. An argument raised by some commentators and researchers is that innovative voting methods compromise the secrecy of the ballot, and obstruct the ability of vulnerable members of the electorate freely to express their opinion. In particular, it is suggested that all-postal voting tends to subject the decisions of some electors to the undue influence of family members, carers, and canvassers. This is potentially also true of other remote voting methods. In short, there would no longer be the guarantee of secrecy that exists in the traditional method of voting at a polling station.

28. However, at an e-enabled, multi-channelled election the possibility of voting at a polling station still exists as one of the possible channels. As far as all-postal voting is concerned, there still exists the possibility of voting in secret, although this cannot be guaranteed using all-postal systems alone. Regarding this point, the Electoral Commission has recommended that at local elections all-postal voting should be used, with the proviso that there

be at least one drop-off point at which a person would have the opportunity to vote in secret if so desired, as well as being able to ask for advice on how to complete their ballot paper. At a European election the provision of drop-off points may be more difficult, depending on the nature of the area involved. Clearly more drop-off points may be needed in rural areas than in towns, though nowhere should this amount to anything like the number of polling stations at a conventional election. It is envisaged that there should be provision for at least one drop-off point in each local authority area, and more where the local returning officer considers it necessary to achieve adequate coverage.

29. There have also been problems regarding the canvassing activities of party workers. Some have been alleged to have followed the postal worker when he or she delivers the voting form, and helping people to complete the form, before offering to take it back to the collection point. This has led to accusations of party workers unduly influencing voters, especially those more susceptible to being influenced, for example, due to age, language problems, disabilities, etc. Furthermore, there have been detailed allegations of fraud when applying for all-postal votes, and of undue influence. However, the law currently makes undue influence on voters and interference with electors when marking their ballot papers criminal offences. The Electoral Commission's report states that they found only very limited evidence of any increase in fraud or electoral offences. The Commission makes recommendations about increasing both secrecy and security, and the public perception of secrecy and security, which the Government is currently considering.

30. There was an attempt by Councillor John Hemming (Liberal Democrat, Birmingham City Council) to challenge by way of judicial review various aspects of electoral law, including remote voting. Mr Hemming contended among other things that remote voting was a violation of the Human Rights Act 1998. Judicial review was not permitted.

Piloting at European elections

31. There may be some opposition regarding piloting at European elections. This may include:
    a) Opposition to using a European election to experiment with innovative voting methods;
    b) Opposition to the fact that at a national election (the European election) different regions will be using different voting methods;
    c) More specific concerns regarding the type of innovative voting scheme (postal voting, e-voting) to be used in a particular region.

32. There may also be some who feel that pilot voting schemes at the European and combined elections may increase or decrease turnout and disproportionately affect the result within a region, possibly with benefit to parties other than their own, or extremist parties. This may lead one or more parties to oppose the Bill. The following points may be made:

a) Innovative voting schemes will increase turnout. It is not guaranteed that innovative voting methods will increase turnout. Multi-channelled voting has not so far been shown to have a great effect on turnout. All-postal voting has led to increased turnout when piloted in local elections, and it is assumed that it will do so also in European elections. However, this cannot be stated with any degree of certainty.

b) Effect of higher turnout. At the local elections in May 2003, the average turnout of approximately 49% for all-postal pilots was significantly higher than the turnout across England as a whole, where 35% of the electorate voted. At the last European election, turnout was only 24%. An increase of the size seen at local level would still give a turnout of less than 50% in the two regions using all-postal voting. It is therefore very difficult to extrapolate estimates of the effect of higher turnout from these figures.

c) Increased turnout disproportionately affects the result – view of parties. There is no concrete evidence that increased turnout disproportionately affects the result. Even if it were to be the case, or be perceived to be the case, it is not certain which party will benefit. There is perhaps a presumption that the core vote at European elections is euro-sceptic, and so would tend to vote for the Conservatives. (Although three UK Independence Party candidates were elected at the last European election). Therefore a high turnout would disadvantage the Conservative Party. Higher turnout is generally held to benefit the Labour Party, as Conservative voters are believed to be more regular voters. However, at the 2001 General Election the turnout was very low at 59.4%, and yet Labour won a majority of 166, with 41% of the vote. Therefore the idea of higher turnout disadvantaging the Conservative Party can only be an assumption. There are no indications what the effect would be on the Liberal Democrats.

d) Increased turnout disproportionately affects the result - regions. Much would also depend on the region chosen. A higher turnout in a particular region could benefit a party which traditionally is strong in that region. For example, a higher turnout in the South East region could benefit the Conservatives, and a higher turnout in the South West region could benefit the Liberal Democrats. There are safeguards against the choice of region being influenced by desire for party political advantage. The region will be chosen by the Secretary of State, but with Parliament's approval, and only after consultation with the Electoral Commission.

e) Parties support pilot voting schemes with the expectation of political advantage. The experience in the local authorities that have run pilot schemes is that questions of turnout do not influence one particular party or another. Some places and parties go for pilots because they think it increases their chances, but the same party in another place will oppose pilot voting because they think it doesn't. There is enormous local variation and absolutely no consensus. By the time of the

discussion of the Bill in the House of Lords we could already know the Electoral Commission's recommendations as to which regions should hold pilots, and this could therefore influence peers' approaches. However, it is difficult to develop a strategy or predict that now.

f) Increased turnout in a region disproportionately affects the result nationwide. If there is an effect on turnout, even though it has no effect proportionately within the region, it could have a disproportionate effect on the national percentage figures for party support due to the higher or lower number of voters in a particular region. For example, increased number of votes for the SNP (if Scotland is chosen as a pilot region and if all-postal voting is used and if this creates a significant increase in turnout) could lead to a proportionately higher number of votes cast for the SNP in the UK as a whole, while having no effect on the result in Scotland. This, however, is a statistical variation that can be very easily corrected.

33. Given all the above, it is possible that the parties choose to oppose the Bill as they feel it may be to their disadvantage. However, they are extremely unlikely to do this openly, and would probably have to choose another reason, assuming they could find one they could agree on. To oppose the Bill on the grounds that it might lead to an increase in turnout and thus disadvantage them would be anti-democratic. In fact, any opposition to the Bill could be portrayed as being anti-democratic, which would be a criticism one imagines that the parties would like to avoid, perhaps especially so in an unelected chamber.

Choice of regions to conduct pilot schemes

34. Not every region will be a pilot region, and although the choice of the region will be made by the Secretary of State, with Parliament's approval and in consultation with the Electoral Commission, this may prove controversial, both to those in favour of piloting where it won't take place, and those against it where it will. There could, in particular, be comments from Wales, Scotland, and Northern Ireland, whether or not they are chosen for the pilot schemes (the Bill does not extend to Northern Ireland).

35. The issue of combining the elections in Wales is a devolved matter and therefore for the National Assembly for Wales to decide. It may, however, prove controversial due to the timing of the decision, which could even be taken during discussion of the Bill.

Opposition from local authorities to pilot schemes

36. In order to ensure that all elections within a region are carried out according to the same rules, some local authorities may be required to run pilot schemes for local authority elections even though they may be opposed to doing this. There is anecdotal evidence that some elected members may oppose pilots in their areas because they perceive that it

may threaten their majorities. Also some political parties in those regions may be opposed for similar reasons.

Local authorities required not to run pilot schemes against their wishes

37. Since 2000, a number of local authorities have very successfully run one or more innovative voting schemes. A significant number have experienced an increase in turnout, especially in all-postal voting schemes, and an increase in convenience for voters in general. They may now be faced with having to return to the traditional way of running elections if their local authority is not in a region chosen for a pilot scheme. The voter awareness campaigns they have run previously would then have to be reversed, and they would need to re-educate voters to vote in the traditional manner. This, then, may have to be reversed again at the next local elections after June 2004 if the Government decides to follow the recommendation of the Electoral Commission to roll-out all-postal voting at local elections.

Prohibiting by-election on the same day as European elections

38. As currently drafted, the Bill will provide mechanisms for ensuring that Westminster by-elections and National Assembly for Wales by-elections are not held on the same day as the European Parliamentary elections. With respect to Scottish Parliamentary elections, no provision will be made in the Bill, but the Presiding Officer's agreement not to schedule any by-election on 10 June will be indicated formally in exchange of Ministerial letters if the Government chooses Scotland as a pilot area. As the Presiding Officer has no discretion to combine Scottish Parliamentary elections with European elections, no further provision is necessary. With respect to Scottish local by-elections (a devolved matter), the local returning officer does have a discretion to combine local and European elections. Therefore, if Scotland is chosen as a region for pilots, the order under the Bill will disapply the local returning officers' discretion to combine local with European elections, and we understand that this process should be acceptable and not require a Sewel motion (as the order would be a consequence of European election which is a reserved matter). Provisions regarding the combination of Mayoral elections, Mayoral by-elections and Mayoral referendums with European elections in a region in which piloting is taking place are still under discussion.

39. These provisions are necessary because of the complexities that would arise from holding additional elections on the same day as European Parliamentary elections and in some cases combined European Parliamentary and local elections. These complexities would greatly add to the burden of electoral administrators and the risk that something might go wrong. These provisions may prove controversial as they limit the powers of returning officers to order the date on which polls will be taken, and touch on devolved matters, including different treatment for Scotland and Wales. They may prove especially controversial regarding Parliamentary

by-elections, as the issuing of a writ ordering a by-election is a matter for the Speaker, and is considered to be a matter of privilege. Parliamentary Counsel has, however, drafted the Bill in a manner that seeks to avoid this problem.

Role of Returning Officers

40. The fact that the Secretary of State may order some local authorities and indeed electoral regions for the EP elections to run pilot schemes, or indeed not to run pilot schemes, could be seen as an infringement on the rights of Returning Officers to run elections as they see fit. They are personally responsible for the running of elections and have a legal liability. To force a Returning Officer to run an election in a way that he or she is opposed to, and yet still require him or her to be legally responsible for the running of an election, may well be a contentious point. This has already been raised by SOLACE (Society of Local Authority Chief Executives) and the AEA (Association of Electoral Administrators) representatives in our discussions with them. However, there will be insurance taken out, as is the norm, regarding the possibility of the election needing to be re-run.

Risk to the elections due to short timescale

41. It is unlikely that the Bill will be granted Royal Assent until March. Following Royal Assent, secondary legislation will be needed. Questions could therefore be raised about whether it is sensible to proceed at all with the legislation. However, although it is important that Royal Assent is gained as early as possible, Regional Returning Officers may begin making preparations as soon as the pilot regions and methods are announced. The Government hopes to make this announcement later this year following recommendations by The Electoral Commission.

42. In order that preparations be made in good time, RROs may need to sign contracts and spend money before Royal Assent. The Government will therefore need to ensure that RROs are underwritten for any costs and liabilities they may incur as a result.

Possible Areas of Contention – Outside the scope of the Bill

European Parliament elections – 'closed list' system of voting

43. During the passage of the European Parliamentary Elections Bill in 1998/99 there was significant opposition in the House of Lords to the proposed 'closed list' system of voting. Debate on this and proposed amendments resulted in a substantial delay to the Bill and led to the Parliament Act being used to ensure the passage of the Bill, and the Government will certainly wish to avoid anything approaching a repeat of this.

44. It is reasonable to predict that some Peers may use debate on this Bill as an opportunity to once again voice their opposition to 'closed lists'. However, this Bill does not touch upon the voting system for EP elections at all, and only addresses the introduction of innovative voting methods at EP elections. During the passage of the European Parliament (Representation) Bill in 2002-3, which dealt with the reduction in the numbers of MEPs and the enfranchisement of Gibraltar for European Parliament elections, Liberal Democrat members put forward amendments at the House of Commons committee stage seeking to introduce discussion of 'closed lists'. This was resisted, and a similar amendment at report stage ruled out of scope. It is possible that similar attempts will be made during the passage of this Bill, even though the scope of the Bill does not concern these matters.

45. The different voting systems used for this election could cause contention. Voters are expected to vote at the same election using different voting systems, i.e., the European elections, the local authority elections, the Greater London Assembly and Mayoral elections, and the Northern Ireland elections all use different electoral systems. It could be argued that this could cause voter confusion, and lead to a rise in spoiled ballots. These points are, however, clearly outside the scope of this bill.

Combination of elections

46. During the passage of the Local Government Bill 2003, the Conservative Party declared itself to be opposed to the combination of elections, as they stated that there was no evidence of voter fatigue, and no evidence that combining was more convenient for the voter. The turnout at the last European elections, which were just after the local elections, was 24%. The turnout at the 2001 General Election was less than 60%. There seems to be a strong argument that combining elections will have an effect on voter apathy and therefore increase turnout. There are also cost savings when elections are combined because some functions can be shared between the elections. However, savings for these elections are likely to be modest and largely offset by the extra cost of the pilots.

47. During the passage of the Local Government Bill 2003 through the House of Lords Baroness Hanham and Lord Hanningfield tabled a string of wrecking amendments opposing combination designed to delay and potentially derail the Bill. These amendments were debated at report stage (10 July 2003) and defeated, and so cannot be reintroduced during debate of the Local Government Bill. Although outside the scope of the European Parliamentary and Local Elections (Pilots) Bill, the opposition may, of course, choose to return to these arguments during this Bill's passage.

Reduction in number of MEPs

48. The European Parliament (Representation) Act 2003 introduced a mechanism to reduce the number of UK MEPs to be sent to the European Parliament. This is due to the expansion of the European Union, and the

consequent redistribution of the numbers of MEPs amongst the existing and new member states. The Act specifies a minimum of 3 MEPs from each region. During the passage of the then European Parliament (Representation) Bill through the House of Commons, the nationalist parties raised the issue of maintaining the previous level of representation from Wales, Scotland, and Northern Ireland to acknowledge their special status as separate nations. The Liberal Democrats raised the issue of the equity of the D'Hondt system used in England, Scotland and Wales, with fears raised that reducing the number of MEPs to 3 in a region distorts this method. They proposed setting a minimum of 4. Both sets of amendments were heavily defeated.

49. It may also be raised that not all ten accession countries have yet ratified their membership of the EU, and indeed may not do so until shortly before the May 1st deadline, though F&CO are confident that all will in good time. But in the event of non-accession, under the terms of the Treaty of Nice the Council of Ministers must take a decision to bring the total number of MEPs as close as possible to the required 732. The means for making such an adjustment will be a 'pro rata correction' communicated by a Council Decision. This therefore means that the preparations for the European Parliamentary elections, including the passage of this Bill, will take place while the number of MEPs to be returned is not completely certain. By the time this Bill reaches the House of Lords, however, there may be more certainty

Gibraltar

50. The European Parliament (Representation) Act 2003 allowed the combination of an existing electoral region in England or Wales with Gibraltar. The decision as to which region will be made by the Secretary of State following a recommendation from the Electoral Commission, which will report at the end of August. The recommendation may be controversial. However, this will be known before the Bill starts its progress.

51. Spain has launched its article 227 action under the Treaty of Nice regarding the enfranchisement of "qualifying Commonwealth citizens" (QCCs) living in Gibraltar for European Parliament elections. Gibraltarian people were enfranchised for voting at the European elections under the European Parliament (Representation) Act 2003. QCCs in Gibraltar were enfranchised to replicate the system currently in use in the UK. There are probably 200-300 of such QCCs. Spain has made a statement to the European Commission. The Commission will decide whether a case should go forward to the European Court of Justice. The UK has until 12 September to put its response to the European Commission.

52. There may be other issues that arise regarding Gibraltar's particular situation and wider relations with Spain. These are difficult to predict as they depend on outside events. However, they are outside the scope of the Bill.

European Union in general

53. Those peers who are "anti-Europe" may use this Bill as a chance to air their views on the membership of the European Union, the expansion of the European Union (including the countries admitted and excluded, e.g., Turkey), the draft Constitutional Treaty, and membership of the Euro. All of these areas are well outside the scope of the Bill, yet could be raised, possibly as a tactic to delay the passage of the Bill.

54. The issue of whether or not to hold a referendum on the Draft European Union Constitutional Treaty may be brought up. On the 14th of May the Prime Minister told Parliament that the Government has no plans to hold a referendum on an EU Constitutional Treaty. The Inter-Governmental Conference will be returning to discussion of the Treaty at the time of the early stages of the Bill (autumn).

55. The issue of a referendum on the Euro may well be raised. The Government announced on the 9th June 2003 that a draft referendum Bill would be published this autumn. One of the important issues under consideration would be the franchise for such a referendum, and whether it would include EU citizens. No decision has been taken on this as yet, but the basis for consideration is the Westminster franchise, plus peers, which does not include EU citizens.

56. The Financial Times ran a story on the 4th of August stating that more than 700,000 EU citizens resident in the UK may be eligible to vote. In fact, only 372,000 are registered to vote. This number would be increased by citizens from the new accession states. There has been considerable media interest recently, and some in the No campaign are strongly opposing the idea of using the same franchise as for EU elections.

57. Added to that is the issue of whether to join the Euro or not, and whether the Treasury's economic conditions have been met. Although these are well outside the scope of this Bill, they are nevertheless issues of great current concern and controversy.

Peers expected to take an interest

58. Annex A lists those Peers with an interest in the matters considered to be within the scope of the Bill, that is, pilot voting, electoral reform, local government and constitutional affairs.

59. Annex B lists those Peers with an interest in matters that fall outside the scope of the Bill, for example, Europe in general, Gibraltar, the closed list voting system for the European Parliamentary elections.

60. Annex C lists those Peers who are serving or past MEPs or candidates, and those Peers who are members of relevant committees, that is, the

Constitution Committee, the European Union Committee, and the Delegated Powers and Regulatory Reform Committee.

Annex A

European Parliamentary and Local Elections (Pilots) Bill
HOL Handling Strategy

Peers with prospective interest – Within the Scope of the Bill
(electoral reform, pilot voting, local government, constitutional affairs)

Name (Attendance in 2000/2001 session – most recent figures available)	Party	Relevant experience	Recent contribution (□ = Contribution to debate during passage through Parliament of the European Parliamentary Elections Bill 1998) (Δ = Contribution to debate during passage through Parliament of the European Parliament (Representation) Elections Bill 2003)	Relevant Interests
Blake, Lord (0/76)	Cons	Former President, Electoral Reform Society		Foreign affairs, Electoral Reform
Blatch, Baroness (72/76)	Cons	Minister of State for Education 1992-94, Home Office 1994-97. Opposition Spokesperson for Education 1998-. Deputy Leader of the Opposition 2000-. Vice-President of the Local Government Association.		Local Government Management
Bowness, Lord (59/76)	Cons	Opposition spokesperson for Environment, Transport and the Regions 1997-98. Member of UK Delegation to the Congress of Regional and Local Authorities of Europe (Council of Europe) 1990-98, UK Delegation to the Committee of the Regions of the EU(COR) 1994-98.		Local government
Brittan of Spennithorne, Lord (10/76)	Cons	European Commission: Member 1989-99, Vice President 1989-93 and 1995-1999. Publications: European Competition Policy; The Europe We Need; A Diet of Brussels.		Europe.
Bruce of Donington, Lord (76/76)	Lab	Former MEP; Former member, HOL Select Committee on European Community, 1982-1997; Member, Select Committee on House of Lords Offices 1997-; Specialist on EU affairs	□ Opposed closed lists. Makes frequent contributions on debates on European matters.	Anti-EU and European Parliament. Concerned that enabling Gibraltar to vote in EP elections could complicate the sovereignty issue.

Campbell of Alloway, Lord (75/76)	Cons	Member, Management Committee of UK Association of European Law 1975-1989 Publications: Common Market Law, 1973 and 1975; Competition Law, 1980	□ Pro Open rather than closed list system	European Union; Constitutional Affairs
Cockfield, Lord (73/76)	Cons	Former Vice Chair, Commission of European Communities 1985-89 Publication: The European Union: Creating the Single Market	□ Against the closed-list system Spoke in debate on EU enlargement.	Appears to be anti-European Parliament.
Cope of Berkeley, Lord (68/76)	Cons	Member, UK Parliamentary Delegation to Council of Europe and Western European Union 1995 – 1997	□ Query re new rules on Dual Mandate (simultaneous membership of the Houses of Parliament and European Parliament); May raise this again.	Electoral issues.
Dean of Harptree, Lord (64/76)	Cons	Deputy Speaker of the House of Lords; Deputy Chair of Committees; Member of Delegated Powers and Deregulation Select Committee; member of House of Lords Offices committee.	□ Against closed lists. Concerned about erosion of relationship between elector and representative.	Constitutional Affairs. Sensitive to delegated powers / use of secondary legislation, particularly for matters of constitutional importance.
Goodhart, Lord (67/76)	Lib Dem	Lib Dem Spokesperson on LCD 2000-; Co-opted member, select committee on European Communities; sub-committee E, 1997-2001; select committees on Delegated Powers and deregulation 1998-2001, European Communities 1998-2001;	□ Against closed lists. Δ In favour of open list or STV; minimum 4 MEPs per region	Electoral and constitutional issues. Sensitive to delegated powers / use of secondary legislation.
Gould of Potternewtown, Baroness (74/76)	Lab	Gvt Whip 1997. Member Constitution Committee 2001-. Member: Commission on Conduct of Referendums. Publications include: *Electoral systems – their practices and procedures.*		Constitutional affairs, Electoral affairs.
Greaves, Lord (42/76)	Lib Dem		Several PQs – Electoral issues, in particular fraud. Asked PQ on Reduction of number of MEPs	

Hamwee, Baroness (57/76)	Lib Dem	Liberal Democrat Spokesperson for Local Government 1991-, including spokes on Environment, Transport and the Regions 1997-2000. Richmond-upon-Thames Borough Councillor 1978-98. Member of Greater London Assembly 2000-, Chair 2001-.		Local Government and London.
Hanham, Baroness (50/76)	Cons	Former Mayor Kensington and Chelsea 1983-84, Leader of the Council 1989-2000; JP; Opposition whip 2000-01; Opposition spokesperson for Transport, Local Government and the Regions 2001-02, and for Local Government and the Regions 2002-	Raised issues of Parliamentary scrutiny regarding pilot schemes	Local Government
Hannay of Chiswick, Lord (n/a – taken seat since the beginning of last session)	C/B	Served in FCO 1959 – posts included: First Secretary Brussels (EC) 1965-70; Brussels negotiating team 1970-72; assistant under secretary EC 1979-84; Ambassador, Permanent Representative to EC 1985-90; Special Representative for Cyprus, 1996-. Served on Advisory Board: Centre for European Reform, European Foreign Affairs Review. Editor, *Britain's Entry into the EC, Report on the Negotiations* 1970-72	Δ against closed lists; feels exacerbate low turnout at European elections	Foreign affairs; Europe.
Hanningfield, Lord (51/76)	Cons	Leader of Essex County Council 1998-99, 2001-; President, Assembly of European Regions Sub-Commission 1990-; Chair, Enlargement Group, EU Committee of the Regions	Raised issues of Parliamentary scrutiny regarding pilot schemes	
Howell of Guildford, Lord (63/76)	Cons	Opposition Spokesperson on Foreign Affairs 2000 - ; Member, Sub-Committee B of House of Lords Select Committee on European Communities); Select Committee on European Communities 1999 – 2000	Δ Against closed lists; uncertainty of ratification by all accession states leads to unacceptable uncertainty of number of MEPs; distribution of MEPs. Several contributions on Gibraltar	Foreign Affairs Anxious that interests and rights of people of Gibraltar are defended.
Inglewood, Lord (19/76)	Cons	Serving MEP for North West Region	□ Against closed-list system	Europe, Local Government

Kilclooney, Lord (n/a – taken seat since the beginning of last session)	UUP	Former MEP (Northern Ireland); Member, Council of Europe.	2 PQs on Gibraltar. Supports enfranchisement, keen to include Gibraltar in NI constituency.	European Union, electoral issues.
Kingsland, Lord (72/76)	Cons	MEP Shropshire and Stafford 1979-94; Leader Conservative MEPs 1987-94; Shadow Lord Chancellor 1997-		Europe
Ludford, Baroness (3/76)	Lib Dem	Serving MEP for London Region; Former EC official; Party spokesman on Foreign and Commonwealth affairs.	□ In favour of open-list rather than proposed closed-list system.	Europe, Local Government
Maddock, Baroness (68/76)	Lib Dem	Member, Select Committee on European Union; Vice-chair, Electoral Reform Group		Europe, electoral issues, local government
Nicholson of Winterbourne, Baroness (22/76)	Lib Dem	Serving MEP for South East Region; Vice Chair, Foreign Affairs, EU; Gibraltar in European representation group.	Spoke in debate on EU enlargement.	Pro EU – enlargement.
Northesk, Earl of (66/76)	Cons	Opposition whip 1999-2001; member, Select Committee on House of Lords Offices	□ Against erosion of relationship between voter and MEP. One PQ requesting review of closed-lists.	
Pearson of Rannoch, Lord (67/76)	Cons	Member, House of Lords Select Committee on the European Committees and Sub-Committee on Social Affairs and the Environment 1992-96		European Union
Plumb, Lord (50/76)	Cons	Former MEP; Former President, European Parliament.		Europe
Rawlings, Baroness (61/76)	Cons	Former MEP. Conservative Spokesperson on Foreign and Commonwealth Affairs 1998 -	Δ against closed lists	International affairs
Rennard, Lord (66/76)	Lib Dem	Liberal Democrat Director of Campaign and Elections 1989 -	Δ against closed lists; in favour of wide consultation regarding which region Gibraltar would be combined with; in favour of minimum number of MEPs to be 4;	

Russell, Earl (52/76)	Lib Dem	President of the Electoral Reform Society	□ Δ Prefers STV to closed list.	Sensitive to delegated powers / use of secondary legislation.
Scott of Needham Market, Baroness (75/76)	Lib Dem	Spokesperson for Transport, Local Government and the Regions 2001-. Member of EU Committee of the Regions 1998-2002, Council of European Municipalities and Regions, Congress of Local and Regional Authorities in Europe.		
Smith of Leigh, Lord (23/76)	Lab	Former Chair North West Regional Assembly	PQ re all-postal voting at European elections	Local Government
Stoddart of Swindon, Lord (48/76)	C/B	Chairman of Campaign for an Independent Britain and Anti-Maastricht Alliance	□ Opposed closed list system.	Describes himself as leading Euro-sceptic. Local Government
Strathclyde, Lord (70/76)	Cons	Contested Merseyside East at European election, 1984. Opposition spokesman, Constitutional Affairs, 1998-2001; Leader of the Opposition, 1998-		
Weatherill, Lord (76/76)	C/B	Former Speaker House of Commons 1983-92. Member, Constitutional Committee 2000-02	□ Against closed lists.	General interest in electoral issues

Annex B

European Parliamentary and Local Elections (Pilots) Bill
HOL Handling Strategy

Peers with prospective interest – Outside the Scope of the Bill
(Gibraltar, closed lists system, etc)

Name (Attendance in 2000/2001 session – most recent figures available)	Party	Relevant experience	Recent contribution (□ = Contribution to debate during passage through Parliament of the European Parliamentary Elections Bill 1998) (Δ = Contribution to debate during passage through Parliament of the European Parliament (Representation) Elections Bill 2003)	Relevant Interests
Alton of Liverpool, Lord (56/76)	C/B		□ Against closed-lists. Tabled an amendment to remove closed lists.	Citizenship
Astor of Hever, Lord (70/76)	Cons	-	Spoke in debate on Gibraltar – enfranchisement and sovereignty. Wants to play 'constructive part in the legislative process' to enable it to happen.	Keen that Gibraltar is not 'sold out'; highlight Gibraltar's use as military base in recent international climate.
Beaumont of Whitley, Lord (74/76)	Green	Co-opted member, Select Committee on European Communities Sub-Committee C; Member, Parliamentary Assembly Council of Europe and Western European Union 1974-1978; Vice-Chair, Council of Europe Liberal Group 1977-1978	□ In favour of open-list system and STV	Costs to political parties. Party political donations.
Billingham, Baroness (64/76)	Lab	MEP 1994-99; Member, European Union Committee 2000-		Europe
Blaker, Lord (46/76)	Cons	Vice-President Conservative Foreign and Commonwealth Council 1983-1992	1 PQ on future of Gibraltar.	Foreign Affairs Concerned that Spain is bullying Gibraltar.
Carnegy of Lour, Baroness (45/76)	Cons	DPPR Committee 2001-		Local Government, European Union

Cox, Baroness (42/76)	Cons	Deputy Speaker, H of L, 1986 - ; Deputy Chair of Committees, 1986	1 PQ – Highlighted wish of people of Gibraltar to retain British sovereignty.	Anxious to protect interest of Gibraltar.
Dixon-Smith, Lord (60/76)	Cons	Essex County Council 1965-93. Opposition spokesman Environment, Transport and the Regions 1998-2000		Local Government
Evans of Parkside, Lord (61/76)	Lab	Former MEP; Chair European Parliament Policy and Transport Committee 1976-1978	□ Significant contributions opposing the closed-list system.	
Grenfell, Lord (76/76)	Lab	Senior Adviser World Bank, 1983-90. Head of External Affairs, European Office of the World Bank, 1990-95. Member, and current Chair, European Union Select Committee 1999-.		European Affairs
Hardy of Wath, Lord (71/76)	Lab	Hon Member, Council of EP Assembly; Leader, Labour Delegation 1983-1996; Vice-Chairman, Socialist Group of the Council of Europe 1983-1996; Rapporteur Defence Committee WEU and several Council of Europe Committees	□ In favour of the Gibraltarians getting the vote. Anxious to solve issue of Gibraltar sovereignty.	Foreign affairs
Henley, Lord (68/76)	Cons	Deputy Speaker 1999 - ; Deputy Chairman of Committees 1999 – 2001	□ In favour of an amendment to enfranchise Gibraltarians for the European Parliamentary elections	
Hogg of Cumbernauld, Lord (40/76)	Lab	Local Government Officers Association 1967-79; DPPR Committee member 1999-		Local Government, Constitutional Affairs
Hooper, Baroness (66/76)	Cons	Former MEP; Vice-Chair, all-party group on Gibraltar; member all-party Group on Spain; Overseas Territories Group	□ Very much in favour of Gibraltarians being enfranchised for the European Elections 2 PQs – Govt's policy on Gibraltar issues.	European Union, Latin America; Gibraltar. Likely to represent the views of Lord Bethell who introduced a Private Members Bill in 1999 to enfranchise Gibraltar (Bethell is no longer in HOL)
Howe of Aberavon, Lord (48/76)	Con	Foreign Secretary, 1983 – 1989; Foreign Secretary when Brussels Process on Gibraltar's future initiated;	Several contributions on Gibraltar. Has been broadly supportive of the Govt's approach.	Keen to maintain good relations with Spain and Gibraltar.

Howie of Troon, Lord (73/76)	Lab	Member of H of L Select Committee on the European Communities 1995-1997	□ Against the closed (and open) list and in favour of STV.	
Hoyle, Lord (68/76)	Lab	Member of the Gibraltarian Group	Several contributions on Gibraltar; enfranchisement and sovereignty.	Concerned to defend the interests of the people of Gibraltar.
Hurd of Westwell, Lord (39/76)	Cons	Foreign Secretary 1989-1995; Member, the Constitutional Commission 1998-1999; Vice-President, the Falkland Islands Association 1996-2000	□ Against closed lists	Europe; Foreign Affairs.
Lamont of Lerwick, Lord (65/76)	Cons	Chancellor of the Exchequer 1990-93; Member, Select Committee on European Union 1999-; Vice-President, Bruges Group 1994-		European Union
Luce, Rt Hon Lord (6/76)	C/B	Former Governor and Commander in Chief, Gibraltar 1997-2000; Former Minister of State, FCO;		Foreign and Commonwealth affairs
MacGregor of Pulham Market, Lord (n/a)	Cons	Conservative MP for South Norfolk 1974-2001. Chief Sec to the Treasury 1985-87, Minister of Agriculture 1987-89, Secretary for Education 1989-90, Secretary for Transport 1992-94. Vice-President of Association of County Councils 1995-97.		
Maclennan of Rogart, Lord (n/a)	Lib Dem	Leader SDP 1987-88; President, Liberal Democratic Party 1994-98.		Constitutional Reform, European Union
Moynihan, Lord (50/76)	Con	Senior Opposition Spokesperson on Foreign Affairs 1997 – 2000;	1 PQ on Gibraltar: People of Gibraltar must support any joint sovereignty agreement before it can go ahead.	Foreign Affairs
Park of Monmouth, Baroness (69/76)	Cons	Career in the Foreign Office; Member, Select Committee on European Communities 2000 - ; Member, European Communities Sub Committee	□ Against closed party list Contributed to debate on Gibraltar sovereignty, keen to observe the wishes of people in Gibraltar.	Foreign Affairs
Tebbit, Lord (35/76)	Cons	-	□ Against closed-lists. Spoke in debates on Gibraltar sovereignty. Favours UK sovereignty.	

Thatcher, Baroness (7/76)	Cons	Prime Minister 1979-1990; Hon President, The Bruges Group;		Europe.
Thomas of Swynnerton, Lord (10/76)	C/B	Publications include: Ever Closer Union: Britain's Destiny in Europe, 1991; and The Future of Europe, 1997.	□ In favour of the Gibraltar question being resolved. Also in favour of Gibraltar being enfranchised, but anxious not to upset Spain.	Spain, international affairs. Keen for Gibraltar debate to be resolved. Favours joint sovereignty.
Tope, Lord (50/76)	Lib Dem	LB Sutton 1974-; GLA member 2000-.		Local Government: Europe
Waddington, Lord (71/76)	Cons	Member of Delegated Powers and Deregulation Committee and Procedure Committee	□ Electoral system – against the list system, multi-member constituencies, regional constituency split. □ Pro Gibraltar getting the vote; in favour of adding them to a UK constituency; 4 PQs on Gibraltar.	In favour of giving Gibraltar vote in EP elections. Has accused Govt of treating relations with Spain as more important that the legal rights of Gibraltar. Keen to defend interests of Gibraltar.
Wallace of Saltaire, Lord (53/76)	Lib Dem	Lib Dem spokesperson on Foreign and Commonwealth Affairs 1998-; Member, European Union Select Committee 1997-2000, 2001-2; Chair, European Union Sub-Committee F (1997-2000); Various publications on Europe, and one on foreign affairs.	Several contributions on Gibraltar. Supports the Govt's moves toward a settlement on sovereignty.	Foreign Affairs; Europe; Constitutional Affairs
Watson of Richmond, Lord (47/76)	Lib Dem	Vice-Chairman, the European Movement 1995-; Liberal Democrat spokesperson on Europe 2000-01		European history
Whaddon, Lord (2/76)	Lab		Contributions on Gibraltar issues. Backed Lord Bethell's PMB (1998/99) European Parliamentary Elections (Gibraltar) Bill	Eastern Europe

Williamson of Horton, Lord (46/76)	C/B	Secretary-General, Commission of the European Communities 1987-97; Member, European Union Select Committee 2000 -; President, University Association for Contemporary European Studies; Co-chair, Europe 21.	Europe.
Willoughby de Broke, Lord (21/76)	Cons	Member, European Union Select Committee 1997-2000; European Union sub-committee D 1997-2001; Vice President, Conservatives Against a Federal Europe, 1997 -	Anti Federal Europe.

Annex C

European Parliamentary and Local Elections (Pilots) Bill – HOL Handling Strategy

Peers with prospective interest
MEPs, ex-MEPs or candidates, members of relevant committees

Serving MEPs

Lord Inglewood	Con (North West Region)
Baroness Ludford	Lib Dem (London Region)
Baroness Nicholson of Winterbourne	Lib Dem (South East Region)

Former MEPs or EP candidates

Lord Alderdice	Lib Dem
Baroness Billingham	Lab
Baroness Boothroyd	Lab
Lord Bruce	Lab
Lord Cobbold	C/B
Baroness Crawley	Lab
Lord Evans	Lab
Baroness Fisher of Rednal	Lab
Lord Harrison	Lab
Baroness Hooper	Con
Lord Kilclooney	UUP
Lord Kingsland	Con
Lord Plumb	Con
Lord Randall of St Budeaux	Lab
Baroness Rawlings	Con
Lord Reay	Con
Lord Russell-Johnston	Lib Dem
Lord Strathclyde	Con
Lord Tomlinson	Lab/Co-op

Constitution Committee

Lord Norton of Louth (Chair)	Con
Lord Acton	Lab
Lord Elton	Con
Lord Fellowes	C/B
Baroness Gould of Potternewton	Lab
Lord Holme of Cheltenham	Lib Dem
Baroness Howells of St Davids	Lab
Lord Jauncey of Tullichettle	C/B
Lord Lang of Monkton	Con
Lord MacGregor of Pulham Market	Con
Earl of Mar and Kellie	Lib Dem
Lord Morgan	Lab

European Union Committee

Lord Grenfell (Chair)	Lab
Baroness Billingham	Lab
Lord Brennan	Lab
Lord Cavendish of Furness	Con
Lord Dubs	Lab
Lord Hannay of Chiswick	C/B
Baroness Harris of Richmond	Lib Dem
Lord Jopling	Con
Lord Lamont of Lerwick	Con
Baroness Maddock	Lib Dem
Lord Neill of Bladen	C/B
Baroness Park of Monmouth	Con
Lord Radice	Lab
Lord Scott of Foscote	C/B
Earl of Selborne	Con
Lord Shutt of Greetland	Lib Dem
Baroness Stern	C/B
Lord Williamson of Horton	C/B
Lord Woolmer of Leeds	Lab

Delegated Powers and Regulatory Reform

Lord Dahrendorf (Chair)	Lib Dem
Lord Brooke of Sutton Mandeville	Con
Baroness Carnegy of Lour	Con
Lord Desai	Lab
Lord Harrison	Lab
Lord Mayhew of Twysden	Con
Lord Temple-Morris	Lab
Lord Tombs	C/B
Lord Wigoder	Lib Dem

Peers who have declared an interest in Europe

Lord Biffen	Con
Baroness Billingham	Lab
Lord Bowness	Con
Lord Bruce of Donington	Lab
Lord Campbell of Alloway	Con
Baroness Carnegy of Lour	Con
Baroness Chalker of Wallasey	Con
Lord Cobbold	C/B
Baroness Crawley	Lab
Baroness Flather	Cons
Lord Gallacher	Lab
Baroness Goudie	Lab
Lord Grenfell	Lab
Lord Harris of High Cross	C/B
Lord Harrison	Lab
Lord Haskins	Lab
Baroness Hooper	Con
Lord Hooson	Lib Dem
Lord Hylton	C/B
Lord Inglewood	Con
Lord Kilclooney	C/B
Lord Lamont of Lerwick	Con
Lord Lester of Herne Hill	Lib Dem
Baroness Ludford	Lib Dem
Lord Maclennan of Rogart	Lib Dem
Baroness Michie of Gallanach	Lib Dem
Duke of Montrose	Con
Lord Morgan	Lab
Lord Newby	Lib Dem
Lord Pearson of Rannoch	Con
Lord Renton	Con
Lord Russell-Johnston	Lib Dem
Lord Sewel	Lab
Lord Skidelsky	C/B
Lord Stoddart of Swindon	Ind Lab
Lord Taverne	Lib Dem
Lord Temple-Morris	Lab
Lord Tomlinson	Lab
Lord Tope	Lib Dem
Lord Tordoff	Lib Dem
Lord Wallace of Saltaire	Lib Dem
Lord Williams of Mostyn	Lab
Lord Willoughby de Broke	Con

The Rt Hon Nick Raynsford MP
Minister of State for Local and
Regional Government

OFFICE OF THE
DEPUTY PRIME MINISTER

26 Whitehall
London SW1A 2WH

Tel: 020 7944 3013
Fax: 020 7944 4539
E-Mail: nick.raynsford@odpm.gsi.gov.uk

Web site: www.odpm.gov.uk

The Rt Hon Peter Hain MP
President of the Council
Leader of the House of Commons
2 Carlton Gardens
London
SW1Y 5AA

10 SEP 2003

Dear Peter

ELECTORAL PILOTS IN 2004 AND THE GOVERNMENT'S RESPONSE TO THE ELECTORAL COMMISSION'S EVALUATION OF THE 2003 PILOTS.

Chris Leslie will write separately seeking the agreement of LP Committee to introduce the European Parliamentary and Local Elections (Pilots) Bill which enable the piloting of innovations at combined European Parliamentary and Local Elections next year. I am now writing to seek MISC 24's agreement to:

(a) the publication, on the same day as the Bill is introduced, of a consultation paper on the detail of the proposed pilots;
(b) the terms of reference to be given to the Electoral Commission in a joint letter with the Lord Chancellor, in which we will seek the Commission's recommendations about the regions in which electoral pilots should be held during the combined elections in June 2004; and
(c) the Government's response to the Electoral Commission's response evaluating the 2003 pilots.

It is proposed to introduce the Bill on 17 September, so I should be grateful for your comments by 15 September. Naturally, (a) and (b) above are dependent on LP agreement to proceed with the enabling Bill, and confirmation that the necessary resource will be provided.

A widespread programme of successful electoral pilot schemes took place in the May 2003 local elections. The Commission's report offered a strategic evaluation of the pilot programme as a whole and presented a number of recommendations for future pilot programmes. In this response, the Government sets out its intentions for taking forward these recommendations in the context of the proposed pilots at the combined European Parliament and local elections in June 2004.

The response will accept, as a basis for consultation, the Electoral Commission's recommendation to roll out all-postal voting, subject to consultation, in local elections. We would hope to launch that consultation in the late autumn of this year, with a view to the full implementation of all-postal voting in 2005 (although that timescale will depend on available slots for the required underpinning legislation).

It is also our intention, in a separate consultation paper to be issued jointly with DCA, to seek views from local authorities and others about proposals to hold electoral pilots during the combined European Parliamentary and local elections in June 2004. We are also providing guidelines seeking the Electoral Commission's views as to which regions should pilot in these combined elections.

Strategically, it remains our aim to hold an e-enabled general election sometime after 2006. Such an ambition will depend on the development of a more expansive programme of UK-wide pilot elections over the coming years, and decisions to be made as part of the Spending Review 2004 will be a key determinant of the pace at which we can move forward. Later in the year we, with DCA, will seek MISC 24's endorsement of a strategy and road map setting out the steps towards our long-term goal. That may conveniently come forward as part of long-awaited government response to the consultation based on *In the Service of Democracy* led by the e-Envoy's Office in 2002.

As you are aware, there is currently an on-going discussion in relation to central funding for the pilots that this Bill will enable. Without collective agreement on this, we will not be able to proceed on the basis described above.

I would be grateful for colleagues' agreement to proceed with these arrangements, in the terms of the enclosed drafts, subject to minor and drafting amendments.

I am copying this letter to the Prime Minister, members of MISC24 and LP Committees and to Sir Andrew Turnbull.

Yours ever

Nick

NICK RAYNSFORD

(ODPM Logo
In Bold Here)

Government Response to the Electoral Commission's Report: *The Shape of Elections to Come - A Strategic Evaluation of the 2003 Electoral Pilot Schemes*

Contents

Introduction	2
All-Postal Voting - Key Recommendations	3
Electronic Voting - Key Recommendations	4
Administrative Innovations - Key Recommendations	5
Electronic Counting - Key Recommendations	6
General Electronic Voting Recommendations	7
Pilot Programme Administrative Recommendations	8
Glossary of Terms	9
Annex A: All-Postal Voting Practice Points	10

Introduction

The local government elections held on 1 May 2003 saw the running of 59 pilot schemes in 61 local authorities. These were part of an ongoing programme of piloting innovations at local elections which is being promoted by the Government in partnership with English and Welsh local authorities, the Local Government Association and the Electoral Commission.

In their publication, *The Shape of Things to Come*, the Electoral Commission set out their strategic evaluation of the 2003 electoral pilot schemes. They concluded that all were well-conducted and succeeded in delivering an election result and made a range of recommendations. This paper is the Government's response to those recommendations. It maps out how, in the light of the experience of the 2003 pilots and earlier pilots, the Government envisages progressing its piloting programme and delivering its stated aim of an e-enabled general election sometime after 2006.

In their evaluation, the Commission highlighted the importance they attach to the pilot programme. This programme is the means of testing innovations in the electoral process in real elections. The development of well-tested innovations is essential if voting is to be made easier and more convenient for people given today's lifestyles whilst ensuring that public confidence and the security and fairness of the ballot is maintained. This is the heart of electoral modernisation which is vital to the continued health of our democracy.

An effective and robust democracy together with a strong and sustainable economy are essential if people everywhere throughout the country are to achieve the quality of life they expect and deserve. Today we face some real challenges to our democracy. Above all there is a reluctance of so many to participate in and engage with our democratic institutions whether at the local or the national level as shown by the low turnout at recent elections.

We need to stem and reverse this decline in involvement and participation in the political process and government institutions. What governments do needs to be meaningful to people, and people need equally to be able to have confidence in those they have elected to office. Whilst an agenda for civic engagement must range far more widely than reforming our voting arrangements, the modernisation of our electoral process is an essential element of it.

The 2003 pilots, including 17 pilots offering voters the chance to vote electronically by a variety of channels, provided an important opportunity to test a wide range of electoral innovation which the Government is seeking to take forward in the wider context of democratic renewal, particularly, in the first instance at least, at the local level.The paper below sets out how the Government intends to do this in the light of the Electoral Commission's recommendations.

All-Postal Voting - Key Recommendations

1. There should be a statutory presumption that all local elections be run as all-postal ballots unless there are compelling reasons why an all-postal ballot would be inappropriate or disadvantageous for a group or groups of electors. The final decision should rest with the Returning Officer following consultation with party group leaders and independent members represented on the Council. If polling stations are to be used, the Returning Officer should publish a statement of reasons for that decision at the time of notice of poll.

2. The current declaration of identity should be replaced with a new security statement to accompany postal ballots, whether in the context of all-postal elections or otherwise. This security statement should:
   - require the voter to sign a statement that he/she is the individual to whom the ballot paper was addressed;
   - not require any form of witness signature;
   - include a clear explanation of the role and use of the declaration, in particular that it will be separated from the ballot paper before counting can begin and that failure to complete the statement will render a ballot paper invalid;
   - be designed and printed to make it obvious to the voter that this separation will occur.

3. Any all-postal election must provide staffed delivery points. The decision on how many staffed delivery points is a matter for the Returning Officer but it should be at least one. In other cases more may be needed, but in no cases should there be more than the number of wards in which elections are to be held. Delivery points should be permitted in both mobile and fixed locations; unstaffed delivery points should not be permitted to minimise voter confusion.

4. These staffed delivery points must provide electors with the ability to:
   - deliver their completed postal vote, or complete their ballot paper in private;
   - receive assistance in completing their ballot if they so desire;
   - access election information in different formats and languages, including the tactile template;
   - have a replacement ballot paper issued.

5. Staff at these delivery points must receive training, with a focus on the provision of assistance to voters. These staff must also be bound by the secrecy provisions in electoral law.

6. The implementation of all-postal voting should include a statutory requirement that all ballot papers be sorted 'face down' at the verification stage.

7. **These measures should also be reinforced by the implementation of the Commission's earlier recommendations for increasing the security of postal voting generally:**
   - **There should be a new offence of intending fraudulently to apply for a postal or proxy vote. The maximum penalty should be a custodial sentence in line with the penalties for personation.**
   - **The drafting of the law on undue influence should be revised to clarify the nature of the offence.**
   - **It should also become a legal requirement that secrecy warnings are included on postal and proxy voting literature; these warnings should be specified in law.**
   - **The existing statutory provisions on personation should be extended to give the police the power of arrest, based on 'reasonable suspicion' of personation, at any location, not just at polling stations.**
   - **A new legal provision should be introduced so that in exceptional circumstances, and where the prosecution has demonstrated all due diligence, the court may extend the period in which a prosecution must be brought by up to 12 months.**
   - **There should be more rigorous and routine checks for fraud after significant elections, on the basis of a random audit process.**
   - **The Commission will develop a Code of Practice in relation to the handling of postal ballots by representatives of political parties, in conjunction with political parties. If self-regulation does not prove to be effective, there may be a need for legislative action in the future.**

8. **A further integral component of a successful rollout of all-postal voting is implementation of Commission's recommendation for a move from household to individual voter registration. Improved funding arrangement for electoral services will also be important in ensuring that all-postal elections can be efficiently and effectively delivered by local authorities.**

9. **The 2003 statutory orders for the all-postal pilot schemes in Herefordshire, Gateshead and Stevenage should be used as the starting point for creating a new pilot order. This new pilot order should also take account of the detailed recommendations in this report and should be piloted at local authority by-elections during the remainder of 2003 and in 2004. Subject to the outcome of evaluation, this order should then provide the basis for making all-postal voting available at local elections without pilot status.**

10. **All-postal voting should not progress beyond pilot status until our wider recommendations for legislative change detailed above are enacted.**

The Government shares the Commission's assessment of the substantial benefits in terms of turnout that all postal voting could potentially bring. It recognises that underlying the Commission's assessment and recommendations is a judgement that with the appropriate measures all postal voting could be universally introduced for local elections without damaging security and fairness of the ballot. It will be important to test this

judgement, particularly in relation to the detailed measures that might best accompany any roll out of all postal voting in local elections.

Accordingly, the Government accepts, as a basis for consultation, the broad thrust of the Commission's recommendations for all-postal voting to be rolled out generally for local elections in England and Wales. The next step will be for the Government to issue a consultation paper inviting views on:

- the detailed form of the all-postal voting envisaged by the Commission;
- the Commission's proposals for wider legislative change (as a pre-condition to all postal voting) to minimise risk of fraud and coercion;
- whether, in certain circumstances, reversion to a traditional election should be allowed (and, if so, whether the Commission's proposal that a Returning Officer should be responsible for the decision is the best approach);
- the resource implications for local authorities.

The Government intends to initiate this consultation during the Autumn of 2003.

Government does not see the development of all postal voting in isolation from its overall electoral modernisation programme. It believes that the essential feature of all postal voting that substantially increases turnout is that all electors receive as of right in their homes the material to cast their votes, and that using this material so that they can subsequently exercise their vote from home or elsewhere. It is this same essential feature that is at the heart of such e-voting channels as voting by internet, telephone, SMS, or indeed DTV. The Government believes, therefore, that any move to universal all postal voting, as now recommended by the Commission for local elections, must be regarded as an interim, albeit significant, development. During this interim stage of electoral reform electors would be able to return their vote by post or by taking it to designated places such as delivery points. The Government's long term aim is that in addition to these channels for returning their votes, electors will also be able to return their votes through electronic medium. These electronic channels will become of increasing importance as such as the medium as the internet and phone, rather than the post, become the ever more widely used methods of communication for an increasing proportion of the electorate.

Electronic Voting - Key Recommendations

11. **The Government should – as a priority – develop a detailed road map towards its stated goal, drawing on expertise across the public and private sectors in the successful development of major IT projects. It is important that this road map is in place before the next round of electronic pilots to enable progress to be reported against an agreed long-term project plan.**

The Government shares the Commission's view that a clear strategy and underpinning detailed roadmap are essential to the successful delivery of its key aim – an e-enabled general election sometime after 2006.

The Government set out, in its Response to the Commission's Strategic Evaluation of the pilots in 2002, its broad strategy in the following terms, which remain relevant:

> *For its part the Government published its consultation paper in July 2002 on a policy for e-democracy which set out an initial strategy for e-voting with the central medium term aim that sometime after 2006 there would be an e-enabled general election. Such an election would be "multi-channelled" with voting possible for instance by electronic means including Internet, by touch telephone, text messaging, extended use of postal voting and at conventional polling stations.*
>
> *The strategy envisages that prior to the achievement of this aim of an e-enabled general election, other e-enabled elections would have been held on an extensive scale... The essence of the strategy is that progress to the medium term aim would in large measure be made through an expansive programme of piloting e-voting. Moreover, it is the experience of these pilots themselves... that will further develop and refine this strategy.*

That remains the Government's aim and broad strategy. However, whilst accepting the need for a strategic approach to the development and introduction of electronic voting, and for a road map as an important element of that strategy, the Government does not think it appropriate that, initially, such a road map should seek to detail all the steps required to reach the goal. Thinking on e-voting is not yet sufficiently mature to make that possible or sensible. It considers the Commission's reference to an "agreed long-term project plan" betrays an assumption that the timing and nature of this goal is certain, and that the remaining questions relate mainly to implementation. A better model is that of a programme incorporating a series of projects undertaken to create the conditions needed before it would be appropriate to initiate a "major IT project".

In the Government's view early iterations of the road map should therefore focus on the decisions that will be required, the conditions that will need to exist before they can be taken, and the evidence that will be needed to support them. The contributions expected from the next, or later, rounds of pilots must certainly seen in this context, as there could be no question of initiating a national implementation of e-voting without the experience, evidence and public engagement that they will provide. On the other hand, the pace at which the programme can move forward will depend crucially on the availability of funds for piloting and eventual implementation. The strategy and roadmap will therefore both inform Government's thinking in the context of the Spending Review 2004, and depend heavily on its outcome.

On this basis, the Government proposes to continue to publish, and then maintain as appropriate, the evolving strategy and now in the light of the 2003 pilots the associated roadmap. It intends to produce the next update by the end of 2003.

12. **Technical requirements for future e-enabled elections should be further developed, based on the existing Statement of Requirements for suppliers of electronic voting and counting services. In particular, the individual requirements should state more specifically the standard that is expected**

from the solutions. This includes both the overall requirements and the security requirements. There should be stricter controls to ensure that the stated requirements are adhered to.

The Government accepts this recommendation. In letting framework contracts to support pilots in 2003 to 2005, the Government made it clear that suppliers were expected to accommodate evolving requirements, and indeed to contribute themselves to the process of getting them right. There will be a need to strike a practical balance between cost and short-term expectations.

13. **The Government should work with the Commission to develop some form of accreditation to ensure that suppliers are conforming to the requirements and to increase public confidence in the systems used. The accreditation should focus on security issues, but should also cover accessibility issues. The accreditation process should be accompanied by clear documentation outlining the standard to which suppliers and local authorities are expected to conform. A two-stage accreditation method is proposed: Stage 1 should certify the supplier on to the framework; and Stage 2 should accredit an individual pilot prior to going live.**

The Government accepts the strategic thrust of this recommendation as medium to long term aim,.In terms of the strategic road map, the Government considers that the 2003–2005 pilots should be used to work out how a robust accreditation scheme should work. However, it should be recognised that for this 2003-2005 programme the framework is in place with the suppliers placed on it having been selected through a process compliant with EU procurement rules.In the short term, quality assurance of the pilots will continue within an improved process (in particular, allowing more time for assurance to be established).

14. **Specific and more proactive methods for measuring the number of attacks and level of potential fraud should be mandated for future pilots.**

The Government agrees with this recommendation but believes that an assessment of all threats should be conducted and not just incidents of fraud. Operational systems with in-built detection and measurement of attacks will need to differentiate between the multitude of automated probes that occur and actual attacks. The Government intends to investigate further which measures should be introduced.

15. **A full risk assessment should be undertaken for each e-voting service provided.**

The Government agrees with this recommendation and, more generally, recognises the need for continuing to establish a formal framework for information security management.

16. **A greater involvement in project management, oversight and involvement is required by the local authorities to ensure that the technical components are**

well integrated into the overall electoral process and that the election is carried out correctly.

The Government broadly endorses this recommendation, whilst recognising that authorities level of involvement in the pilots so far has varied greatly. In some cases it has been exemplary. Nevertheless, the Government recognises that the role to be played by Returning Officers and their staff is a strategic issue. It will be resolved for the long term by enhancing the management of future pilots and learning from the experience. The Government believes there should be a proper and adequate training strategy to secure greater involvement in project management and looks forward to the Electoral Commission adopting this within their overall training strategy.

17. **It is important that Returning Officers and their staff play a larger role in the operation of future electronic voting schemes, including:**
    - **the count, including traceability, adjudication and recounts;**
    - **issuing and managing credentials; and**
    - **dealing with exceptions such as lost poll cards.**

    More comprehensive training should be provided to Returning Officers and their staff as part of the contracts with service providers to enable them to fulfil this larger role.

The Government endorses this recommendation, as it is critical to the success of any pilot. Indeed, the Government believes that all local authority staff providing services to Returning Officers, including IT teams, should be actively involved in managing the project.

18. **The next round of electoral pilots should investigate further the scalability issues in order to get a better understanding of how the costs would decrease when economies of scale are brought in. In the short- to medium-term, the focus of pilot schemes should be the provision of the Internet and telephone channels with a view to providing this scalability.**

The Government agrees that future work should explore the probable costs of conducting e-enabled elections on a large(r) scale. Future pilots will provide more data for that analysis, but practical considerations – including value for money - will limit the scale of services offered in any pilot scheme to one that copes with the likely demand for each channel. No doubt the demand for Internet and telephone channels will, in the short term at least, be greater than that for text messaging or digital TV.

19. **The text message and digital TV channels currently add limited value to multi-channel pilot schemes. However, as the adoption of these technologies is changing rapidly, some development of these channels should be continued. It is recommended that, in the short term, the number of digital TV pilots is kept to a minimum and particular consideration is given to the usability issues.**

The Government believes that the extent to which any particular channels are piloted in future must depend on the circumstances then prevailing, including the current state and take up of technology, and the current priorities as -identified from the road map at that time.

20. **Future pilots should investigate the use of electronic voting kiosks in a more targeted fashion. Experience to date suggests that kiosks in polling stations do not provide significant cost benefits and future pilots should therefore not use kiosks simply to replace paper ballots in polling stations. However, the use of kiosks at remote locations and combined with early voting should be investigated further; but issues relating to location, position and secrecy of kiosks and the promotion of the scheme should be carefully considered.**

The Government endorses this recommendation. The Government agrees that further investigation is required in order to situate kiosks where they are better utilised and will wish to consider the cost implications of future pilots using kiosks very carefully.

Administrative Innovations - Key Recommendations

21. **The use of watermarked or similarly security printed ballot paper should be introduced as a replacement of the stamped official mark in proving a ballot paper's authenticity. The Commission recommends that rule 15 of the Local Election (Principal Areas) Rules 1986 (as amended) be modified by removal of the words 'which shall perforate the ballot paper' and the insertion of definitions to allow for the use of any or all of the ballot paper security devices used in the May 2003 pilots. This change should also be introduced for other elections at the earliest legislative opportunity.**

The Government accepts this recommendation, and intends to seek to allow the use of watermarks and similar security devices as early as is practicable. The Government intends to explore further the efficiency and value of the various options, consulting as necessary before refining the rules.

22. **The law should be amended to allow for barcodes to be used to replace serial numbers on ballot papers as an interim measure pending completion of the Commission's review of vote-tracing devices. Ballot stationery should clearly describe the role of the barcode, which should always be placed on the back of the ballot paper.**

The Government notes this recommendation. There is no evidence to suggest that both a serial number and a barcode are required and may simply prove to confuse the electorate. However some means of providing an audit trail in order to allow traceability inn the event of an election petition or an allegation of electoral fraud is necessary. The Government intends to consider this issue further.

The Government agrees with the Commission that ballot stationery should clearly describe the role of the barcode where it is used, and that it should be placed on the back of the ballot paper. Better information will help to address security concerns the electorate may have about the use of the barcode.

23. **Specifically, Rule 14(2)(b) of the Local Election (Principal Areas) Rules 1986, as modified, should be amended to adopt the wording used in the East Staffordshire Borough Council (All Postal Voting Scheme) Order 2003:**
"Shall have a number or a bar code which is capable of being read by a scanner and which, when so read in conjunction with the register of electors for the election, identifies the name of the voter to whom the ballot paper has been issued, but which is not capable of being so read by the human eye printed on the back",
or words to like effect. This change should also be introduced for other elections at the earliest legislative opportunity.

The Government notes this recommendation and intends to consider it with a view to producing an appropriate revision of rule 14(2)(b) of the Local Election (Principal Areas) Rules 1986 and the Local Elections (Parishes and Communities) Rules 1986.

24. **Authorities should continue to pilot new times, days and places for polling, but that any such application must include fully costed promotion plans.**

The Government accepts this recommendation.

25. **Pilot schemes directed at providing more information to voters about candidates should be sought by the Government.**

The Government notes this recommendation. MORI polls suggest the public dislike being bombarded with information on paper, but might welcome the use of electronic channels to make such information available. The Government intends to consider this issue further, in particular it intends to review the position on candidate statements.

Electronic Counting - Key Recommendations

26. **Further pilots of e-counting should be conducted, both to develop a generic Order suitable for implementation more generally and to investigate scalability issues on a regional basis.**

The Government endorses this recommendation. The combination of the 2004 European Parliamentary and local government elections could provide an excellent opportunity to test scalability and to develop suitable generic legislative provisions, subject to the necessary primary legislation being made. The Government intends to consider further the specific types of e-counting methods to be used in future pilots.

27. A standard test profile should be generated that can be used to test the ability of e-counting machines to cope with spoiled or rejected ballots.

The Government agrees with this recommendation, though any such profile would need to be tailored to the type of machine used and will depend on the model Order developed. This could be incorporated into a future accreditation system.

28. A full audit trail of all decisions made and actions taken should be maintained for all counts and recounts. If the technology cannot automatically maintain this audit trail, it should be produced manually.

The Government agrees with the aims of this recommendation. The Government believes that there should be some level of manual audit to complement the electronic system and that further consideration is required on the form that this should take.

29. All e-counting pilots should conform to the requirements and be subject to the same level of assurance – not just the pilots involving suppliers on the Government contractual framework.

The Government believes that all e-pilots should be subject to Quality Assurance, including those involving e-counting by suppliers employed directly by Returning Officers. The extent to which they should all be meeting the same requirements will be governed by the varying, experimental nature of the pilots concerned. Government will however consider how a consistent level of rigour in Quality Assurance could best be achieved.

30. E-counting could be made available for general use at local elections only once the following conditions hold:

- **there is a certification and accreditation method used to provide assurance; and**
- **the solution provides 'value for money' at a local level.**

The Government agrees that there should be adequate assurance for all e-counting services if they are rolled out permanently for local elections. Such assurance might be achieved by a certification/accreditation approach. The Government would not wish to see any service brought into use that would not provide value for money, recognising what constitutes value for money in a particular case might appropriately be a matter for local judgement.

General Electronic Voting Recommendations

Suppliers & Local Project Management

31. The Government should ensure that there is a single organisation to take lead responsibility for the end-to-end operation of each pilot scheme. This might be

the Government itself, the local Returning Officer or one of the suppliers in the local 'chain'. The lead organisation should specify clear lines of responsibility for all suppliers involved in delivery of the solution. There should be clear and visible service level agreements.

In the Government's view, Returning Officers already have clear leadership responsibility – they are responsible for the conduct of the elections concerned, and nothing should be done to undermine that. The Government considers that a formal definition and explicit agreement of the roles and responsibilities of the several suppliers involved in each pilot are essential in managing the relationships involved. Contractually, it would not be possible in under the current framework to give any of the prime contractors (i.e. suppliers employed from the framework) primacy over the others, and the case for, practicability of, such an approach is not clear.

32. **Mechanisms for supplier and local authority feedback, tracking and problem escalation should be established before the start of the implementation phase. These mechanisms should ensure consistency of content and format across the suppliers.**

The Government agrees with this recommendation and believes that there were many good examples of these mechanisms established ahead of the 2003 pilots. It is intended that mechanisms will be specified in the work order for all future pilots.

33. **In view of the immaturity of the current marketplace and the relative inexperience of authorities in operating pilots, the Commission recommends that the Government does further work to clarify how the concept of interoperability between different suppliers can achieve integrated solutions before developing the pilot programme further.**

Whilst the Government shares the Commission's view of the importance of achieving effective inter-operability to obtain integrated solutions, it believes this part can be done through the running of pilots. Moreover, pending these pilots, work is already underway in several areas. The generic risk assessment will inform various aspects of that work, particularly security, and further work to clarify EML will also help. In the Government's view, EML worked well this year, and the pilots generated useful lessons that will be incorporated into future versions.

34. **The detailed lessons from these pilots should be fed back into the development of EML by the relevant participating supplier organisations.**

The Government accepts this recommendation. Work is already underway.

35. **The operation of the electronic voting scheme in relation to important electoral procedures should be documented clearly by the service providers so that electoral administration staff, candidates and agents are clearly informed about the processes that need to be followed. These procedures should include verifiable checkpoints and should result in an audit trail that can be**

used to verify that the election was conducted in a secure and robust fashion. This audit trail should be analysed and documentation should be produced to provide confidence in the correct conduct of the election. This documentation should be available to candidates and agents for inspection.

The Government agrees with this recommendation and will consider with stakeholders who should provide each component.

36. The Government should work with the Commission to produce guidance in relation to the management of exceptions, such as when a voter claims that they have voted in error because they did not understand the technology.

The Government agrees the need to work with the Commission on these issues.

Security Controls

37. The Government's technical security requirements should be further developed for future e-enabled elections. In particular, the following updates should be made:

- **the need for protecting the integrity of information on the server domains against malicious attack should be formally stated;**
- **the requirements should state that an eligible voter may only cast a single valid vote;**
- **the requirements should state that the linking information between anonymous credentials and voter identification should be held by organisations who are not involved in e-voting service delivery;**
- **the requirements should cover the handling of information required to produce poll cards;**
- **the requirements should state that lost credentials should be managed securely, rather than simply that replacements should be issued;**
- **the public verifiability requirements should be clarified;**
- **the level of clearance required for system operators should be clarified;**
- **remote administration of the central election platform should be prohibited; and**
- **guidance on the strength of security measures required should be provided, based on a generic threat and risk assessment of the e-voting process.**

The Government acknowledges the importance of security and agrees with the broad thrust of this recommendation, i.e. that the technical security requirements should be further developed for future e-enabled elections. The particular points made by the Commission will in some cases need further consideration. The Government believes the following are acceptable:

- formally stating the need for protecting the integrity of information on the server domains against malicious attack;
- requiring that an eligible voter may only cast one valid vote, but expressed in such a way as not to confuse electors who might interpret this as a ban on voting for more than one candidate in a multi-member ward, or one vote in a mixed constituency and list election;
- requiring that lost credentials should be managed securely, rather than simply that replacements should be issued;
- the level of clearance required for system operators should be clarified;
- the need to base guidance on the strength of security measures required on a generic threat and risk assessment of the e-voting process.

The Government intends to consider further on the detailed implications of suggestions that:

- the requirements should state that the linking information between anonymous credentials and voter identification should be held by organisations who are not involved in e-voting service delivery;
- the requirements should cover the handling of information required to produce poll cards;
- remote administration of the central election platform should be prohibited.

Finally, the Government regards the clarification of public verifiability requirements to be a key strategic aim, to be achieved step by step over a period of time.

38. Votes should be digitally signed by the channel servers rather than the central election platform and the information should be cross-checked to ensure the integrity of the voting process.

The Government notes this recommendation and will consult election authorities and suppliers about the implications.

39. Greater use of end-to-end encryption should be made across boundaries between one supplier and another. Support for end-to-end encryption should be provided within EML.

The Government agrees this recommendation, whilst noting that its full implementation may not be initially achievable.

40. The Returning Officer should hold the decryption key and therefore have control of the downloading of results from the central election platform.

The Government agrees with this recommendation, whilst noting generally that the Returning Officer is empowered to appoint clerks as appropriate to help him discharge any of his functions.

41. The use of pre-encrypted ballots, such as the CESG security method, should be mandated for voting by telephone and text message, and should be tested further for Internet and digital TV.

Before mandating such an approach the Government would want to be sure that it would be regarded as usable by voters. This has not yet been demonstrated, and further work is needed (in the context of pilots and otherwise) to establish the best way forward.

42. Voting credentials should be sent to voters in two separate mailings.

The Government acknowledges that such an approach is more secure than a single mailing. But, as it depends on the recipient reconnecting the credentials, it may be regarded as less convenient and usable. The balance to be struck should be explored through further work in pilots.

43. Responsibility for the process of assigning voting credentials to voters should be held by the local authority who should ensure that any subcontracted organisations are not involved in the delivery of the e-voting service which uses those credentials.

The Government notes the recommendation and will consider the practical implications both for future pilots, and for longer-term strategy. However, it considers that election responsibilities should reside with the Returning Officer, not the local authority.

44. The use of multiple redundant hosting and infrastructure centres should be investigated in future pilots. This should be investigated when EML provides a sufficient level of interoperability between channels and hosting centres for this capability to be provided at a reasonable cost.

The Government agrees that this is a strategic factor to be accommodated in the roadmap, reflecting the conditions the Commission suggests.

Quality Assurance

45. The Quality Assurance process should be started earlier, as soon as the suppliers have been chosen for the round of electoral pilots. It would be beneficial to co-ordinate the Quality Assurance with any technical support provided during any procurement or requirements specification phase.

The Government accepts this recommendation and will incorporate in its planning for the next pilots, and in long term planning, quality assurance and accreditation.

46. A consistent level of Quality Assurance should be applied across all electronic pilots – not just the pilots involving suppliers on the Government contractual framework.

The Government accepts the thrust of this recommendation, and notes that the main issue is likely to relate to electronic counting (see the response to Recommendation 29).

47. **Documented Quality Assurance results should be available at an appropriate point before the start of the polling period. There should be sufficient time that the results of the Quality Assurance can be acted on by the suppliers and local authorities, adequately tested and subsequently re-checked by the Quality Assurance supplier. The timescales involved will vary depending on the nature of the pilot, but should be in the region of four weeks.**

The Government notes this recommendation. The revised Quality Assurance process that is being developed will indicate timelines, milestones and deliverables.

48. **More co-ordination is required between the Quality Assurance process and the evaluation undertaken by the Commission. In particular, the Quality Assurance documentation needs to be prepared in a timely fashion so that it can be effectively evaluated within the statutory timescales.**

The Government notes this recommendation. Equally, the Commission's evaluation process needs to fit with the Quality Assurance process as far as possible, and with implementation timelines, to ensure the smooth running of future pilots.

Fraud

49. **Poll cards should point out that the credentials should not be disclosed to a third party, and make clear the seriousness of so doing – including the consequences if caught.**

The Government agrees that the possible consequences of disclosing voting credentials to a third party should be made clear to voters; and the penalties for fraudulently using someone else's credentials should also be publicised.

50. **The Government should review the current law in relation to electoral offences to ensure that there are no loopholes that have been created inadvertently by the introduction of electronic voting mechanisms.**

The Government agrees that lessons have been learned from pilots to date and that this review will have to be undertaken before any form of electronic voting is rolled out. For the time being, however, all e-voting is in the context of a pilot; each pilot is different; and each is governed by special detailed legislative provisions designed specifically for that pilot.

51. **A more comprehensive log analysis process should be specified and undertaken for future e-enabled elections.**

The Government agrees that the analysis of log data by X (and the data itself) should be enhanced in future pilots.

52. The sensitivities associated with the monitoring of electoral processes should be investigated.

The Government agrees that this is an area requiring further consideration, and will look to the Commission for support in undertaking this work.

Promotion & Accessibility

53. Central funds should continue to be allocated for the promotion of e-voting methods, as well as for accompanying research. For their part, Returning Officers should ensure that there is sufficient budget for promotion of the electronic voting solutions.

The Government recognises the important role of publicity in its wider plans to expand e-voting. The Government agrees that Returning Officers have an important part to play in ensuring that there are sufficient promotional budgets and intend to consider whether and how central funding might be allocated for the promotion of electronic voting channels.

54. To harness national publicity and actively promote using this method, all pilot Orders should require that voting channels are open until the close of poll.

The Government acknowledges that there is some evidence that usage of e-voting channels is higher when the channels are available on polling day. However, the Government considers that there are a number of practical and security issues to be considered, and solutions piloted where local circumstance permit, before the recommendation could be universally adopted.

55. There are benefits in using national publicity to promote the ease with which the new methods of voting can be used. Therefore, standardisation of the user interface should be a long-term aim; in the short-term, there are a number of differences that can be eliminated e.g. standardised terminology for credentials, standardised sequence of screens, etc.

The Government agrees that standardisation of the user interface should be a long-term aim, and that in the short term, unnecessary variations in terminology and presentation should therefore be eliminated.

56. Pilot authorities should ensure that the technical requirements for equipment held by the electorate (e.g. voters' PCs) are clear and communicated to the voters ahead of the election. When pre-registration is used, the technical requirements for pre-registration should be the same as for e-voting.

The Government endorses this recommendation but will need to be satisfied that piloting of new technologies does not have any adverse effects on accessibility. It is also sensible that the technical requirements for pre-registration should be the same as for e-voting.

57. The design and information content of poll cards should ensure that recipients appreciate the availability of alternative channels and can make their choice appropriately. The Commission will develop best practice guidance in this area.

The Government welcomes the Commission's proposal to develop best practice guidance in this area.

58. In future, the Statement of Requirements for e-voting suppliers should incorporate the agreed access standards, to avoid duplication and inconsistency.

The Government notes this recommendation. This year the agreed access standards were specified in the Statement of Requirements and all proposals were assessed against them. The Government are considering reviewing and revising the current standards for future use.

Campaigning & Value for Money

59. Local parties, candidates and agents should be given clear briefings by the Returning Officer on the timetable for e-voting and e-counting.

The Government notes this recommendation.

60. The Government should encourage the maximum use of information technology in e-voting pilots to provide electors with information as well as new voting channels.

The Government welcomes this recommendation, though it considers that a clear distinction must be made between information about candidates, and general information about the election and voting.

61. A marked register of those voting in multi-channel elections should be produced. The Commission will make separate recommendations regarding the timing of publication of this register.

The Government agrees that a marked register should be produced and awaits the Commission's recommendations on the timing of publication.

62. The Government should review its pricing model in order to recognise appropriate economies of scale where common costs can be avoided.

The Government endorses this suggestion to improve value for money.

Pilot Programme Administration Recommendations

63. The Government and the Commission should work to formulate generic draft Orders to provide a starting point for amendment to meet individual scheme requirements.

The Government accepts this recommendation and is currently considering what these orders would contain. This should prove helpful in the pilot process and should save time and resources both for the Government, the Commission and Returning Officers.

64. The periods for consultation with local authorities and the Commission on draft Orders should be established at the outset and only vary from the agreed timetable in exceptional circumstances.

The Government accepts this recommendation. The Government also accepts that for the 2002-03 pilot schemes, the Commission was often asked to comment on Statutory Orders in less than five working days previously agreed. In any future pilots, the Government will seek to ensure that the Commission is only asked to provide comments more quickly in exceptional circumstances.

65. All signed Orders should immediately be copied to the local authority and available publicly through the Office of the Deputy Prime Minister's website before close of poll.

The Government agrees that the version of the statutory order as signed should immediately be transmitted to the local authority. It is the responsibility of the local authority to publish the Statutory Order.

66. Any future pilots should have all policy issues resolved before applications are approved. This will allow pilot authorities to be assured of what their scheme will allow, as well as providing time for communication with candidates, agents and the electorate. The policy directions should also be communicated to both the authority and the Commission, allowing for a better and faster assessment of the draft Orders.

The Government notes this recommendation but observes that local authorities sometimes develop their understanding of an innovation, or think of something new they would like to pilot, as the process unfolds. Moreover, as policy issues are often identified during the drafting of Statutory Orders (as was the case for the 2002-03 pilot schemes) it would be difficult to ensure the Commission's recommended approach is achieved in every case. Making the Statutory Orders earlier should facilitate the timely resolution of policy issues.

67. **Authorities should be given a clear outline in the prospectus of what is required, and when, for a final statutory Order to be prepared. Authorities would then be able to have their legal advisers ready to assist at crucial times. Authorities should also devote more time and resources to completing the legal questionnaire.**

The Government notes this recommendation. The Electoral Pilots 2003 Prospectus was detailed and clear in outlining what was required of authorities and made clear when a Statutory Order was likely to be produced. However the Government agrees that local authorities received their Statutory Orders later than ideally required.

The Government agrees with the Commission's recommendation that local authorities should devote more time and resources to completing the legal questionnaire, and is grateful to the time taken and effort made by authorities to complete them in 2003. Once model Orders are available, the burden on all should be significantly reduced.

68. **More time is required for suppliers and local authorities to implement the e-voting and e-counting solutions. The project management of the overall pilot project needs to track and manage the risk of timescale slippage.**

The Government notes this recommendation. As authorities and suppliers become accustomed to using these solutions it will be easier for them to implement them in a short period of time.

The Government had detailed project management arrangements in place (reflecting the Commission's evaluation of the 2001-02 pilot process). These arrangements worked well in tracking and managing all risks to the pilot project including timescale slippage.

69. **Central government should ensure that they have adequate resources to manage the pilot process. Consideration should be given to the number, scale and complexity of the pilots in assessing resource needs.**

The Government accepts this recommendation which is the basis on which it approaches the pilot programme.

70. **In-depth independent technical IT procurement and e-government expertise should be involved throughout the procurement process. It would be beneficial to combine this with the Quality Assurance process.**

There is to be no fresh procurement for 2004, but the Government notes this recommendation . The Government considers the procurement for the 2003-05 pilot programme drew heavily on expert input involving (list people involved in the assessment, EC).

Glossary

All-Postal Voting

Commission

Delivery Points

E-enabled

E-counting

E-voting

Multi-channelled

ODPM

The Office

Postcomm

Annex A

All-Postal Voting Practice Points

The Government welcomes the practice points from the Commission (set out below), and commends them to all local authorities that wish to pilot. For the Government's part, it intends to consider carefully those points that require decisions to be made it, in particular any provisions for alternatives to signatures on security statements, and the development of accessibility standards in conjunction with the Commission.

Promotion

a. **Returning Officers should continue to actively promote and explain all-postal voting whether or not the election is a 'pilot scheme'.**
b. **A budget for promotion should be an integral part of election planning.**
c. **Effective liaison between the Returning Officer, his/her staff and the authority's professional PR staff is critical.**
d. **Local authorities should ensure that they include information in publicity campaigns about the security and secrecy aspects of the postal ballot method of voting – and not assume that voters understand the methods used in traditional polling.**
e. **Evaluation of publicity campaigns is essential to producing better campaigns next time.**

Accessibility

f. **Access standards for postal voting should be developed by the Government in partnership with the Commission and relevant community organisations, for use in both all-postal elections and more generally. These standards should be promoted effectively.**
g. **Prospective pilot authorities should consult local community and access groups earlier in the pilot process – ideally before the application is submitted - to facilitate the removal of barriers to participation.**
h. **Authorities should ensure that their public awareness campaigns target all significant community groups within their area, and ensure that consideration is given to the provision of 'Plain English' materials for all electors.**
i. **The Government should clarify whether an alternative mark can be made in place of the signature requirement on the new security statement.**

Local Project Management

j. **Local authorities should consider the value of project management in preparing for all-postal elections or other significant variations to the standard election process, especially where there is significant dependence on external suppliers.**

k. While many electoral services staff receive project management training through their authority's own development programmes, the Commission believes that specialised training to assist in the management of outsourced electoral functions will be valuable. This will be built into the development of the national training strategy.

l. The model of joint contracting should be further explored as the take-up of postal voting increases.

m. The Electoral Commission will liase with authorities and suppliers to develop good practice guidance on the key aspects of supplier relationships that will be important for the future. As a minimum, this is expected to include:

- guidelines on information that should be discussed between the supplier and the authority;
- the setting up and contents of contracts;
- key service levels, including error rates;
- monitoring of these service levels;
- penalty clauses; and
- contingency arrangements in case of delivery problems or failure.

Royal Mail

n. The Commission will work with Royal Mail and specific authorities to understand where relationships were not managed as optimally as they could have been. From this, Royal Mail should prepare an action plan to address any gaps identified between activities undertaken at the May elections and the recommended activities from their best practice guide. This, together with an updated best practice guide, should be distributed to authorities and Royal Mail account managers across the country.

o. Authorities should use this revised best practice guide as the basis for setting up future contracts with Royal Mail.

p. Royal Mail should clarify their official position relating to mail centre "sweeps" and this should be built into the contracts and pricing agreed with local authorities. If necessary, the Commission will liase with Postcomm to ensure the continued provision of this service to Returning Officers in election periods.

q. Local contracts between Returning Officers and Royal Mail should detail specific service levels and attendant penalty clauses.

DRAFT VERSION –10 September 2003

ELECTORAL PILOTS AT THE COMBINED EUROPEAN PARLIAMENTARY AND LOCAL ELECTIONS JUNE 2004

A CONSULTATION PAPER

EXECUTIVE SUMMARY

The Government intends to hold pilot voting schemes at the combined European Parliamentary and Local Authority elections in 2004. A Bill to provide the necessary statutory powers for piloting has been introduced to Parliament by the Secretary of State for Constitutional Affairs. The Secretary of State for Constitutional Affairs and the Minister for Local and Regional Governance have written jointly to the Electoral Commission to ask the Commission to recommend where pilots should be held.

This consultation paper seeks views from local authorities, and other interested parties, on the proposed arrangements for piloting.

Comments are invited in particular on the following matters:

- The timetable for agreeing pilots and making the necessary arrangements
- The arrangements for funding the cost of the pilot elections
- The proposed format of the pilots, both all-postal and e-voting
- The publicity and promotion of the pilots to electors and specific groups
- The requirements for evaluating the impact of the pilots
- The support and assistance that local authorities will need

Comments on these and related issues should arrive at the ODPM by **19 November 2003**. They can be e-mailed to **ELECTORAL.PILOTS@odpm.gsi.gov.uk** or posted to the following address:

Mr Roy Williams
Zone 5/A1
Eland House
Bressenden Place
London SW1E 5DU

Comments on which constituencies should be involved in the electoral pilots should be sent directly to the **[EC address]** by **[Date]**.

1 INTRODUCTION

1.1 Following the piloting of innovative electoral processes in the local elections in 2000, 2002 and 2003, and their subsequent evaluation by the Electoral Commission, the Government plans, subject to the enactment of the necessary legislation, to hold electoral pilots in the 2004 European Parliamentary elections and in any local elections combined with them.

1.2 The Government envisages that there should be constituency-wide electoral pilots, applying equally to any combined local elections, in three of the twelve regional constituencies. In two constituencies all-postal voting would be piloted, and in the third constituency the pilot would be e-enabled so that in addition to postal voting there would be an opportunity for e-voting.

1.3 The Government is inviting the Electoral Commission to recommend in which constituencies the three proposed pilots should be held, and this consultation paper invites comments from local authorities and other interested parties on the proposed arrangements for running these pilots, including their practicability.

1.4 All comments on the proposed arrangements for running pilots should arrive at the ODPM by **19 November 2003**. They can be e-mailed to **ELECTORAL.PILOTS@odpm.gsi.gov.uk** or posted to the following address:

Mr Roy Williams
Zone 5/A1
Eland House
Bressenden Place
London SW1E 5DU

1.5 **Any comments about which constituencies should be involved in the electoral pilots should be sent by [date] directly to the Electoral Commission so that the Commission can take these comments into account when formulating their recommendations to Government.**

1.6 It is normal Departmental practice in an exercise of this type for a summary of responses received to be prepared and for copies of responses to be made available for inspection in the Departmental Library. It will be assumed that respondents accept that the contents of their responses may be made public unless they indicate that all or part should be regarded as confidential.

2 THE ELECTORAL PILOT PROGRAMME

2.1 The Government is looking at a number of ways to modernise our electoral system, to make it more straightforward, efficient and secure, and to increase the opportunities that people have to vote. The Government's medium-term aim is to be able to hold a multi-channelled, e-enabled General Election some time after 2006.

2.2 To test the robustness of the new electoral innovations and to build public confidence in them, we are promoting an extensive programme of pilot innovations at local elections, in partnership with the Electoral Commission, the Local Government Association and local authorities.

2.3 Pilots have been held at the ordinary local elections in 2000, 2002 and 2003, and also at a number of by-elections and mayoral elections during the last three years. The number and scale of these pilots has progressively increased each year.

- In 2000, 32 pilots were held, and were mainly concerned with extending the voting hours at traditional polling stations. However there were also the first handful of small pilots of all-postal ballots and e-voting kiosks.

- In 2002, 30 pilots were held, covering 2.5million electors. There were significant trials of all-postal ballots and electronic counting, and also the first trials of remote electronic voting in the UK in 9 local authorities. Average turnout at all-postal elections was around 47.5%, which compares well to the average of around 33% at traditional elections.

- In 2003, 61 local authorities took part in extensive piloting of all-postal ballots and remote electronic voting. For the first time, all pilots bar one were held in all the contested wards in each pilot authority, which meant that over 6.4million electors were in pilot election areas. The average turnout in areas where all-postal elections were held was nearly 50% and where e-voting was used alongside traditional methods, more than a fifth of voters opted to cast their vote electronically.

2.4 These pilots all delivered successful elections. They also increased the opportunity for people to vote, especially for those who were unable, or have found it difficult, to vote at traditional polling stations. Overall, they have provided many valuable lessons about a variety of new electoral innovations, which are helping to inform decisions about modernising the electoral process.

2.5 Since 2001, the independent Electoral Commission has had a statutory duty to evaluate and report on each pilot scheme held. The Commission has also published strategic evaluations of the pilot programme, to coincide with the publication of the individual reports of pilots held at the ordinary local elections. These strategic reports have reviewed the lessons learnt from the range of pilots held over the previous twelve months, and made recommendations about the future direction of the pilot programme.

2.6 As the Commission's reports have made clear, the modernisation of our electoral processes is both necessary for the ongoing health of our democracy, and can be carried forward only by trying and testing innovations in real elections. The Commission's evaluation of the 2003 pilots showed that:

- All-postal voting brings significant benefits to voters and helps to promote high turnout. Consequently, the Commission's conclusion was that it should become the usual method of voting at local elections.

- Electronic voting was found by voters to be easy to use; it increased the accessibility of elections; and there was no evidence of any security failings at the pilot elections. The Commission considered that there is a need for further piloting of electronic voting.

- A number of administrative changes have proved their usefulness and should be adopted as the norm. These include the barcoding of ballot papers and new forms of official mark, such as watermarks.

2.7 [On 17 September, the Government published a detailed response] to the Electoral Commission's strategic evaluation report. The Government has been encouraged by the main findings of the Electoral Commission and believes that, in the light of the report, it would be helpful to take forward further electoral pilots in the 2004 combined elections.

3 THE PROPOSED APPROACH TO PILOTING IN THE 2004 COMBINED ELECTIONS

Why Pilot?

3.1 The central thrust of the electoral reform agenda is to promote public engagement with our democratic institutions through improving access to voting at elections. To date there have been electoral pilots in only local elections. We have piloted not only all-postal voting, but also other means of enhancing access, notably through electronic channels. Through piloting a number of channels, including e-channels in local, regional, and European elections, the Government aims to enable e-voting to become widely used in such elections as a precursor to holding an e-enabled general election sometime after 2006.

3.2 The Government believes that the ability to hold pilots at the European elections in 2004 would benefit the electoral pilot programme greatly. It would enable us to maintain the momentum built up by the pilots at recent local elections, and also to scale up the size of the pilots. Overall, the main objectives of pilots at next year's combined elections would be to:

- Build on the experience gained in previous pilot schemes, especially those in 2002 and 2003.

- Test the 'scalability' of new voting methods. European Parliamentary constituencies range in size from 1.1million to 6.1million electors, and would be considerably larger than any previous pilot constituency. Pilot schemes will be able to explore the technical robustness and the costs of new voting methods on a larger scale.

- Test new voting methods (especially electronic voting) in elections using a voting system other than first-past-the-post.

- Continue to raise awareness of new voting methods, and to test their acceptability to a larger number of people in a wider set of circumstances.

3.3 The experience to date points to the need to pilot both all-postal and e-enabled elections (i.e. in this context elections with internet and telephone voting in addition to the postal channels) at the combined European and local elections in 2004, and this is what the Government proposes to do, subject to Parliament enacting the necessary legislation and the comments in response to this consultation.

Where to Pilot?

3.4 Whilst recognising the benefits of electoral pilots in the 2004 European Parliamentary elections, the Government is very mindful of the necessity for any programme of pilots to be of a scale and kind that reflect the available resources, including the capacity and expertise available for managing electoral pilots.

3.5 Accordingly, the Government believes that in the 2004 European Parliamentary elections it would be right to pilot constituency-wide all-postal elections in three regional constituencies and in one of these cases to have in addition to postal voting internet and telephone channels. The Government is inviting the Electoral Commission to recommend which regional constituencies should be involved. A copy of the Government's request to the Commission to undertake this work is annexed to this Paper for information.

3.6 As set out in the request, the Government believes that the particular circumstances of the Greater London region, the regional constituency that will include Gibraltar (the Electoral Commission has recommended that this is the South West region), and Northern Ireland mean that these regional constituencies are not suitable areas in which to hold electoral pilots.

3.7 The request also sets out factors to which the Government believes the Electoral Commission will need to have regard when formulating their recommendations. In short, the Government believes that the regional constituencies selected for electoral pilots should be those with circumstances that are both best suited to testing the electoral innovations being piloted effectively, and will minimise the risks piloting poses to a successful election.

Pilots and Local Elections

3.8 On 6 May 2003, the Government confirmed its intention, subject to Parliamentary approval of the necessary legislation (the current Local Government Bill and any subsequent orders), to move the English local elections in 2004 from 6 May to 10 June and to combine them with the European Parliamentary elections.

3.9 Following the May 2003 Welsh Assembly elections, the new administration indicated that they might wish to see reconsidered the decision made by the previous Assembly to hold separate local government and European Parliament Elections. As yet the Welsh Assembly Government has not

announced its final decision. There are no ordinary local elections in Scotland next year.

3.10 Where any local elections are combined with European Parliamentary elections, and the European elections are subject to an electoral pilot, the Government intends that these local elections will be required to be part of the same pilot. If this were not so, the Government believes that the benefit of combination in terms of voter convenience would be lost, and there would be a risk that the elections would be confusing. Moreover, this applies equally to local by-elections as to ordinary local elections. (As part of the proposed detailed arrangements for combination on which the Government intends to consult following enactment of the Local Government Bill there will be discretion to hold local by-elections on 10 June 2004 where the Returning Officer decides to combine them with the European elections. Otherwise all by-elections in the period starting three weeks before, and ending three weeks after 10 June will be prohibited).

3.11 The proposed legislation will extend the powers to hold electoral pilots only to the 2004 European and local elections. It will not cover elections to any other legislature or assembly. As a result, we will not want to see any by-elections for those institutions take place in areas where pilot elections are to be held in the same period. The proposed legislation will set certain restrictions on such by-elections in pilot areas.

Proposed Legislation

3.12 A programme of electoral pilots in the European Parliamentary elections (and any local elections combined with them) requires primary legislation. [The Government has introduced] in Parliament a Bill that, if enacted, will enable a programme of electoral pilots to be held as outlined above. The principal effect of the legislation will be as follows:

- To permit the Secretary of State to make an order specifying when, where, and how voting at an election in a certain electoral region is to take place, and how the votes cast at the election are to be counted
- This order could only be made following consultation with the Electoral Commission
- To permit the Secretary of State to make an order describing how a pilot election is to be conducted
- To require the Electoral Commission to evaluate the pilot elections and publish a report on their findings within three months of the close of poll

4 PROPOSED ARRANGEMENTS FOR PILOTING

4.1 This section sets out the arrangements the Government proposes to adopt for running the electoral pilots that it plans, subject to Parliamentary approval of the necessary legislation and to the outcome of this consultation. Comments

are particularly invited on these proposals, and consultees are invited to consider the questions that conclude each sub-section.

Timetable

4.2 The Government envisages that the work required to allow pilots to be held at next year's elections should be scheduled as follows:

- September 2003. Publication of European Pilots Bill. Launch of public consultation on the Government's intention for piloting. Request made to Electoral Commission to consider and make recommendations on where pilots the all-postal and e-enabled (i.e. postal with in addition internet and telephone voting) pilots should be.

- 19 November 2003. Consultation period ends.

- December 2003. Electoral Commission reports on its recommendations as to where the all-postal and e-enabled pilots are to be held. Government announces its decisions (subject to enactment of legislation) on what pilots should take place and in which European Parliamentary regions. The Government publishes draft Orders identifying the pilot regions and specifying the detailed changes to electoral law to be piloted. The Government announces which e-voting suppliers will be contracted to provide the necessary services in the pilot region. Work begins between Regional Returning Officers, local authorities and suppliers of e-voting and all-postal services.

- March 2004. Aim for European Pilots Bill to have achieved Royal Assent, subject to the Parliamentary timetable.

- April 2004. Seek Parliamentary approval of the pilot region designation Orders. Subject to the approval of the designation Orders, the Secretary of State makes the pilot orders containing the detail of the changes to electoral law.

- 10 June 2004. Close of polls.

- 9 September 2004. Electoral Commission publishes its evaluation of the electoral pilots.

4.3 This is clearly an ambitious and demanding timetable. The Government recognises that Returning Officers face a substantial task in making arrangements for combining the local and European Parliamentary elections, and that piloting will impose yet further demands. However, these pilots would build on the success of previous pilots and maintain the momentum of the pilot programme. Accordingly, the Government believes these pilots would form a valuable opportunity to test innovations, that these pilots could make a significant contribution to electoral modernisation and that they therefore help to tackle the challenges of low turnout and a lack of public engagement in political life.

Q1 Comments are invited on these arrangements and on their practicability.

Funding

4.4 For e-piloting and all-postal voting there will be extra costs for Returning Officers to bear. All extra costs as a result of piloting in European and combined local elections will be assessed and fully funded by Government through Department of Constitutional Affairs. This is true except for those e-voting costs attributable to any local election, which ODPM would have funded in the normal pilot programme, and would continue to meet in the combined elections.

Q2 Comments are welcomed on these funding proposals.

Format of Pilots

General

4.5 For all of the pilot elections, it is intended that the electoral timetable will be advanced by exactly seven days, to ease the administration of the pilots. This will have a consequent effect on the dates when political parties must be registered and the creation of the electoral register.

4.6 It is envisaged that the statutory orders setting out the precise format of the pilot elections and the changes from current electoral law will be published in draft format in December.

All-postal

4.7 The Government intends to hold an all-postal pilot election in three European constituencies, which will build upon the model recommended by the Electoral Commission in their strategic evaluation of the 2003 electoral pilot schemes. At these elections, postal ballot papers will be sent to all registered electors.. Votes could then be completed at the voter's convenience, and then cast simply by posting the completed ballot to the Returning Officer or, alternatively, delivering by hand to any place designated for the purpose of the delivery of ballot papers. These will all be staffed and have an area for voters to mark their postal ballot paper, as recommended by the Electoral Commission.

4.8 It is intended that the ballot papers to be used will adopt the format recommended by the Electoral Commission. Principally this would mean that:

- The Declaration of Identity will be replaced by a Security Statement, which will only require the voter's signature
- A watermark will replace the traditional form of official mark
- The ballot paper will carry a barcode instead of a ballot paper number

E-voting

4.9 The Government also intends that in one of the three pilot regions electors should have additionally the opportunity of casting their ballot by internet or telephone.. Whilst recognising concerns introducing this e-element to the pilot at the combined European and local elections, particularly given the tight timescales. The Government's view- on such evidence as is available is that there is a reasonable prospect of managing such a pilot providing it is in just one region and is kept simple. Such a simple pilot would be making internet and telephone channels available in addition to universally-available postal ballots.

4.10 The intention is that the remote electronic voting channels would be open for use for a full seven days before the close of poll. All ballot papers would be counted electronically, and postal ballot papers would adopt the format recommended by the Commission, described above.

Q3 Comments are welcomed on these proposed arrangements including on the practicability on having an e-element as described in the one of the pilot regions..

Publicity

4.11 To maximise the success of the pilots, they will need to be well advertised to all electors. Some of the funding being contributed by the Government will be specifically for the costs that will be incurred by the extensive publicity required. However, local authorities will be responsible for organising the publicity about the new methods of voting in their areas.

4.12 Local authorities will also need to give consideration to publicising the pilots among particular groups in society, especially those that are usually less likely to vote. The Electoral Commission's booklet "Making an Impact" offers useful guidance on best practice for promoting electoral matters.

Q4 How best do you think the publicity for the pilots might be achieved?

Evaluation

4.13 As with the pilots that have been held before, we would need to monitor and evaluate the pilot elections carefully. Arrangements would need to be put in place to assess the levels of fraud and attempted fraud, the extent to which secrecy was breached or such breaches were attempted, the effectiveness of local publicity, and public opinion about the pilots.

4.14 In addition, the Electoral Commission would undertake their own evaluation of the pilots, which would focus on the scheme's success in facilitating voting or the counting of votes, the impact on turnout, the ease of use for voters, the impact on electoral fraud and the cost of the election. The Commission will require the support of local authorities (and their suppliers) in providing access to key personnel and a range of data and information.

Q5 Have you got any suggestions as to how the evaluation of pilots might be facilitated? What difficulties might local authorities face?

Support and Assistance

4.15 Drawing upon its experience of managing pilot schemes in the 2002 and 2003 local government elections, ODPM will be the focal point for all local authorities involved in the pilot schemes. Councils may wish to discuss issues relating to their scheme with ODPM at an early stage. If so, please contact Leigh Bura on (020) 7944 8146 or Michael Leah on (020) 7944 4264. Alternatively, you can e-mail ODPM at **ELECTORAL.PILOTS@odpm.gsi.gov.uk**

4.16 Local authorities would also be offered support and assistance from dedicated units within the Department of Constitutional Affairs and the Electoral Commission.

Q6 What forms of non-financial support would be particularly useful for local authorities? How best can communications between different stakeholders in these pilots be managed?

5 CONCLUSION

5.1 Comments on the proposed arrangements for running pilots are invited from local authorities and others interested. These should arrive at the ODPM by **19 November 2003**.

5.2 They can be e-mailed to **ELECTORAL.PILOTS@odpm.gsi.gov.uk** or posted to the following address:

Mr Roy Williams
Zone 5/A1
Eland House
Bressenden Place
London SW1E 5DU

5.3 **As made clear above, any comments about which constituencies should be involved in the electoral pilots should be sent by [date] directly to the Electoral Commission so that the Commission can take these comments into account when formulating their recommendations to Government.**

Department for Constitutional Affairs Office of the Deputy Prime Minister

[17] September 2003

ANNEX

Letter to the Electoral Commission Regarding the Selection of European Constituencies to Hold Electoral Pilots in 2004

Insert Letter to the Commission

DRAFT LETTER FOR JOINT SIGNATURE BY LORD FALCONER/CHRIS LESLIE AND THE DEPUTY PRIME MINISTER/NICK RAYNSFORD

Sam Younger
Chairman
The Electoral Commission
Trevelyan House
Great Peter Street
London
SW1P 2HW

ELECTORAL PILOTS IN 2004

You are, we know, aware of the Government's proposal to introduce legislation as soon as parliamentary time allows to enable electoral pilot projects to take place at next year's European Parliamentary elections. You know too of our plans to move the local elections to the same day as those elections should the current Local Government legislation be approved by Parliament.

These two measures combined will enable us to maintain the momentum that has been built up to date in the local electoral pilots programme, and to scale them up significantly. We know that the Electoral Commission is keen not to lose this momentum and we are grateful for the support you have shown so far in our efforts to ensure that we continue to make progress.

We have been giving consideration to the enabling legislation which would be necessary to enable pilots to go ahead in June 2004 if Parliamentary approval for such pilots is given. One of our preliminary conclusions is that we should ask the Electoral Commission to recommend which regions are most suitable to undertake all postal voting and of these, which would be most suitable to include an e-enabled element in the pilot (i.e. to provide in addition to postal voting opportunities for electors to cast their ballot by internet or telephone). The Bill is likely to contain provisions allowing the Secretary of State to designate the regions and the pilots, but only after consultation with the Electoral Commission. It will further provide that consultation both before Royal Assent and after it can be taken into account.

Time is, as always, a major consideration and we will have to keep to a very tight timetable in order to maximise the time available for those for those responsible for delivering successful elections. To allow preparations to proceed as soon as possible it would therefore be helpful if the Commission were to make a start on their recommendations now with a view to reporting the results by **Monday 8 December.**

* **The population of the region.** Large electorates may offer economies of scale in both resource and administrative terms. On the other hand, they may present more difficult organisational problems, particularly when novel arrangements are being tried. The Commission will wish to consider the balance between running an experiment which is suitably challenging and minimising the risk of over-extension.

* **The geographical size of the region.** Effective modern electronic communications may well reduce any difficulties associated with geographical remoteness, but the size of the region may have a bearing on the Regional Returning Officer's (RRO's) ability to manage the election remotely. This may also have relevance when considering postal voting experiments. Local variation, local experience and previous performance may be considerations here.

* **The number of local authorities in the region.** Electoral services departments in every local authority will be involved in running the European elections under the direction of their Local Returning Officer (LRO), who will in turn report to their RRO. The robustness of local relationships and previous experience of local interaction and co-operation may well be factors to consider.

* **The number of electoral authorities holding local elections in 2004.** These range (in England) from 33 in the North West region to 6 in the North East and in the East Midlands regions. There are no ordinary local elections in Scotland in 2004. Combining elections is always more complicated than a single election, though administrators are generally used to coping with such complexities. More combined elections means savings in effort and resources but also more complexity. The Commission will wish to weigh up the relative risks posed by this factor very carefully.

* **The experience of the electoral authorities in holding pilots.** A number of local authorities now have considerable experience in running all-postal pilots – there have been three opportunities to do so at ordinary local elections to date, as well as the odd casual vacancy. Whilst experience of e-voting and multi-channel pilots is not so extensive, a few authorities have developed considerable expertise, particularly in the May 2003 experiments. Conversely, many authorities have no experience at all, either because they have had no local elections since piloting started, or because they have never volunteered to take part. The Commission will wish to consider whether this is an important factor in comparison with others.

* **The experience of the Regional Returning Officer.** Similarly, the experience of the RRO and his immediate team in running electoral pilots will also be an issue. Familiarity with the processes and potential problems is clearly invaluable in managing a team of administrators, however experienced they themselves are.

* **Ability of other agencies to deliver.** Local authorities will be reliant on others to help them deliver any pilot project. Agencies such as the Royal Mail, as well as suppliers such as specialist stationery manufacturers and enveloping machine companies will be called upon for all-postal experiments. Specialist computer software and hardware technology companies will be needed for e-voting experiments, though the current ODPM framework contract with such suppliers will be a useful resource. In all cases the ability of such companies to deliver the required services in the relevant areas will be a crucial factor in the Commission's recommendations.

* **Fraud considerations.** Some areas have seen recent allegations of fraud, particularly in relation to postal voting. Although it is intended to introduce in the enabling legislation extra measures (as recommended by the Electoral Commission) against fraud, the Commission will wish to consider whether past allegations of - or current investigations into - fraudulent practice would pose an extra risk in such areas, and whether such considerations should affect their recommendations.

* **Value for money.** Extra funding will be required for these experiments. Whilst cost might not be an over-riding consideration, obtaining the best value for the money spent is important. If one region could be shown to give better value than another, the Commission will wish to consider whether it is a significant advantage, taken together with other factors.

9. This is not intended to be an exhaustive list; it is merely an indication of the most likely considerations the Secretary of State may wish to take into account when making his decision. It therefore represents those considerations that the Commission may also want to take into account in making any recommendations. There will no doubt be other issues that the Commission will think it important to factor into their deliberations. The Government is keen for them to do so, to ensure that any recommendations are as soundly based as possible and that the Commission has considered all the relevant issues. The Commission is therefore encouraged to take these guidelines as their starting point and not to consider them as a limit on their discussions.

Department of Constitutional Affairs / Office of the Deputy Prime Minister
September 2003

Constitution - Election
CS cc SW MR IMc.

RESTRICTED

Minister without Portfolio

CABINET OFFICE

70 Whitehall ▪ London SW1A 2AS
TELEPHONE: 020 7276 0636 ▪FAX: 020 7276 1088 E-MAIL:psianmccartney@cabinet-office.x.gsi.gov.uk

18 August 2003

Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London SW1A

Dear John,

PILOTING OF INNOVATIVE VOTING METHODS AT THE 2004 COMBINED EUROPEAN PARLIAMENT AND LOCAL AUTHORITY ELECTIONS

I have seen a copy of Paul Boateng's letter to you of 15 July, and of Nick Raynsford's and Charlie Falconer's responses of 31 July and 4 August respectively, on the subject of funding the voting pilots which we have agreed shall take place in the combined elections in 2004.

It is politically critical that we carry out this programme for modernising elections and boosting voter turnout next year. To meet the demands of the legislative timetable, the enabling bill must be ready for introduction shortly after recess.

Furthermore, I note that the Electoral Commission has now published its evaluation of the electoral pilots conducted in May's local government elections. In its report, the Commission recommends that there should be 'a presumption that all local elections be run as all-postal ballots *unless there are compelling reasons why an all-postal ballot would be inappropriate or disadvantageuos for a group or groups of electors*' (my italics). From the correspondence between colleagues to date, I cannot detect any such compelling reason against conducting pilots in the combined 2004 elections.

Finally, I would reiterate Charlie's point about arrangements for the funding of future elections. I hope we can reach agreement around the principle that any funding necessary for the proper functioning of the democratic process should not be subject to departmental expenditure limits, but should be provided from the centre.

I am copying this letter to the Prime Minister, other members of DA and LP, Nick Raynsford and to Sir Andrew Turnbull.

RT HON IAN McCARTNEY MP

RESTRICTED

AMc
cc SW
MR
JH

The Rt Hon Nick Raynsford MP
Minister of State for Local and Regional Government

OFFICE OF THE DEPUTY PRIME MINISTER

26 Whitehall
London SW1A 2WH

Tel: 020 7944 3013
Fax: 020 7944 4539
E-Mail: nick.raynsford@odpm.gsi.gov.uk

Web site: www.odpm.gov.uk

Rt Hon Paul Boateng MP
Chief Secretary to the Treasury
1 Horse Guards Road
London
SW1A 2HQ

31 JUL 2003

Dear Paul

PILOTING OF INNOVATIVE VOTING METHODS AT THE 2004 COMBINED EUROPEAN PARLIAMENT AND LOCAL AUTHORITY ELECTIONS

I have seen a copy of your 15 July letter to the Deputy Prime Minister, following Chris Leslie's letter of 23 June on the proposals for piloting all-postal and multi-channel voting at the June 2004 elections.

I know that our officials, together with Chris Leslie's, have already had preliminary discussions about the level of resources likely to be needed for the combined elections in 2004, and the costs of running pilots at those elections. Those discussions will need to continue expeditiously so that we can have an early, clear and shared understanding of the savings that may arise from combination, and the additional costs of piloting. We will also need in the light of these discussions to make sure that DCA are in a position to conform to the local authorities' new burdens rules, to the extent they may be engaged by the proposed requirement that all authorities having elections in a pilot region should take part in the pilot.

I was very surprised to see your suggestion that "ODPM have been funded for the costs of e-voting pilots in both European and local government elections". European elections

are a matter for DCA and not for ODPM. What is more, at the time of SR2002, when £10/10/10 million was included in the Local Government On-Line allocation to cover e-voting pilots, there were no statutory powers in place to pilot at European Parliamentary elections, and no plans to seek such powers. The decision was explicitly taken that any resources for wider electoral pilots would need to be bid for in the 2004 spending review in the light of a business case which would be informed by experience obtained from the local e-voting pilots.

We are now, of course, as Chris made clear in his 23 June letter, looking to ensure that we do not lose the opportunity to hold e-voting pilots in 2004. It is essential that we take this opportunity in order to maintain the momentum built up by pilots in 2002 and 2003, and to make the best use of the supplier framework that we have put in place. Introducing a Bill in September, as Chris proposes, will be an essential step towards 2004 pilots and I hope that you and colleagues will confirm your agreement to the Bill within this timetable. We must be in no doubt that if there were to be any delay such that an early September introduction of the Bill was no longer possible, there can be no question of pilots in the 2004 elections – either in the English regions, or in Scotland or Wales.

I am copying this to the Prime Minister, other members of DA, Chris Leslie and Sir Andrew Turnbull.

Yours ever

Nick

NICK RAYNSFORD

02072108597

From the Secretary of State and Lord Chancellor
The Right Honourable Lord Falconer of Thoroton QC

AMc
cc JJH
CS

The Department for Constitutional Affairs
Selborne House
54-60 Victoria Street
London SW1E 6QW

DX 117000
Telephone: 020 7219 3232
Fax 020 7219 4711

Rt Hon Peter Hain MP
Leader of the House of Commons
2 Carlton Gardens
London
SW1Y 5AA

25 July 03

Dear Peter

ELECTORAL ADMINISTRATION AND REFORM BILL

Amongst the issues we discussed when we met on 15 July to discuss constitutional reform was the prospective Electoral Administration and Reform Bill. I agreed to write, setting out what could be in the Bill, and the likely benefits. While a place in the Third Session remains a possibility, there are concerns about the volume of legislation proposed for the Third Session; and there are arguments in favour of delaying an electoral reform bill to the Fourth Session on the grounds that the extra year will be useful for agreeing policy in a measured way, developing sound implementation plans (and costings), and securing broad support amongst stakeholders.

The problem, if we do not secure a place in the Third Session is that fewer measures will be in place before the next general election, although those measures which need significant investment and changes in procedures may not, in any case, be deliverable before 2005, should that be the year of the next general election.

The Bill would primarily be a vehicle for implementing those proposals from the Electoral Commission's *Voting for Change* report with which the Government agreed. The reports sets out a wide range of proposals, which together aim to encourage voter participation, improve the security of voting and modernise the administration of elections. I attach two annexes, one of which summarises the proposals, the other which shows in detail some of the issues surrounding them, and makes a first attempt to judge their desirability and difficulty.

In short order, however, the two key areas for reform are voter registration and measures to improve the security of absent voting. These are the highest priority for the Electoral Commission and they are prerequisites for a successful move towards an electronically enabled general election after 2006.

There are two main strands on voter registration. First is the proposal to move to individual registration rather than household registration, as now. This would bring significant improvements in the security of voting, but it risks (perhaps in the short term) a drop in registration. We propose to ask the Electoral Commission to investigate further how to tackle

02072108597

this risk. The second strand is the creation of a national electronic register of voters, compiled locally then aggregated. This would be easier to update than now and would allow people to vote from anywhere. This proposal will also be the most costly and the Commission has not developed detailed costings. Clearly this is work that will have to be done as a priority in order to develop a business case for any investment that would be agreed to by Treasury.

Measures to improve the security of absent voting include: allowing marked registers in postal voting, new offences for applying fraudulently for a postal or proxy vote, and personation at any location (not just polling stations) and an extension of prosecution time limits for alleged electoral fraud. There are a number of other practical measures (such as having a secrecy warning on ballot papers) which would not require primary legislation. We are already considering whether some of the anti fraud measures could be included in the proposed Electoral Pilots Bill, so that they would be in place for the European elections, where we hope to pilot all-postal ballots in some regions.

On absent voting the Electoral Commission is still considering how to simplify the declaration of identity in absent voting, without compromising security. It will have more to say about this in late July, following the publication of its evaluation of the 2003 electoral pilot schemes.

While the measures on registration and absent voting form the strategic core of the proposed reforms, there are many other proposals, aimed at improving choice and ease of voting and administrative efficiency. They include:

- Observers in elections (including children, so that parents and carers are not prevented from voting by caring duties).
- Improvements to ballot paper design and information on the paper about candidates.
- Standard election timetables in all UK elections (which amongst other things, would make combination easier).
- Improving accessibility to public buildings for voting purposes.
- Making the cut off date for registration closer to the election in question.

There are at least two proposals which we are unlikely to support:

- Removal of deposits. The aim here is to improve choice of candidates, but the risk of encouraging frivolous and extremist parties is obvious.
- A range of options around funding of elections which would ring fence the funding and place in local authorities or the Electoral Commission. Nick Raynsford has already expressed ODPM's opposition to these proposals.

The Bill could also be a vehicle for other proposals such as the measures on party political broadcasting that the Department for Culture, Media and Sport are consulting on and improvements to the candidate expenses 'triggering' arrangements which are in need of attention outside the Electoral Commission's current recommendations. If it were to take place in the Fourth Session, there may also be scope to rationalise some electoral law, some of which dates

02072108597

back centuries – the necessary work required on this would make it unachievable in a Third Session bill.

As can be seen from the above, the reform of our elections could be wide ranging if taken forward, and would provide an environment for improved voter participation – there is of course much else that needs to be done in Government and politics to make voting more relevant to those who do not vote at present, but the reforms to the system would be important enablers for the voting public.

In terms of taking the Bill in the Third Session or later, there will be some choice between getting things right by allowing some time for preparation and implementation and ensuring that some key proposals are in place before the next general election. If we do choose a later session, it will be important to show stakeholders, particularly the Electoral Commission, that there is a route map for delivering reform, and that it is linked to the voting pilots proposals which may be enacted for the European elections.

I am copying this letter to Bruce Grocott, Gareth Williams, Nick Raynsford and Hilary Armstrong, Chris Leslie and Andrew Adonis.

Yours Sincerely

Approved by the Secretary of State and Signed in his absence by the Private Secretary.

02072108597

ANNEX A

ELECTORAL COMMISSION REPORTS AND RECOMMENDATIONS

1. The EC *Voting for Change* report concentrates on changes to electoral law which the EC is recommending in the light of its reviews. It does not go into detail on other, non-legislative, changes, e.g. the institution of codes of practice, which are proposed in the individual reviews, and which are largely for the EC itself to take forward.

2. Some recommendations are intended to be followed up now; others will need more consideration before the EC can outline final proposals. The EC recognises that some recommendations e.g. abolition of candidates' deposits, are likely to be contentious. Others are less controversial, though some are quite radical, (such as a change from household to individual registration).

3. The Chairman of the EC has said that he accepts that it may be necessary to take 'two bites at the cherry' in implementing the recommendations, starting with the issues which considered most vital (plus those which are non-controversial) and going on to other issues at a later stage.

4. The recommendations fall roughly into two areas:

- Integrity/security of elections and
- Participation/encouragement of voters

Implementation

5. The EC believes the changes in registration are vital, though would not expect them to be in operation for the next general election. But work on this should be started now. Postal voting is also considered an important issue for action now, to boost public confidence, and standardisation of electoral timetables would be useful, especially for combination of elections.

6. Some other items could wait (but on the other hand a number of them are small, easily agreed, issues which could perhaps be legislated for straight away, with a minimum of controversy) while others have not yet been finalised. The EC recognise that some will be controversial and might not prove acceptable, but Sam Younger, the EC Chairman, has said that he hopes registration, postal voting and simplification suggestions will be endorsed by the Government.

OUTLINE OF ELECTORAL COMMISSION RECOMMENDATIONS

Integrity/security recommendations

02072108597

7. **Registration**: a key recommendation is a change from household to individual registration, with each elector having a unique individual identifier. The EC suggest that work could start on this change now but that it need not be brought fully into play until after the next general election (so as to avoid any disruption to that election caused by the change).

8. **Postal voting** is an area of concern regarding fraud and abuse and some tightening is needed. Also, some postal fraud is quite complex; a longer cut-off point for prosecution (currently 12 months) would be useful.

9. **Declaration of identity**: the traditional system is considered too cumbersome; the EC will suggest revisions. Full details will follow evaluation of this year's relevant electoral modernisation pilots (results expected end July/start August).

10. On the question of candidates/agents handling ballots for many electors, the EC considers this bad practice, open to suspicion. However, it should be possible to devise a code of practice. The Commission will not propose changes to the law unless the code of practice fails to resolve the issue.

11. Postal voting might be open to human rights challenges. To resist such a challenge, proportionality needs to be demonstrated and any worry over secrecy needs to be alleviated. The EC advise on how this might be done, e.g. by emphasising the secrecy requirements on the postal documents.

12. Marked registers: this is not fully covered in the absent voting and registration reviews. The EC is therefore undertaking a review specifically on this topic and expects to report by the end of July/start August. There is an absolute stand off between the views of political parties and those of the Information Commissioner. Access to marked registers after close of poll and before close of poll are very different issues. The latter could be challenged legally and might be looked on as disproportionate in human rights terms.

13. **Observers in polling stations**: currently observers are not, in law, permitted in polling stations. The EC advise that Observers should be admitted in order to meet international obligations and also for security/integrity and educational purposes.

14. Political Parties Elections and Referendum Act 2000 (PPERA): it is too early to think about major changes to the PPERA but the EC feel there is a case for a two-tier system to take account of the registration and other reporting burdens on smaller parties; e.g. they could report by exception (rather than positive quarterly reporting) donations of £5K or above. There is currently no power to deregister a party. It would be sensible to have rules about registering, de-registering and re-registering. It would be useful to bring together the rules on party and candidate spending limits and when they kicked in. There are a number of other small points.

02072108597

Participation/encouragement recommendations

15. **Registration**: see also para 1 above: unique voter numbers for registration and e-voting should be designed into the system.

16. A **national electronic register**, with the EC at its centre, is needed, to allow, amongst other things, for e-voting and for voting from any polling stations rather than a single one. ODPM and the EC are currently actively considering how to take this forward, starting with standardisation of the data on local authority registers.

17. The **cut-off date for registration** should be closer to an election; normally by close of nominations, but, in special cases, possibly later.

18. **Anonymous registration** should, under controlled circumstances, be available.

19. **Voter number:** A unique voter number should be retained by electors when they move. (In some circumstances it is possible to ascertain how people have voted; through a court order in connection with an election petition. The changes proposed will not affect this. It would be useful over time to consider the balance between anonymity and an audit trail.)

20. **Election timetables**: to assist parties and candidates, election timetables should be simplified/standardised. Nomination papers should be allowed by fax or e-mail. The whole assentor/deposit system is out-dated; a simpler, consistent system should be introduced. There is no consensus on how to replace this and the Commission will offer two options.

21. **Ballot paper design**: Candidates should be permitted to use the name 'by which they are known' on ballot papers, rather than full name. The face of the ballot paper should state what election is being voted in. Ballot paper security should be by means of bar-coding and water-marking, but full comments on this will not be available until evaluation of this year's pilots comes out at the end of July.

22. **Access**: most EC recommendations on this will be good practice issues rather than changes to law.

23. **Funding review:** the EC feels there is a strong case for central funding of core services and that their ring-fencing recommendation will be welcomed by the administrators but not by HMT. (However, the Local Government Association does not like the idea of central allocation of funds via the EC. Nick Raynsford supports the LGA view.)

24. **Abolition of deposits**: the EC considers that deposits hinder small parties and individual candidates. It suggests abolition of deposits and changes to the 'subscriber' requirements. However, recognising that this is likely to be controversial, it offers a second option which is slightly less radical.

30-JUL-2003 15:42 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.008/031

ELECTORAL COMMISSION REVIEWS

The attached tables list the specific recommendations made by the Electoral Commission in each of the reviews listed below in four categories:

TABLE 1	controversial and difficult
TABLE 2	controversial but not difficult
TABLE 3	not controversial but difficult
TABLE 4	quick and easy

The recommendations listed are only those which have a legislative impact (many recommendations do not). They are listed in order under each report. The reports covered are:

1. Funding Electoral Services - Report and recommendations made February 2003
2. Absent Voting in Great Britain - Report and recommendations made March 2003
3. Observers at elections in the UK - Report and recommendations made April 2003
4. Online election campaigns - Report and recommendations made April 2003
5. The electoral registration process – Report and recommendations in May 2003
6. Ballot paper design – Report and recommendations June 2003
7. Equal access to democracy – Report and Recommendations June 2003
8. Election timetables in the United Kingdom – Report and recommendations June 2003
9. Standing for election in the United Kingdom – Report and recommendations June 2003

This is a preliminary analysis only and represents work in progress by DCA officials. Some reports have not yet been analysed and are not included. More detailed and comprehensive work will be needed on those that are listed here, along with consultation with OGDs and others.

TABLE 1 – CONTROVERSIAL AND DIFFICULT

Table 1 – Controversial and Difficult Recommendations	OGD interest	Suggested response
Funding Electoral Services: That funding for all future pilots (over and above the costs of running a traditional election) should be provided by central government. This should include the marginal costs of postal voting and e-counting trials as well as e-enabled elections.	DCA + ODPM + Treasury	Potentially costly (though 2004 Euro pilots may be precedent). Will need rigorous cost analysis
Funding Electoral Services: *Option A:* Complete devolution of responsibility to LAs for funding all electoral services, including registration and all elections - local, regional, national and UK. Central government funding to LAs via Revenue Support Grant (RSG) to be increased to reflect increased financial burden on LAs, which would take on responsibility for funding national elections and elections to devolved legislatures for the first time. However, there would be no specific allocation for electoral services within the RSG and it would be for each LA to decide how much to spend on elections in the same way as for other local services.	DCA + ODPM + Treasury	ODPM oppose. Risks poorly managed LAs running out of funds and all central control over expenditure is lost. Will need rigorous analysis of potential effects
Funding Electoral Services: *Option B:* Ring fenced central funding for all electoral services, including registration and all elections - local, regional, national and UK - with budgets delegated from the centre to LAs to manage. EC suggested in the consultation paper that the source of the funding would be the Consolidated Fund.	DCA + ODPM + Treasury	ODPM oppose. Too much EC control – none from Govt. Will need rigorous analysis of potential efects
Funding Electoral Services: 1.4 That core funding for electoral services (i.e. funding for staffing, training, infrastructure, registration services and UK elections and referendums) should come from the	DCA + ODPM + Treasury	ODPM oppose. Too much EC control – none from Govt. Will need rigorous analysis of potential efects

30-JUL-2003 15:42 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.009/031
02072108597

Table 1 – Controversial and Difficult Recommendations	OGD interest	Suggested response
Consolidated Fund via the EC so that the funding can be matched with the national standards which the EC would set.		
Absent Voting in Great Britain: That there should be consistency in the provision of marked registers for polling stations and for postal voting. Accordingly, if a marked register of traditional voters continues to be produced, an equivalent should be produced recording postal voters. However, the EC is concerned that access to both these marked registers should be permitted only for purposes authorised consistent with data protection and human rights law, and sanctioned by the Information Commissioner.	DCA + ODPM	Awaiting further review of marked registers and conclusions from EC. Ministers strongly support availability of marked registers for postal voting.
The electoral registration process: The commission recommends a change to primary legislation with the effect that the basis of registration should move from the current system of a combination of annual household registration and individual (voluntary registration to a system based entirely on individual registration	DCA + ODPM + Treasury	Welcome as logical step, though Northern Ireland precedent reveals potential flaws. Beware of under-registration. Will also have some cost implications for LAs. Further work on practicalities and costs needs to be done
The electoral registration process: The commission recommends that electoral registers should be universally electronically maintained according to the mandatory national data standards	DCA + ODPM	Strongly welcome as prerequisite for e-voting. Many practical difficulties to overcome (being addressed by LASER), but this is a priority
The electoral registration process: The commission recommends that electoral registers should continue to be compiled and managed locally but should form part of a national register. We recommend based on the consultation responses, that the Commission be responsible for mandating national data standards, according to expert advice, and become responsible for the management of the national register	DCA + ODPM	Welcome as necessary for above recommendation. Recognise sensitivities of possible loss of autonomy for EROs

30-JUL-2003 15:42 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.010/031

Table 1 – Controversial and Difficult Recommendations	OGD interest	Suggested response
The electoral registration process: We recommend that electronic, online registration be enabled when the proposed new requirements for individual voter identities are introduced. Further, we recommend that opportunities for telephone registration be extended in order that change of registration details may be logged. In both cases, these new facilities should be subject to piloting before national implementation	DCA + ODPM + Treasury	Welcome in principle, though tricky fraud questions to be answered. Pilots may help answer these. Alkso cost issues – set-up costs may be large, but savings may accrue later
The electoral registration process: The Commissions proposes that the last date for registration should normally be the close of nominations but, in addition to the requirement for individual voter identifiers and where individuals provide a statement that they have spent a substantial part of the time during the last three months at the address which they claim to be registered, registration should be allowed up to six days before the election. The requirement to provide a statement related to residency for three months is analogous to current provisions concerning the declaration of local connection for homeless persons which currently applies.	DCA	Welcome principle of making process more elector-friendly. But raises some tricky fraud problems (though we recognise that the proposal may prevent "carpet-bagging")
The electoral registration process: We recommend that anonymous registration be introduced for electors able to demonstrate a genuine threat to their safety. Anonymous registration should be based on the use of unique registration numbers under the category of 'Other electors' in the register available for public inspection and without any other identifying details being made publicly available. We recommend that the criteria for the grant of anonymous registration be set out in legislation, and should specify the evidence required of the public to show genuine threat to safety. Decisions of	DCA + Home Office (Victims)	Strongly welcome, though practicalities need thinking through. Hope it will be possible to provide for those genuinely at risk

30-JUL-2003 15:42 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.011/031

Table 1 – Controversial and Difficult Recommendations	OGD interest	Suggested response
electoral registration officers on the grant of anonymity should be appealable to the appropriate courts.		
Standing for election in the United Kingdom: **Option A –** The Commission recommends abolishing the deposit and subscriber systems for all elections in the UK. **Option B –** - A deposit system for candidates standing for higher tier elections would be retained. However, local government and parish and community council elections should continue to be exempt. - A standard deposit rate would apply to all elections (this should not exceed £500). - The threshold for forfeiture would be reduced from 5% to 2% with a corresponding decrease for elections held under the STV system. - The options open to candidates for paying deposits would be formalised and extended to include the use of credit and debit cards. - The subscriber system would be abolished for all elections and replaced with a simplified system such as that recently developed in Scotland (self-nomination with one witness).	DCA + ODPM	Strong opposition to both options from political parties and electoral administrators. Recognise EC's arguments, but cannot see that consensus could be achieved on this issue
Standing for election in the United Kingdom: The Commission recommends that, subject to approval by the Returning Officer in each case, independent candidates should be allowed to stand under descriptions of up to six word at all elections held in the UK. The Returning Officer would operate under guidance from the Commission in determining the acceptability of a proposed description. The key criteria would be the need to avoid confusion with any registered party name. The abbreviation 'IND' would appear on the ballot paper in	DCA + ODPM	May be opposed by political parties, but recognise the intention to 'level the playing field' for independent candidates. May not prevent subversion of PPERA by quasi-parties standing as independents in a number of seats

30-JUL-2003 15:43 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.012/031
02072108597

Table 1 – Controversial and Difficult Recommendations	OGD interest	Suggested response
the place normally reserved for a party emblem, to indicate to voters that the candidate was an independent. Parties or groups fielding candidates without registering with the Commission should be prohibited from using a collective term such as 'party', 'group', 'alliance', 'coalition' or association in their description. Independent candidates should be required to sign a declaration with their nomination papers confirming that they are not standing on behalf of a 'collective', a party or a commercial organisation.		

30-JUL-2003 15:43 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.013/031
02072108597

TABLE 2 – CONTROVERSIAL BUT NOT DIFFICULT

Table 2 – Controversial but not difficult recommendations	OGD interest	Suggested response
Funding Electoral Services: To ensure that voters are aware of parish elections the law should be changed to require the issue of poll cards at all elections - including parish councils - and that the funds to meet this requirement should be made available.	ODPM + Treasury	Costs issue.
Funding Electoral Services: An annually-negotiated review of the Fees and Charges Orders, rather than preparing a new Order in advance of specific elections	DCA + Treasury	Will involve nugatory work because Orders are only needed when an election is called (or due)
Absent Voting in Great Britain: EC intends to make final recommendations on the future use of the declaration of identity (DoI) following evaluation of the electoral pilot schemes scheduled for May 2003. At present, the EC is inclined to the view that the current DoI should be replaced with simpler and more effective declaration, without a witness requirement, but not abandoned altogether. However we welcome the further trials of alternatives to the standard declaration, and will examine the impact of these alternatives carefully in our evaluation reports.	DCA + ODPM	Await final report and conclusions of EC. But generally welcome in principle as simplification of current unsatisfactory system. Need to be aware odf fraud potential, however.
Absent Voting in Great Britain: The EC believes that there is a strong case for recommending the use of watermarks on ballot papers in place of the stamping instrument. However, the EC does not intend to make a firm recommendation in this regard until after the evaluation of the electoral pilot schemes in May 2003, where further trials of the watermark are planned.	DCAS + ODPM	Awaiting final report and conclusion of EC. But welcome general principle as sensible modernisation. Need to be sure that security is protected – pilots have so far demonstrated that.

30-JUL-2003 15:43 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.014/031

Table 2 – Controversial but not difficult recommendations	OGD interest	Suggested response
Ballot paper design: The commission is concerned that alphabetical discrimination could exist in elections to multi-seat elections, but acknowledges that the information available at present is inconclusive. We intend to support further research to establish the extent of the influence of alphabetic listing prior to making a final recommendation. In the meantime, we recommend that legislation be introduced to enable the piloting of alternative listing methods in order to assist in determining the impact of the present arrangements.	DCA + ODPM	Support the idea of more pilots and research. Political parties may oppose general principle.
Election timetables in the United Kingdom: The Commission recommends that there should be a consistent length for all UK election timetables. The standard length should be fixed at 25 days. In the cases of Parliamentary general and by-elections, however, the additional stages of proclaiming the dissolution of Parliament and/or issue of writ will need to be retained. These should be represented as the twenty-sixth and twenty-seventh days before polling day.	DCA + ODPM + NIO	May have implications for flexibility of PM in calling general elections (25 working days means a 7 week campaign). Otherwise generally support as sensible standardisation
Election timetables in the United Kingdom: Election timetables for the following categories of election and related by-elections should be consistent with respect to the deadlines that structure those timetables: -Parliamentary general -European Parliament -Scottish Parliament -National Assembly for Wales -Northern Ireland Assembly -Greater London Authority -Local Government (England and Wales) -Local Government (Northern Ireland)	DCA + ODPM + NIO	Generally a good idea as sensible standardisation. But will decrease flexibility in calling general elections

30-JUL-2003 15:43 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.015/031

Table 2 – Controversial but not difficult recommendations	OGD interest	Suggested response
In order to maximise and maintain consistency across timetables, we believe that uniform deadlines should be set for Scottish local government and community council elections; community, parish and mayoral elections in England and Wales; and for any newly created institutions, such as directly elected regional assemblies.		

30-JUL-2003 15:43 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.016/031
02072108597

TABLE 3 – NOT CONTROVERSIAL BUT DIFFICULT

Table 3 – Not controversial but difficult recommendations	OGD interest	Suggested response
Absent Voting in Great Britain: The drafting of the law on undue influence should be revised to clarify the nature of the offence. It should also become a legal requirement that secrecy warnings are included on postal and proxy voting literature; these warnings should be specified in law.	DCA	Welcome as anti-fraud measure. Careful consideration of drafting will be needed
Online election campaigns: Regulations under section 143 (6) of the PPERA 2000 requiring non-printed election material to carry details of the originator of the material should be introduced as soon as is practicable, following the recommencement of this section 143 of the PPERA 2000. Any such regulations should apply to material produced on web pages, e-mail messages, messages sent to mobile phones and any interactive Digital TV information pages.	DCA	This process is underway, but extending to web pages etc raises complexities which need addressing. Need to ensure we get this right
The electoral registration process: We recommend that the electoral register, on the basis that it is electronically maintained according to mandatory data standards, be continuously updated under guidance of a protocol. We recommend that access and supply of the register be the real time version, with annual publication of the register on 1 December	DCA + ODPM + NIO	Agree in principle as logical extension of 'rolling registration', but are severe practical difficulties which may lead to massive under-registration. Need also to make progress on e-registration first
Ballot paper design: The commission recommends that the use of numbers to the left of candidates' names should not be permitted.	DCA + ODPM	Understand the logic but raises practical issues such as the use of the tactile voting device. Also depends on election – for Euros numbering may be useful

30-JUL-2003 15:43 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.017/031

Equal access to democracy: We recommend that with the planned introduction of a national electronic register and the prospect of e-enabled elections, provision is made to allow voters to vote at any polling station that they wish. Until this becomes a reality, we recommend that a system similar to the certificate of employment is available for use by anyone who has a particular need to vote at an alternative polling station in the electoral area for the election concerned on the basis of a demonstrable access need. The onus would be on the elector to apply and demonstrate the need to use a different location. The final decision on whether to permit use of an alternative polling station would be for the Returning Officer. The cut off date for such applications would be the same as for absent voting applications, i.e. the sixth day before the day of poll. The register at their allocated polling station would need to be marked to prevent voting twice. However we would stress that this provision is in no way seen to be an alternative for fully accessible polling stations.	DCA + ODPM	Support the long term aim. Until then recognise the logic of the alternative proposal, but need to consider the practical issues carefully with electoral administrators and representatives of disabled groups
Equal access to democracy: Returning Officers should be given legislative power to provide examples of ballot papers in non-English languages in polling stations. However the ballot paper that voters complete should continue to be available in only English or Welsh.	DCA + ODPM	Support the principle, though accurate translation may be an issue

30-JUL-2003 15:43 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.018/031

TABLE 4 – QUICK AND EASY

Table 4 – Quick and easy recommendations	OGD interest	Suggested response
Funding Electoral Services: That there should be a requirement on Las to submit to the EC figures on annual expenditure in relation to electoral services to bring greater transparency and provide a basis for accurate assessment of the future quantum of costs. This would in turn assist in assessing future needs in key strategic service areas (IT, training, promotional activity and new services such as postal voting and rolling registration) as distinct from the core statutory services.	DCA + ODPM (+ Treasury?)	Welcome as a first step in assessing funding needs and standards
Funding Electoral Services: That local storage of ballot papers and marked registers for all electors in England and Wales should be introduced, with a five-day delay before access and a national scale of charges or a standard fee for access. Additional storage and disposal costs for House of Commons elections should be met through the reimbursement of funds by central government, and maximum costs set out in the relevant Fees and Charges Order	DCA + ODPM + Treasury	Welcome as standardisation measure. Transfer of costs should not be an insoluble issue
Absent Voting in Great Britain: That registered postal voters should be able to apply for a replacement ballot paper at any point up to 5pm on polling day. However, this facility should only be available to electors presenting themselves in person at one or more designated offices, and should be subject to a requirement for proof of identity.	DCA + ODPM	Neutral – simply extends current provision by a day. If ROs can make such a service available, no reason why not
Absent Voting in Great Britain: On balance, the EC recommend that the law be changed to require that tendered ballot papers should be provided to electors in polling stations who claim not to have applied	DCA + ODPM	Neutral. No reason why postal voters who claim to have been personated should not have access to tendered ballot papers like other electors

30-JUL-2003 15:44 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.019/031

Table 4 – Quick and easy recommendations	OGD interest	Suggested response
for or received a postal vote. However, this change should only be made in parallel with a more rigorous approach to examining tendered ballot papers post-election (		
Absent Voting in Great Britain: EC will revise the annual registration form with a view to incorporating details of postal or proxy arrangements for overseas electors. However, the EC does not regard national or international advertising to support proxy vote registration as a short- to medium-term priority for its resources.	DCA + ODPM + F&CO	Neutral. F&CO already take steps to inform overseas electors of their rights
Absent Voting in Great Britain: There should be a new offence of intending fraudulently to apply for a postal or proxy vote. The maximum penalty should be a custodial sentence in line with the penalties for personation.	DCA + ODPM + HO	Welcome as sensible anti-fraud measure
Absent Voting in Great Britain: The existing statutory provisions on personation should be extended to give the police the power of arrest, based on 'reasonable suspicion' of personation at any location, not just at polling stations.	DCA + ODPM + HO	Welcome as measure against postal vote fraud
Absent Voting in Great Britain: The EC recommends that a new legal provision be introduced so that in exceptional circumstances, and where the prosecution has demonstrated all due diligence, the Court may extend the prosecution time limits by up to 12 months.	DCA + ODPM + HO	Welcome to give the police more flexibility in pursuing investigations
Observers at elections in the UK: That observers should be allowed access to polling stations and that there should be controls regulating this access. This would require a change to primary legislation. We do not consider that it is necessary to make detailed provisions in primary legislation. We recommend that a	DCA + ODPM	Welcome the general principle. Will increase international co-operation on observing at polls and help to cement relations with emerging democracies

30-JUL-2003 15:44 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.020/031

Table 4 – Quick and easy recommendations	OGD interest	Suggested response
simple amendment be made to the relevant primary legislation to make provision for observers and that a detailed code be established to specify the extent of access for observers, the application process and a code of conduct.		
Observers at elections in the UK: That these provisions apply to all statutory UK elections. We further recommend that the same arrangements for observers apply for national or regional referendums held under PPERA	DCA + ODPM	Welcome for same reason
Observers at elections in the UK: That the relevant sections of primary legislation be amended to add observers to the list of persons allowed access to polling stations, at the discretion of the Returning Officer (Chief Electoral Officer in Northern Ireland) and subject to a detailed code.	DCA + ODPM	Welcome for same reason
Observers at elections in the UK: That the code for observers apply equally to the opening of postal votes, polling and the count	DCA + ODPM	Welcome for same reason
Observers at elections in the UK: That the relevant sections of primary legislation be amended to provide an automatic right of access to all parts of the electoral process to the EC and any person authorised by the EC in pursuance of the EC's statutory duty to report on the administration of elections.	DCA + ODPM	Welcome as logical corollary of duty to report
Observers at elections in the UK: That the relevant sections of primary legislation be amended to permit minors accompanying voters to be present in a polling station, at the discretion of the Presiding Officer.	DCA + ODPM	Welcome as citizenship and educational measure, though Presiding Officers must have discretion to prevent disruption
Observers at elections in the UK: In line with our recommendation that presiding officers	DCA + ODPM	Welcome for educational and citizenship purposes

30-JUL-2003 15:44 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.021/031

Table 4 – Quick and easy recommendations	OGD interest	Suggested response
should have discretion to permit minors accompanying voters to enter polling stations, we consider that observer status should be given to under 18 year olds provided that they are accompanied by an adult with observer status		
Observers at elections in the UK: To apply to be an observer, we recommend that every application for observer status should be made in respect of a specific constituency or electoral area and should be made directly to the returning officer for that area. In order to support applications to be made in this way, the EC would operate a recommendation scheme whereby a potential observer organisation may present their credentials to the EC which, if satisfied as to the public service nature of the interest, would provide an official notice of recommendation to the applicant. This notice would then be presented to the RO by the applicant. It should be stressed that a recommendation by the EC would not confer an automatic right to observe. ROs would retain their right to turn down applications.	DCA + ODPM	Welcome as reasonable control
Observers at elections in the UK: Observers should be subject to the secrecy requirements that apply to all staff and candidates agents attending polling stations and counting centres. It will be necessary to establish very strict controls on the use of photographic and other recording equipment by observers, including the media, within polling stations and counting centres. These restrictions would be necessary in order to ensure that the secrecy of the ballot is not compromised.	DCA + ODPM	Strongly welcome. Secrecy of the ballot must be paramount and no voter should feel at risk of the secret ballot being compromised by observers. Media controls are particularly important
Observers at elections in the UK: Observers should maintain strict impartiality in the conduct of their duties and at no time express any bias or preference in relation to the Government, political parties,	DCA + ODPM	Strongly welcome. There should be rigorous controls on this, with measures put in place for non-compliance

30-JUL-2003 15:44 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.022/031

Table 4 – Quick and easy recommendations	OGD interest	Suggested response
candidates or any contentious issues, either verbally or through any other means (e.g. rosettes). They should be strictly prohibited from influencing or intimidating voters in any way		
Observers at elections in the UK: Presiding officers have responsibility for maintaining order within polling stations. They should have discretion to limit the number of observers attending their polling station at any particular time in order to prevent large numbers of observers causing disruption to the polling process. The laws concerning keeping of order in polling stations should apply to observers, with presiding officers able to order the removal of any observer from the polling station on the grounds of misconduct.	DCA + ODPM	Strongly welcome
Observers at elections in the UK: Although we do not anticipate that ROs would require any increase in core budget provision to manage their involvement in the process, there may need to be an element built into the Fees and Charges for specific elections to reflect the additional duties	DCA + ODPM + Treasury	Will need to consider the cost implications, but these should be minimal
The electoral registration process: We propose that where an error on the electoral register arises as a result of the clerical error of the electoral registration officer, this should be correctable on the day of an election itself, If the clerical error comes to light on polling day too late to be resolved conclusively, a tendered ballot paper, should be offered to the voter.	DCA + ODPM	Agree. Where an ERO or an RO is convinced that an elector has been disenfranchised because of an error on his part, he should be able to correct it, even on the day of the poll, if that is possible. A tendered vote is a sensible alternative in cases of dispute
The electoral registration process: The commission recommends that it be an offence for an individual to fail to supply information to the electoral registration officer or to supply false information	DCA + ODPM + HO	Agree. Already an offence at the annual canvass – this is logical extension

30-JUL-2003 15:44 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.023/031

Table 4 – Quick and easy recommendations	OGD interest	Suggested response
The electoral registration process: The commission proposes that the objection process be reformed with the effect that the electoral registration officers be able to investigate objections to registration at any time, where reasonable grounds for an objection are specified, and determine the objection with reasons. The Commission proposes that the electoral registration officers themselves be permitted to raise objection to registration and to investigate. Appeals should be allowed to the appropriate courts	DCA + ODPM	Welcome as simplification of a system we recognise as currently unsatisfactory
Ballot paper design: It was generally accepted by respondents to our consultation paper that using the Australian double randomised system – Where the first draw gives each candidate a number and the second draw determines the order in which each candidate appears the paper – was the most attractive option. This approach should be tested in the UK through the pilots listed above.	DCA + ODPM	Welcome suggestion to pilot
Ballot paper design: The commission recommends that independent candidates should be required to use the initials 'IND' in the area of the paper where a party emblem is otherwise placed, to complement other changes recommended in the Commissions separate review of the nominations process, in relation to the use of descriptions on ballot papers.	DCA + ODPM	Welcome this as sensible measure so that independents are not too distinctively different from party candidates on the ballot paper.
Ballot paper design: The Commission recommends the introduction of specific legislative provisions giving Returning Officers the ability to accept nominations which allow candidates to omit the use of their full forenames from the ballot paper in favour of their common name provided their full forenames are given on the nomination paper. The Commission would develop	DCA + ODPM	Welcome, particularly the introduction of clear guidance on what is acceptable

30-JUL-2003 15:44 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.024/031

Table 4 – Quick and easy recommendations	OGD interest	Suggested response
practice guidance for Returning Officers to support the legislative provision, especially in order to avoid abuse of the provision by candidates seeking to undermine the process or cause confusion with other candidates.		
Ballot paper design: The Commission recommends that the law should be amended to require that information concerning the type of election be moved from the back of the ballot paper and included instead on the face of the ballot paper and at the top. The statement should be phrased as 'Ballot paper for the election of (institution name and electoral district)'.	DCA + ODPM	Welcome in principle, though need to beware of cluttering the ballot paper with too much information
Ballot paper design: The Commission recommends that the law should be amended to require a short statement at the bottom of every ballot paper, which highlights the right of the elector to vote in secret. This warning should be included on all ballot papers and not only those issued for postal voting.	DCA + ODPM	Welcome in principle, though need to beware of cluttering the ballot paper with too much information
Ballot paper design: The Commission recommends that the law be amended to require the inclusion of clear and concise information on ballot papers to explain how an elector should vote. The wording should be prescribed in law and developed in consultation with organisations experienced in providing accessible text to the public	DCA + ODPM	Ballot papers already state 'vote for [one/etc] candidate only'. Need to beware of cluttering the ballot paper with too much information
Ballot paper design: The Commission recommends that the provision of information for electors in ante-rooms to polling stations should be the subject of electoral pilots in order to test and assess their impact on voter participation prior to any final recommendations	DCA + ODPM	Neutral. Might be helpful
Ballot paper design: Returning Officers should be given legislative power to	DCA + ODPM	Welcome as providing appropriate assistance to electors. May be issue over making sure that

30-JUL-2003 15:45 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.025/031

Table 4 – Quick and easy recommendations	OGD interest	Suggested response
provide in polling stations: -Pictorial or visual guides to voting; -Official posters in non-English languages; -Examples of ballot papers in non-English languages. However the ballot paper that voters complete should continue to be available in only English and Welsh.		translations are accurate
Ballot paper design: Braille and large-print ballot papers should be supplied in polling stations as samples only. Visually impaired electors should, however, continue to vote on a standard ballot paper, perhaps using the template or with other assistance currently permitted by law.	DCA + ODPM	Welcome in principle, though there may be practical issues about supply (particularly of Braille at short notice to 45,000 polling stations
Ballot paper design: The Commission believes that further research should be undertaken in to the likely benefits and disadvantages of photographs on ballot papers. We recommend that legislation be introduced to enable the piloting of photographs in order to assist in undertaking such research.	DCA + ODPM	Neutral. May be useful.
Ballot paper design: Subject to the evaluation of the May 2003 local electoral pilot schemes, the Commission is likely to recommend the introduction of some form of alternative to the current official mark, such as 'watermarks', or half tone marks in order to eradicate the disenfranchisement of voters through human error in the polling station.	DCA + ODPM	Awaiting final recommendation, but welcome as sensible modernisation measure
Ballot paper design: The Commission recommends the introduction of a new statutory requirement that candidates (or their agents) should be given an opportunity to proof-read a copy of the ballot paper prior to printing, at a time determined by the returning officer. Responsibility for deciding on the final	DCA + ODPM	Neutral. May help to prevent obvious errors

30-JUL-2003 15:45 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.026/031

Table 4 – Quick and easy recommendations	OGD interest	Suggested response
text should also rest with the returning Officer.		
Equal access to democracy: Returning Officers should be given statutory powers to use all accessible publicly owned buildings as polling stations to enable them to fulfil the requirements of the Disability Discriminations Act 1995. Given the provisions of that Act, we do not regard it as necessary at the present time to create additional legal obligations on Returning Officers to make polling stations accessible. However, we will keep this situation under review and examine progress in two years time.	DCA + ODPM + DWP	Neutral. Power may be a little wide – will need to discuss further
Equal access to democracy: We recommend that the law, which currently applies in Northern Ireland, should be extended to the rest of the UK, imposing an obligation on Returning Officers to review the accessibility of all polling stations in their area over a four year period. In the meantime, we would encourage all returning Officers as a matter of good practice to carry out reviews of the premises that they use on a regular basis. We also recommend that Returning Officers should involve local groups of disabled people in their reviews and that the review process should be as transparent and open as possible.	DCA + ODPM	Welcome as good practice, though need to consider whether a change in the law is required
Equal access to democracy: Braille and Large print papers should be supplied in polling stations, as samples only. Visually impaired electors should, however, continue to vote on a standard ballot paper, perhaps using the template, or with other assistance currently permitted by law.	DCA + ODPM	Welcome in principle, though there may be practical issues about supply (particularly of Braille at short notice to 45,000 polling stations
Equal access to democracy: Returning Officers should be given legislative powers to	DCA + ODPM	Welcome as providing appropriate assistance to electors. May be issue over making sure that

30-JUL-2003 15:45 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.027/031

Table 4 – Quick and easy recommendations	OGD interest	Suggested response
provide pictorial or visual guides to voting and official posters in non-English languages in polling stations.		translations are accurate
Equal access to democracy: We recommend that, by law, postal ballot papers should be accompanied by a 'Plain English' guide on the completion of postal votes containing symbols to explain how to complete and collate the necessary paperwork. As a matter of good practice, this should also be available in other formats – for example, other languages, a pictorial version and audio-tape - on request.	DCA + ODPM	Welcome as providing appropriate assistance to electors. May be issue over making sure that translations are accurate
Election timetables in the United Kingdom: The Commission recommends that deadlines that are currently fixed at the discretion of the Returning Officer should not be fixed by statute or secondary legislation. Instead, local flexibility with respect to matters such as the issuing and opening of postal votes, and delivery of poll cards, should be preserved. The Commission will also work with electoral administrators and their professional bodies to develop and disseminate best practice in this regard.	DCA + ODPM	Welcome preservation of flexibility and good practice guidance
Election timetables in the United Kingdom: The Commission recommends that polling hours for local government elections in England and Wales, and Greater London Authority elections, should be set at 7am to 10pm, so bringing them into line with the hours for Parliamentary general and other national elections. In order to maximise and maintain consistency across polling hours, we hope that the hours of 7am to 10pm will be adopted for Scottish local government and community council elections; community, parish and mayoral elections in England and Wales; and for any newly created institutions, such as directly elected regional assemblies.	DCA + ODPM	Welcome as sensible standardisation

30-JUL-2003 15:45 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.028/031

Table 4 – Quick and easy recommendations	OGD interest	Suggested response
Electon timetables in the United Kingdom: The Commission recommends that Maundy Thursday be removed from the *dies non* provisions with respect to the following elections and related by-elections: -Parliamentary general -European Parliament -National Assembley for Wales -Northern Ireland Assembly -Greater London Authority -Local Government (England and Wales) -Local Government (Northern Ireland); In order to maximise and maintain consistency of election timetable computation, we believe that Maundy Thursday should also be removed from the *dies non* provisions relating to community, parish and mayoral elections in England and Wales, and for any newly created institutions, such as directly elected regional assemblies.	DCA + ODPM	Neutral.
Election timetables in the United Kingdom: The commission recommends that the Government considers the practicability of defining in legislation days of public thanksgiving and mourning, with the aim of facilitating levels of understanding about which events might impact on the computation of election timetables.	DCA + ODPM	Will consider, though in practice this has not been a problem in recent times
Standing for election in the United Kingdom: The Commission recommends that for the purposes of candidate nomination no difference should be made between candidates standing from parties registered with the Commission under PPERA and non-party candidates.	DCA + ODPM	Welcome as underlying principle
Standing for election in the United Kingdom: The Commission recommends that responsibility for compiling and maintaining a register of alternative party descriptions should be centralised under the aegis of the	DCA + ODPM	Welcome as sensible extension of registration provisions

30-JUL-2003 15:45 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.029/031

Table 4 – Quick and easy recommendations	OGD interest	Suggested response
Commission itself, similar to the system that already applies to party emblems. All political parties should be required to register a number of alternative descriptions with the Commission (up to a maximum of 5) and be limited to using these descriptions on ballot papers at elections		
Standing for election in the United Kingdom: The Commission recommends the introduction of specific legislative provisions giving Returning Officers discretion to allow candidates to omit the use of their official forename from the ballot paper in favour of their common name provided the full official name is given on the nomination paper. The Commission would develop good practice guidance for Returning Officers to support the legislative provisions, especially in order to avoid abuse by candidates seeking to mock the election process or other candidates.	DCA + ODPM	Welcome, particularly the introduction of clear guidance on what is acceptable
Standing for election in the United Kingdom: The Commission recommends that a dedicated 24-hour period for checking nominations be introduced after the close of nominations. Assuming a 25 day election timetable, the 24 hours would run no later than 4pm on the seventeenth day before polling until 4pm on the sixteenth day before the poll. This would not extend the overall timetable.	DCA + ODPM	Welcome as sensible extra provision and clarification of current procedures
Standing for election in the United Kingdom: The Commission recommends that the use of facsimile and e-mail be permissible in the nomination process. However the Returning Officer must still receive, within the 24 hour period, original documentation for purposes of authentication.	DCA + ODPM	Welcome as sensible modernisation measure

30-JUL-2003 15:45 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.030/031

Table 4 – Quick and easy recommendations	OGD interest	Suggested response
Standing for election in the United Kingdom: The Commission recommends that Returning Officers should be given greater discretion for dealing with 'minor errors' on nomination papers. Good practice guidance on what constituted a 'minor error' would be drawn up by the Commission.	DCA + ODPM	Welcome, particularly if clear guidance is to be drafted

30-JUL-2003 15:46 FROM:LORD FALCONER1 02072108597 TO:020 7839 9044 P.031/031

Local
Euro
AMc
cc SW
JJH
AA

DEPUTY PRIME MINISTER

OFFICE OF THE
DEPUTY PRIME MINISTER
26 Whitehall
London
SW1A 2WH

Tel: 020 7944 8623
Fax: 020 7944 8621

Christopher Leslie MP
Parliamentary Under Secretary of State
The Department for Constitutional Affairs
Selbourne House
54-60 Victoria Street
London
SW1E 6QW

18 July 2003

Dear Christopher

PILOTING OF INNOVATIVE VOTING METHODS AT THE 2004 COMBINED EUROPEAN PARLIAMENT AND LOCAL AUTHORITY ELECTIONS

You wrote to me on 23 June seeking agreement to introduce a Bill allowing the piloting of all-postal and multi-channel voting methods at next year's combined Euro and local authority elections. This letter gives you DA clearance to proceed, subject to the comments recorded below.

Responses were received from Douglas Alexander, Don Touhig, Ivor Caplin, David Blunkett, Alistair Darling, Ian McCartney, Nick Raynsford, Paul Boateng and Denis McShane.

Douglas said that we should take care to ensure that the additional complexity of combined elections can be handled safely, but the first step must be to set out the enabling powers we will need.

Don was content subject to two provisos: that the Electoral Commission will retain the option of selecting pilot areas within Wales; and, nothing in the Bill will preclude pilots taking place where elections are not combined in Wales.

Ivor welcomed this initiative which will make voting easier for Service personnel and asked that his officials are kept abreast of developments.

Alistair sought assurance that any additional costs following from a European election pilot in Scotland will be met from the centre. He asked to be consulted before any decision is reached. DCA and DCA (SO) officials will presumably liaise.

Nick had discussed the outline proposals with Yvette Cooper and, I gather, officials in ODPM and DCA are working closely to consider the details. On costs, Nick clarified that the intention was for ODPM to meet the costs of providing e-voting services for local elections; and suggested the costs of e-voting for the European elections will be covered through the arrangements that DCA is seeking to make with the Treasury. However, Paul was satisfied that DCA had already been funded for the European elections and ODPM for e-voting pilots in both European and local government elections and as such, costs should be met from within existing provisions for both Departments. Officials in ODPM will need to be involved in the further discussions that DCA have with Treasury about costs of piloting.

Nick also drew attention to the need for a power to enable the Electoral Commission to take into account representations which either the Commission or Government may receive before Royal Assent so as to make recommendations in good time to allow preparations for pilots to be made.

Denis supported the decision to exclude Gibralter from the scope of the piloting scheme given the need for these to pass off smoothly without causing further friction with the Spanish. However, he did not wish to see the European Parliamentary region that is to be combined with Gibralter prevented from taking part in the piloting scheme, and so welcomed the intention to undertake public consultation ahead of a final decision on which constituencies should be included.

Finally, David and Ian both strongly support. No other comments were received.

Final decisions on whether to take forward this legislation will be for LP Committee, in the light of discussions between Charlie Falconer and Business Managers on the timing and handling of legislation.

I am copying this letter to the Prime Minister, members of DA and LP Committees and to Sir Andrew Turnbull.

JOHN PRESCOTT

Const. reform - rot

AMcL
JC.
WH.
MR.
SW.
CS.
PMcF

HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

The Rt. Hon. John Prescott MP
Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

15 July 2003

Dear John,

PILOTING OF INNOVATIVE VOTING METHODS AT THE 2004 COMBINED EUROPEAN PARLIAMENT AND LOCAL AUTHORITY ELECTIONS

Chris Leslie's letter of 23 June sought agreement to the publication of a Bill to allow for the piloting of all-postal and multi-channel voting methods at the 2004 combined European Parliament and local government elections. I apologise for the delay in replying.

2. In his letter, and in Yvette Cooper's letter of 7 May, the statement was made that the cost of European elections in England and Wales is borne directly by the centre, without any implications for departmental budgets. The purpose of this letter is to clarify the situation.

3. While it is the case that payments constituting an election expense may be paid as Consolidated Fund Standing Services, such payments are offset by a hit on the relevant department's DEL.

4. In the case of the 2004 European Parliamentary elections, the DCA Settlement letter of 10 July 2002 stated that "the settlement provides ring-fenced additional funding of £2/53/2 million to cover the cost of the Euro elections in 2004-05". A further £10/10/10 million capital agreed for e-voting pilots fits most appropriately with wider e-initiatives under Local Government On Line and will remain with ODPM. Therefore, DCA have already been funded for the European elections themselves, and ODPM for e-voting pilots. Expenditure on the European Parliamentary election will hit DCA's DEL as planned in the last Spending Review.

5. In his response of 2 July, Nick Raynsford sought to clarify the position that ODPM meets the costs of providing e-voting services to the extent that they are attributable to local elections and that e-voting in the European elections should be covered by the arrangements outlined in Chris Leslie's letter. While I agree that the Settlement letters

relate funding for pilots to Local Government On-Line, the DCA letter makes clear that e-voting pilots in the European elections would also be covered by this allocation. Election policy is a national policy and it is difficult to argue that this is purely local money if a credible system that fits with national priorities is to be delivered.

6. I am therefore satisfied that DCA have been funded for the European Parliamentary elections and that ODPM have been funded for the costs of e-voting pilots in both European and local government elections and such costs should be met from within the existing provisions for DCA and ODPM.

7. I am copying this letter to the Prime Minister, other Members of DA, and of LP, Nick Raynsford and to Sir Andrew.

PAUL BOATENG

HOME SECRETARY

PM

cc AC
PMcA
SMc
JH (for his)
PH
AMc

STRICTLY PERSONAL, PRIVATE & CONFIDENTIAL

PRIME MINISTER

Dear Tony

Campaigning – 2004 Elections

Challenge

I promised to send you a note about campaigning for the elections in 2004. Other than the general election itself, since we took office in May 1997, I doubt that there has ever been a bigger challenge than these elections given their scope.

It is not simply that in the Metropolitan areas (and Mayoral elections) there is so much at stake because of the 'all out' nature of the contest, and the inevitable impact on service delivery, but also because of the impact on confidence and psychology.

Clearly the European elections will be, by their very nature, about the European constitution and the Euro (irrespective of the re-assessment), and therefore about Britain's place in Europe. This is underpinned by the nature of underlying issues (defining issues) such as citizenship and a sense of identity and belonging. But, taken together with the Metropolitan elections, they constitute a key element in forming the political, psychological, and motivational backcloth to the general election itself.

Themes

I was very pleased indeed that the speech you made in Liverpool picked up the very clear issue of "for a purpose". You know how vital a theme I think this is in relation to our overarching theme of meeting the challenge of change – helping people through change in economic and social life, in globalisation, and in the rapidity and therefore the fear of the unknown around them. However, I think it fits in entirely with the law and order agenda in the neighbourhood and the place of Britain in Europe and the world at the opposite end of the spectrum.

However, we need to set our emphasis on public services and standards in a much broader context, so that we communicate our core values and vision for society.

Contd/2

STRICTLY PERSONAL, PRIVATE & CONFIDENTIAL

We want to improve public services, not only to harness the power of mutual support through central and local government, but also to create a society in which the talent of all is made real. It enables people to take up opportunity, to develop their potential, and therefore to be both independent and enterprising, and to contribute back into the full potential of others as they contribute to community and society. At its best, it is a form of positive insurance, which David Miliband spoke about two years ago, which is a positive driving force for improvement and not just a safety net.

We mobilise the energy, the enterprise, and the innovation of our country, which benefits us as individuals and creates a society worth living in. The reform and investment in public services that makes this improvement possible is therefore about much more than the availability of better, more modern, reformed, and therefore desirable, public services. We want people to have choice, we want it to be reformed and modernised to enable them to make that choice, but we also want public services to be the backcloth to the use of the full resources and talent of the nation. This is linking individual with national interest, self-determination and fulfilment, with mutuality. It allows us to set the individual campaigns and the individual themes into broader values, and into an overarching message.

Tactics

To get this across, we must really raise the whole tactics of our campaigning and in particular we need a much clearer thematic overarching approach. We need to put the individual messages together into something that means that a campaign is going with the grain, the messages we want to convey, the actions we are taking, and therefore the policies we are seeking to deliver.

First and foremost I think we need to decide which messages we wish to convey to the particular part of the coalition we are addressing. In other words, we look as you did 10 years ago, to how we build a coalition of interests, each of which will come at the particular issue from a different angle, but who can receive the message if it is placed within the broader context, as well as their own immediate interest. I presume some work is going on in relation to identifying not only who we have to reach, but how we can reach them without doing what the Liberal Democrats did (saying entirely different things to different audiences)? I presume our intensive focus group poling is aimed at achieving this?

This, of course, then raises the issue of how we reach those particular parts of the coalition that we are "rebuilding". I think we need a completely different approach. Radical in terms of looking at new ways of conveying information and reaching people, and old ways of re-connecting with those people. A combination, therefore, of reaching out through the Internet, perhaps even making a film for distribution, commissioning plays that we might get performed at different venues, linking music (but not old hat) with the demonstration of particular themes. Having entirely new approaches to printed literature so that we can catch the eye, but get the message across as well. Above all, actually getting out there, as I described in my last note to

Contd/3

STRICTLY PERSONAL, PRIVATE & CONFIDENTIAL

you in terms of the Ministerial teams going out, but doing so in a way that doesn't run us all ragged, isn't corny, but actually does touch people. We feel aloof, we are seen as the establishment, we have lost the vitality and connection that we had. It is no-one's fault, but we need to address it and do so rapidly without appearing to get into meaningless gimmicks.

As always, I ask, please spare us the mindless press conferences! Let us find entirely new ways and some very old ways of demonstrating our point by being there, talking to people, and engaging. Can we have a core of Special Advisers linked with those inside Old Queen Street who have some feel of this new agenda and new methods of communicating it? Can we link in with those who have some knowledge of how to reach young people, given as I have demonstrated that it will be young people who are interested in the European and world agenda, and less frightened of change, whilst older people will need an entirely different approach whilst saying the same things and underlining the same themes.

I know it is a tall order, not least because we have no money! I appreciate this all too well, but some people might be prepared to take on a specific theme or campaign initiative in kind and approach things in a different way for us. All of this would be about "creating a tide" on which we could then ride, in a way which makes most progress with least expenditure.

Finally, how do we use the machinery of government, not exploitatively but at local and national level where we have a platform. I fear that many of those with a platform have lost the art of politics. You were quite right in Liverpool to demonstrate – and I believe this very strongly – that we mustn't be managerial and technocratic. We are politicians first and foremost, and although we rely heavily on modernising the civil service (I hope we won't lose this theme) we really do need to ensure that the art of government is the art of politics, and that is to use the platform at every juncture.

That is why I think we should watch like the plague the idea of throwing away all the levers, giving away all the money into some "single pot", losing the art of providing an answer here, a funding stream there, and ability to meet a very major demand there. This is politics! If we lose the art of actually relating to the audience we are addressing, with the resources that we could have at our disposal by having given it all away in some grand gesture of de-centralisation, we need our heads examining.

Past Labour governments lost the art, we must not.

Of course, I would be very happy to do whatever you would like me to do in all this.

Above all, can we get a grip of what is now being proposed for the next spending review? I know of no government in history that has gone into a general election promising less than was on offer in mid term! I know of no government that has said "We promise you such a difficult time on public expenditure that you will really thank us for it later". Opposition in 1997 – yes – for the purpose of a clear message of

Contd/4

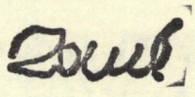
STRICTLY PERSONAL, PRIVATE & CONFIDENTIAL

economic prudence and stability. But we are now the government. Even on a practical level, no further expenditure in year three of the present review (year one of the new review) would lead us to fall into exactly the trap on capital investment that we found ourselves in in 1997/98. The lead-in times for investment is such that if we don't provide an update in 2005 on future capital, we will completely mess up third term progress and investment.

More serious still is the proposal that there will be no real growth in public expenditure, irrespective of actual level of growth. I think that we would find this an impossible position from which to win a general election, or sustain the first half of the next Parliament.

This is the extraordinary proposition that Paul Boateng has just circulated. Do we really mean it and have we assessed what the consequences will be of a moratorium on everything except health? Is the whole of the general election going to be about helath and European/foreign policy?

With very best wishes



DAVID BLUNKETT
9 July 2003

File

The Rt Hon Nick Raynsford MP
Minister of State for Local
Government and the Regions

OFFICE OF THE
DEPUTY PRIME MINISTER

26 Whitehall
London SW1A 2WH

Tel: 020 7944 3013
Fax: 020 7944 4539
E-Mail: nick.raynsford@odpm.gsi.gov.uk

Web site: www.odpm.gov.uk

Our Ref: P/R/011596/03

Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
LONDON
SW1A 2WH

CS cc: AM DMS

02 JUL 2003

Jean John

PILOTING OF INNOVATIVE VOTING METHODS AT THE 2004 COMBINED EUROPEAN PARLIAMENT AND LOCAL AUTHORITY ELECTIONS

I have seen Chris Leslie's letter of 23 June to you in which he seeks agreement from DA colleagues on the policy content of the proposed Bill to allow piloting at combined elections in 2004. Yvette Cooper and I discussed the outline proposals for this Bill and officials in ODPM and DCA are working closely to consider the details. I am content for DCA to proceed with the Bill as described in Chris's letter and I hope that colleagues will agree to the introduction of the Bill this session.

I fully support the arguments Chris sets out as to why piloting at the 2004 elections is desirable. The 2003 pilots were a significant step forward in our programme of testing electoral innovations and we need to continue to build on the lessons learned, recognising the benefits in innovative voting methods that authorities and electors are now seeing. I very much agree that we should aim for several all-postal pilots and certainly one e-voting pilot given the momentum we have now generated for the development of e-enabled elections.

The provisions DCA are seeking in the proposed Bill arise from discussions we had earlier involving Chris's predecessor and Ian McCartney and from detailed consideration by our respective officials. I agree that all the proposed provisions are necessary if we are to manage a programme of pilots at combined elections in 2004.

Although DCA's proposed provisions are necessary, I would draw attention especially to the need for a power to enable the Electoral Commission, when it comes to make recommendations on the regions where piloting should take place, to take into account representations which the Commission or the Government may have received before Royal Assent to the Bill. Without such a power, I do not believe it would be possible for

[redacted] Electoral Commission to make recommendations in good time to allow preparations for pilots to be made.

On the question of costs of pilots, I should clarify that our intention is for ODPM to meet the costs of providing e-voting services to the extent that this is attributable to the local elections. The costs of e-voting in the European Parliamentary Elections would need to be covered through the arrangements that DCA are seeking to make with the Treasury. For all e-voting, costs will be determined by the agreements in place on the ODPM's supplier framework. I would ask that officials from ODPM should be involved in any discussions DCA have with Treasury about the costs of piloting.

I am copying this letter to the Prime Minister, members of DA and LP Committees and to Sir Andrew Turnbull.

Yours ever

Nick

NICK RAYNSFORD

Minister without Portfolio

CABINET OFFICE 70 Whitehall ▪ London SW1A 2AS
TELEPHONE: 020 7276 1091 ▪ FAX: 020 7276 1088 EMAIL: psianmccartney@cabinet-office.x.gsi.gov.uk

1 July 2003

Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London SW1A 2WH

A Mac

cc MH
SW
MR

Dear John,

PILOTING OF INNOVATIVE VOTING METHODS AT THE 2004 COMBINED EUROPEAN AND LOCAL AUTHORITY ELECTIONS

I have seen a copy of Chris Leslie's letter to you of 23 June seeking DA's agreement to the introduction of a bill allowing the piloting of all-postal and multi-channel voting methods at next year's elections.

I agree with Chris' proposals. As he notes, there is a great deal of political pressure for all-postal ballots next year, as many regions as possible should be given the opportunity to hold them.

I am copying this to the Prime Minister, other members of DA and of LP, Nick Raynsford and Sir Andrew Turnbull.

Ian

RT HON IAN McCARTNEY MP

File

Top: PD (AMc)
" PD (CS)
PoL (PMc)

SCOTLAND OFFICE
DOVER HOUSE
WHITEHALL
LONDON SW1A 2AU
www.scottishsecretary.gov.uk

Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
LONDON
SW1A 2WH

30 June 2003

Dear John

PILOTING OF INNOVATIVE VOTING METHODS AT THE 2004 COMBINED EUROPEAN PARLIAMENT AND LOCAL AUTHORITY ELECTIONS

Christopher Leslie copied to me his letter of 23 June in which he sought agreement to a Bill to allow piloting of all-postal and multi-channel voting at next year's European Parliament elections. I am content, subject to an assurance that any additional costs following from a European election pilot in Scotland will be met from the centre.

Christopher pointed out that the costs of European Parliamentary elections in England and Wales are borne by the centre and sought a commitment that any additional costs from the pilots would be similarly met, otherwise they would not be able to proceed.

However, in Scotland, the funding arrangements for European Parliamentary elections are different. Before devolution the then Scottish Office and the Treasury agreed that the Scotland Office would fund predictable elections - Scottish Parliament and European Parliament elections - by deducting the costs from the grant paid to the Scottish Executive.

If it is agreed that the cost of European election pilots in England and Wales will be met by the centre, there would not be any Barnett consequentials to Scotland. Any additional costs in Scotland would therefore fall to the Scottish Assigned Budget - that is, money normally passed to the Scottish Executive. I wish therefore to be assured that, should Scotland be selected for a pilot next year, any additional costs will also be met from the centre.

It is also important to point out that, should Scotland be selected as a pilot region in 2004, any such pilot will cover the whole country and will therefore be a significant innovation. This would be a major departure, which would require careful consideration, and I would wish to be consulted before any decision is reached concerning Scotland.

Recycled

SKP 2/7/03

You may be aware that, as local government elections in Scotland are held on the same day and combined with elections to the Scottish Parliament, piloting opportunities have been limited. It is imperative therefore that adequate consultation and discussion takes place with all stakeholders if we are to ensure that secure and proper procedures are put in place

I am copying this letter to the Prime Minister, other members of DA, and of LP, Christopher Leslie, Nick Raynsford and to Sir Andrew Turnbull.

Yours

ALISTAIR DARLING

02072733965

Home Office

Home Secretary
50 Queen Anne's Gate, London SW1H 9AT

27 June 2003

Christopher Leslie MP
Department for Constitutional Affairs
Selbourne House
54-60 Victoria Street
London SW1E 6QW

CS
cc: AMcG

Dear Christopher,

PILOTING OF INNOVATIVE VOTING METHODS AT THE 2004 COMBINED EUROPEAN PARLIAMENT AND LOCAL AUTHORITY ELECTIONS

I have seen your letter of 23 June to the Deputy Prime Minister.

I strongly support the proposal to pilot all-postal and multi-channel voting methods at next year's combined European Parliament and local government elections.

I am copying this letter to recipients of yours.

Best wishes,

David

DAVID BLUNKETT

MINISTRY OF DEFENCE
OLD WAR OFFICE BUILDING
WHITEHALL LONDON SW1A 2EU

Telephone (020) 7218 2216 (Direct Dialling)
(020) 7218 7610 (Fax)
(020) 7218 9000 (Switchboard)

PARLIAMENTARY UNDER-SECRETARY OF STATE FOR DEFENCE
AND MINISTER FOR VETERANS AFFAIRS

cc. JPO.
CS.
MK
PMG

Christopher Leslie MP
Parliamentary Under Secretary of State
The Department for Constitutional Affairs
Selbourne House
54-60 Victoria Street
London
SW1E 6QW

D/US of S/IC 19/2/2
26 June 2003

Dear Chris,

PILOTING OF INNOVATIVE VOTING METHODS AT THE 2004 COMBINED EUROPEAN PARLIAMENTARY AND LOCAL AUTHORITY ELECTIONS

Thank you for copying to me your letter of 23 June to John Prescott.

This Department welcomes any initiative that would make voting easier for Service personnel, their families and MOD civilians working abroad. Major improvements to the ways that Service personnel (and MOD civilians abroad) can vote were brought about by changes in the Representation of the People Act 2000 and Representation of the People (Scotland) Regulations 2001. It is important to the Ministry of Defence that these improvements remain in harmony with the new voting proposals. To this end I would ask that my officials are kept abreast of developments.

... I am copying this letter to the Prime Minister, other members of DA and of LP, Nick Raynsford and to Sir Andrew Turnbull.

Yours ever

IVOR CAPLIN MP

Private Office

INVESTOR IN PEOPLE

CS.
cc. AMc.
JH

DEPUTY PRIME MINISTER

OFFICE OF THE
DEPUTY PRIME MINISTER
26 Whitehall
London
SW1A 2WH

Tel: 020 7944 8623
Fax: 020 7944 8621

The Rt Hon Nick Raynsford MP
Minister of State for Local Government and Regions
Office of the Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

26 June 2003

Dear Nick

REFERENDUMS ON ELECTED REGIONAL ASSEMBLIES – APPROPRIATE CONDUCT OF MINISTERS AND CIVIL SERVANTS

You sought policy agreement in your letter to me of 2 June to the revised guidelines and advice on the appropriate conduct of all Ministers and civil servants during, and immediately after, the Boundary Committee's local government reviews.

No DA members commented, you may therefore take it that you have DA clearance to proceed.

For the benefit of colleagues I have attached a copy of the final version of the guidance to this letter, which should be used when cascading to their Departments and NDPBs. This has been updated slightly from the version colleagues saw under cover of your letter of 2 June, to reflect the fact that I have now announced which regions are subject to local government reviews and will be proceeding towards referendums.

I understand that it is not your intention to publish the guidance formally, however, Departments may choose to place it on Departmental intranets.

I am copying this letter to the Prime Minister, members of DA Committee, Jack Straw, Valerie Amos, to Sir Andrew Turnbull and to Clare Sumner (No 10).

Yours ever

JOHN PRESCOTT

Website: www.odpm.gov.uk
Email: john.prescott@odpm.gsi.gov.uk

Douglas Alexander MP

Minister for the Cabinet Office &
Chancellor of the Duchy of Lancaster

CABINET OFFICE
70 Whitehall
London
SW1A 2AS

Tel: **020 7276 0652**
Fax: **020 7276 0655**

The Rt Hon John Prescott MP
Deputy Prime Minister
Office of the Deputy Prime Minister
26 Whitehall
London SW1A 2WH

AMcG
cc: CS
PMcF
SW

26 June 2003

Dear John,

PILOTING OF INNOVATIVE VOTING METHODS AT THE 2004 COMBINED EUROPEAN PARLIAMENT AND LOCAL AUTHORITY ELECTIONS

I am responding to Chris Leslie's letter to you of 23 June. In my view, it would be very unfortunate if we were to lose the momentum towards electoral modernisation established by the series of imaginative pilots in 2000, 2002 and 2003. The impact on turnout of all-postal voting at local government level has so far been impressive, and we ought to explore it at European parliamentary level too.

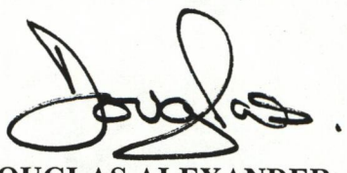
For the longer term, we should continue to aim for multiple voting channels, and should therefore look to 2004 for opportunities to build on our early experiments with electronic voting. We should of course take great care to ensure that the additional complexity of combined elections can be handled safely, but the first step must be to establish the enabling powers we will need. I am happy that the policy set out in Chris's letter is sound, and that we should seek a legislative slot before the summer recess.

Web site: www.cabinet-office.gov.uk
Email: psdalexander@cabinet-office.x.gsi.gov.uk

INVESTOR IN PEOPLE

I am copying this letter to the Prime Minister, members of DA, Sir Andrew Turnbull, and Andrew Pinder.

Yours ever,



DOUGLAS ALEXANDER

The Rt Hon Nick Raynsford MP
Minister of State for Local Government and the Regions

OFFICE OF THE DEPUTY PRIME MINISTER

26 Whitehall
London SW1A 2WH

Tel: 020 7944 3013
Fax: 020 7944 4539
E-Mail: nick.raynsford@odpm.gsi.gov.uk

Web site: www.odpm.gov.uk

Our Ref: R/010347/03

23 JUN 2003

Sir Jeremy Beecham
Chairman
Local Government Association
Local Government House
Smith Square
LONDON
SW1P 3HZ

AMcG
WH
AA
CS
PMcF
SM

Dear Jeremy

Thank you for your letter of 22 May about the implementation of revised warding arrangements in the metropolitan authorities.

These matters and decisions are in fact now wholly for the Electoral Commission. Our involvement in this ended on 1 April 2002. Before then we had told Parliament that our aim was for all reviews to be implemented by 2005.

Whilst we have made no secret of the fact that we would like the Electoral Commission to stick with this original timetable for the reviews – i.e. all implemented by 2005 – we have also made clear to the Electoral Commission that the decision is theirs. We have also indicated our expectation that, should the Electoral Commission wish to adopt a different timetable, they should inform the House of Commons (there are arrangements for an MP to answer PQs for the Speakers Committee, to which the Electoral Commission is responsible), particularly as the House was notified of the original timetable when it was established in 1999.

Having said that I would add two points. First, there are precedents for Orders affecting an election in May being made as late as February (not March as you fear). For the 2004 local elections of course we have confirmed our intention, subject to the necessary legislation being enacted, to move the date of the local elections from 6 May to 10 June. This may help to ease the timing pressures for implementing Orders and I understand that all will have a good indication of the content of these Orders from as early as November this year.

Secondly, as to the possibility of all postal voting in combined local and European elections, as we indicated in our earlier consultation paper we are currently considering the possibility of such electoral pilots and also e-voting pilots in this case with our colleagues in the Department for Constitutional Affairs. To have such pilots would require primary legislation and we recognise that we will need to reach a final view on this matter in the very near future. We are very aware of the benefits in terms of turnout all postal voting has brought in the case of some recent electoral pilots and of the interest shown in the potential of e-voting. Were there to be electoral pilots for the combined elections, a central question will be in which constituencies pilots would be held and the criteria for making such a decision. Whilst practical issues are not unimportant, I would not see that having elections where there is to be implementation of new wards would rule out the possibility of pilots.

I have copied this response to recipients of your letter.

Yours ever

Nick

NICK RAYNSFORD

R/010347/03

promoting better local government

Local Government *Association*

From the Chairman of the Association
Councillor Sir Jeremy Beecham

Paul Rowsell
cc Andrew Baumer

ADVICE PLEASE FOR
NICK RAYNSFORD, MP

The Rt Hon Nick Raynsford MP
House of Commons
London
SW1A 0AA

22 May 2003

Dear Nick,

I mentioned to you the other day that Newcastle and several other Metropolitan Authorities due to undergo all out elections on new boundaries next year have been advised that the boundaries will only finally be settled by next March. This leaves very little time to organise elections on the new boundaries and accordingly a number of authorities have been in contact with the Electoral Commission. I raised the matter at our meeting with the Commission on the 21st and was advised that the Commission itself was effectively under instructions to proceed to complete the review with a view to all the elections being held next year. There is of course no reason why the review should not be completed by March but very good reasons why elections should not be held next year on those boundaries where the order is not made until the Spring.

Elections could be held at the next point of the cycle in 2006 (which is the date for the projected size of the electorates in any event) or perhaps, following legislation, in 2005. To the extent that the Government can influence this decision I would hope that you and other relevant colleagues could advise the Electoral Commission accordingly.

As you know there is also considerable pressure to facilitate all postal voting for both Council and Euro Elections where councils wish to proceed in this way and obviously this would have to be on a regional basis given the Euro Elections, though there are regions where significant numbers of Councils have already piloted all postal votes sometimes for 2 – 3 years.

I am **copying** this letter to: Hilary Armstrong, **Y**vette Cooper, Pat McFadden, Alistair McGowan, Ian McCartney and the DPM.

Kind regards.

E-mail jeremy.beecham@lga.gov.uk
s:\ce\section\jeremy\ministerial\2003\jb-may\nick raynsford 22.doc 22/05/2003

Local Government House, Smith Square, London SW1P 3HZ Dx 119450 Westminster 2
Chief Executive: *Sir Brian Briscoe*
Tel 020 7664 3000 Fax 020 7664 3030 Information Helpline 020 7664 3131 http://www.lga.gov.uk

From the Parliamentary Under Secretary of State
Christopher Leslie MP

The Department for Constitutional Affairs
Selborne House
54-60 Victoria Street
London SW1E 6QW

DX 117000
Telephone: 020 7210 8683
Fax 020 7210 8620
e mail: chris.leslie@lcd.gsi.gov.uk

Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London SW1A 2WH

CS

23 JUN 2003

Dear John

PILOTING OF INNOVATIVE VOTING METHODS AT THE 2004 COMBINED EUROPEAN PARLIAMENT AND LOCAL AUTHORITY ELECTIONS

Yvette Cooper wrote to John Reid on 7 May, copied to LP Committee, seeking agreement to the introduction of a Bill to allow for the piloting of all-postal and multi-channel voting methods at next year's combined European Parliament and local government elections. LP agreed in principle that there should be such a Bill. I am now seeking policy clearance from DA for the content of the Bill. I should be grateful for clearance by 27 June, to enable the Bill to be introduced before the summer recess if a slot is available. I am also copying my letter to LP colleagues to seek their agreement to introduction this session rather than next as previously proposed and to carry over if necessary.

As Yvette explained in her letter of 7 May, we require primary legislation if we are to pilot any innovative voting methods at European Parliament elections. Because we have decided that we are minded to combine the 2004 European Parliament elections with the local government elections, the rules on combination mean that we would also lose the opportunity to hold pilots at the local government elections. We have just completed a second successful round of pilots at this year's local government elections, which will provide valuable lessons towards our ultimate aim of an e-enabled General Election some time after 2006. It would be unfortunate to lose a year's experience through combination in 2004. We also saw significant increases in turnout where all-postal voting was piloted at local elections, and we are facing significant pressure to allow all-postal voting to be available for future elections. Nick Raynsford and Yvette therefore agreed that we should seek legislative provision to enable piloting to take place at a combined election in 2004. This will not only keep up the momentum of the local authority pilot programme, but enable us to test the procedures on a much larger scale which will provide particularly valuable evidence.

The Bill will provide for :

- A power for the Secretary of State to require the regional returning officer (for the European Parliament elections) and the local authorities in one or more European Parliament regions to conduct the combined elections in June 2004 as a pilot. The regional returning officer has overall responsibility for the European Parliament elections. However, they are organised on a local authority basis and therefore the local returning officers will also have to be required to hold the elections as pilots, whether or not they are also holding local authority elections;

- A power to enable the Secretary of State to require the Electoral Commission to make recommendations as to which regions should conduct such pilots. The Electoral Commission is an independent body set up to oversee the UK's electoral system. Asking them to select the regions in question will minimize the opportunities for accusations of political bias in the choice;

- A power to require the Electoral Commission to take account of any guidance that the and Secretary of State might issue as to the criteria to be applied in selecting the regions. These criteria, however, would not be set out on the face of the Bill. We envisage that they will be matters such as the overall size of the region, the number of local authorities within the region, and the number of local authorities within the region also holding local government elections. They are also likely to include a number of 'softer' criteria such as local experience in the running of multi-channel elections.

- A power to enable the Electoral Commission to take into account work on their recommendations carried out before the Bill is enacted. This is crucial. The timetable for the exercise is very tight. The Electoral Commission will want to undertake extensive consultation and we cannot afford then to have a 3-month wait between Royal Assent and the completion of their work.

The Bill will also provide that London, Northern Ireland and the region to be combined with Gibraltar should not be eligible for piloting. London has GLA and Mayoral elections, and we feel that the prospect of piloting over four separate electoral systems (alternative vote, first past the post, additional member and regional list) is too complex. Northern Ireland again uses a different electoral system, so piloting there would produce few lessons for the rest of the UK. There are also security considerations which make it unsuitable; for example, they do not even allow postal voting on demand because of previous problems over voter identity. The whole of the combined region must vote in the same way, and therefore extending piloting to the region including Gibraltar will also be an unnecessary complication to add to what will already be a complex election, and which might over-influence the outcome of the pilot. 2004 will, of course, also be Gibraltar's first experience of voting in the European Parliament elections.

The Bill will also provide for the Electoral Commission to produce an evaluation of the pilots. This is an important part of the on-going process of developing the strategy for beyond 2006 and has been the normal practice in both 2002 and 2003.

We envisage asking the Electoral Commission to select one multi-channel pilot region and possibly two all-postal. We will not exclude the option of these including Scotland, and – if the elections there are combined – Wales (although as there are elections in all Welsh authorities, Wales would not be a likely candidate for piloting). This will give us enough pilots to show the effect of scaling-up and with the combined local government

elections, a further good range of elections at the local government level. However, it will not be prohibitive in terms of resources and would not present unacceptable risks

On the question of resources, I must finally reiterate the point made in Yvette's letter to John Reid. The cost of european parliamentary elections in England and Wales is borne directly from the centre, without any implications for departmental budgets. I shall be looking for a commitment that any additional costs attributable to the pilots at the European Parliament part of the combined election will similarly be met from the centre without penalty to my Department's budget. Without such a commitment, we simply will not be able to proceed. My officials will be in discussion with HM Treasury about the sums likely to be involved. Nick has agreed that the e-voting element of any pilots could be delivered by suppliers from the framework which ODPM has in place already.

I am copying this letter to the Prime Minister, other members of DA, and of LP, Nick Raynsford and to Sir Andrew Turnbull.

Yours

Chris

CHRISTOPHER LESLIE

file

From: Alasdair McGowan
Date: 10 June 2003

ANDREW ADONIS

Cc: Jeremy Heywood
Pat McFadden
Sally Morgan
Clare Sumner

POSTAL VOTING – ROLL-OUT

You asked for a note on the experience of postal voting so far and options for rolling this out.

Impact on Turnout

I have attached a table showing the impact in terms of turnout in the pilot areas.

- Across the 33 all-postal pilots not combined with e-voting, average turnout was 49.4% (last year's all-postal pilots recorded an average turnout of 47.5%);
- Turnout reached over 50% in 18 authorities, and over 60% in Herefordshire.
- In many cases, the turnout increased by more than 50% compared to the last comparable election, and in Sunderland the turnout more than doubled.

Opportunities for Further Roll-Out

The Electoral Commission has already begun work on a thorough evaluation of every scheme which will be published on 31 July. This should help us gain a fuller understanding of how this year's pilots went and also what should be piloted in the forthcoming year. In particular, it will address any issues in relation to potential fraud and make recommendations to address them.

ODPM expect that the Commission will recommend that councils should be able to go for an all-postal ballot if they wish without having to apply to ODPM for pilot status.

ODPM are also drawing up a timetable for any roll-out. This provides for a three-month public consultation this Autumn on the proposals (given that the Commission may recommend a new postal voting model) and some more all-postal pilots to test the full recommended legislative model. The necessary legislation would then be in place before the end of the 2004 Summer recess.

There is certainly strong Ministerial support for larger postal voting pilots for the European elections next year. Helen was very positive about the idea of an all-postal European election in Scotland but I've not had a chance to gauge Alastair Darling's views. Douglas Alexander, Yvette Cooper, Ian McCartney and Lesley Quinn in the Scottish Labour Party are all very supportive.

Rhodri is separately pushing for an all-Wales, all-postal pilot as a carrot to convince the WLGA to combine the local and European elections. Pat is broadly supportive on a political level provided this is not used as an excuse by officials for not doing Scotland. But the DCA and ODPM are sceptical about Welsh local authorities' ability to manage postal voting on such a large scale (all councils would be up for all-out elections) given their relatively limited experience of postal voting pilots. Combining the two elections would also mean that ODPM would have to drop its current plans for e-voting pilots.

However, existing legislation only enables us to pilot for local elections. So we need legislation to go for a European pilot in Scotland or combined pilots elsewhere. The DCA are currently working up a Bill (see below).

But in order to avoid accusations of political bias, DCA officials' advice is that, while Ministers might be able to exclude some regions as ineligible for pilots, they would not be able to indicate which regions they favour either on the face of the Bill or in further guidance to the Electoral Commission.

Instead, the guidance would suggest certain criteria for consideration - for example, the population of the region and the number of MEPs; its geographical size; the number of local authorities; the number of authorities holding local elections in 2004; experience of piloting in the region and its demographic make-up.

Officials' advice is that the Commission would be more likely to recommend combined pilots in those regions – e.g. the North East and East Midlands – where there are only a small number of councils with elections. Scotland, with no local elections, would also be a runner.

Implications for the Party

I have also attached a note from Greg Cook on the impact on the Party from all-postal ballots. This appears to show that in a significant number of authorities

postal voting helped to shore up the Labour vote compared to the national trend. However, these figures should be treated with a degree of caution. In more marginal areas, the Tories and Lib Dem votes are also boosted. Greg's view is that the data is very complicated and needs a ward-by-ward analysis which will take some time.

Timing

Time is of the essence. The European elections are on 10 June 2004. Piloting postal voting will place significant extra burdens on regional returning officers and their organisations when they already have to combine European and local elections. The more time they have to put the necessary arrangements in place, the less chance there is of something going wrong.

Similarly, the Royal Mail will have to deliver a large volume of ballot papers (before and after voting) as well as the usual election literature. So, again, the more time they have to get things right the better.

The Electoral Commission would need time to consult and recommend the regions that should undertake piloting in combined elections. However, they will be able to start work on this before Royal Assent.

The DCA are currently drawing up a Bill for introduction before the summer recess to give them powers to introduce regional combined pilots for 2004 with a view to passage during the carry over of the second session and Royal Assent no later than December 2003, followed by enabling Orders no later than Jan/Feb 2004. A letter should issue early next week seeking clearance from DA and LP.

ALASDAIR McGOWAN

All Postal Voting Pilots - May 2003

Name of Authority	Year of last comp.ble election	% turnout at last comp.ble election	Type of election this time (Full/ 3rd)	Start of Polling Date	% turnout	Change in % turnout since last comp.ble election	Notes	Previous electoral pilots?
Blackpool BC	2000	29%	Whole	17-Apr	**50.43%**	21%		Extended voting days May 2000
Blyth Valley BC	1999	27%	Whole	15-Apr	**52.00%**	25%		
Bolton MBC	2002	32%	Thirds	15-Apr	**42.00%**	10%		E-voting May 2002, All-postal May 2000
Brighton & Hove City C	1999	38%	Whole	15-Apr	**45.96%**	8%		
Chesterfield BC	1999	35%	Whole	18-Apr	**51.69%**	17%		
Copeland BC	1999	39%	Whole	14-Apr	**55.70%**	17%		
Corby BC	1999	31%	Whole	12/14 Apr	**43.00%**	12%		
DarlingtonBC	1999	34%	Whole	14-Apr	**51.54%**	17%		
Derwentside, Chester-le-Street & Wear Valley (Joint Pilot)	1999	31%	Whole	17-Apr	**52.40%**	21%	Also e-counting ballot papers	
Doncaster C	2002	29%	Thirds	16-Apr	**47.00%**	18%		All-postal May 2000
East Staffordshire BC	1999	34%	Whole	10/11-Apr	**44.97%**	11%		
Gateshead MBC	2002	57%	Thirds	17-Apr	**54.65%**	-2%		All-postal May 2002 & May 2000
Guildford BC	1999	37%	Whole	11-Apr	**54.00%**	17%		
Herefordshire CC	1999	38%	Whole	15/17-Apr	**61.00%**	23%		
Hyndburn BC	2002	36%	Thirds	17-Apr	**51.47%**	15%		Candidate statement pilot May 2002
Kings Lynn & West Norfolk BC	1999	36%	Whole	15-Apr	**47.66%**	12%		
Lincoln City C	2002	26%	Thirds	17-Apr	**47.33%**	21%		
Newcastle City C	2002	32%	Thirds	17-Apr	**49.83%**	18%		
North Lincolnshire	1999	33%	Whole	15/16-Apr	**51.28%**	18%		
North Shropshire DC	1999	33%	Whole	17-Apr	**47.00%**	14%		

All Postal Voting Pilots - May 2003

Name of Authority	Year of last comp.ble election	% turnout at last comp.ble election	Type of election this time (Full/ 3rd)	Start of Polling Date	% turnout	Change in % turnout since last comp.ble election	Notes	Previous electoral pilots?
Redcar & Cleveland BC	1999	37%	Whole	17/21-Apr	**51.50%**	14.50%		
Rotherham MBC	2002	27%	Thirds	17-Apr	**51.30%**	24%		
Rushcliffe BC	1999	40%	Whole	19/22-Apr	**54.00%**	14%		
Salford City C	2002	25%	Thirds	14-Apr	**41.00%**	16%		E-voting May 2000
Sedgefield BC	1999	30%	Whole	14-Apr	**44.15%**	14%		
St Edmundsbury BC	1999	38%	Whole	19/22-Apr	**38.50%**	0%		
St Helens MBC	2002	26%	Thirds	17-Apr	**48.00%**	22%		Extended voting days May 2000
Stevenage BC	2002	53%	Thirds	16-Apr	**52.20%**	-1%		All-postal May 2002 & May 2000
Stockton-on-Tees BC	1999	31%	Whole	13-Apr	**52.00%**	21%		
Sunderland City C	2002	22%	Thirds	17-Apr	**46.46%**	24%		Extended voting days May 2000
Trafford MBC	2002	53%	Thirds	14-Apr	**52.39%**	-1%		All-postal May 2002
Telford & Wrekin	1999	28%	Whole	10-Apr	**48.65%**	21%		
Wansbeck DC	1999	32%	Whole	17-Apr	**50.20%**	18%		
Average (or sum of ballots)		**34%**			**49.43%**			

POINTS ARISING FROM ANALYSIS OF ALL-POSTAL BALLOTS

1. In neutral political circumstances, the postal ballot increases turnout on average by roughly 60% as against a conventional election.

2. In "heartland" areas which may have tended to be uncompetitive in conventional elections it may bring out slightly more latent supporters of the dominant party i.e. in strong Labour areas such as Sunderland, the non-voting electors have been slightly more Labour on average than the voting electors and thus the higher turnout has benefited Labour.

3. Furthermore, the net increases in participation have been greatest for the lowest turnout areas which tend to be strongly Labour.

4. Therefore, the net effect of postal voting across a wider area e.g. a region is that the "heartland" effect would therefore tend to assist Labour, because the net turnout differential is reduced – turnout in Labour areas increases above average - and the proportion of additional voters who take part are anyway slightly more Labour than average.

5. However, in very high status rural and suburban wards or middle class retirement areas, turnout rises above 70% to general election levels, therefore large concentrations of such areas will counter-balance the Labour heartland effect e.g. North Tyneside 2002. There have though been relatively few pilot schemes in rural councils so our information is limited.

6. If there are discrete political trends taking hold in a ward or council, such as a swing to the Liberal Democrats, postal voting may have only a marginal effect. For example, in an unpopular Labour council, the postal vote will place those voting Labour for party allegiance or ideological reasons in a even smaller minority compared with those whose motivation is weaker and are more susceptible to protest voting. Thus it may magnify the swing against Labour.

7. The organisation of the vote is crucial and in particular the requirement for a counter-signatory could severely reduce turnout or lead to multiple spoilt ballot papers.

8. Party organisation is at least as important as in a conventional election.

9. We are still not at a point where we can be confident about the effect of wider postal voting. It is for example possible that predominantly anti-Labour areas it could be to Labour's disadvantage and would outweigh what appear to be the advantages in low turnout inner cities and industrial communities.

Authority	Result	Turnout	Turnout 1999	Turnout 2000	Change from 1999 Lab	Change from 1999 LD	Change from 1999 Con
Bolton	Lab loss	43%	25%	31%	-11%	+8%	+4%
Brighton and Hove	Lab loss	46%	38%		-12%	+6%	-3%
Chesterfield	Lab loss to LD	52%	35%		-7%	+8%	-1%
Corby	Lab hold	c45%	33%		-22%	+10%	+15%
Darlington	Lab hold	52%	35%		-7%	+2%	+4%
Doncaster	Lab hold	47%	27%	29%	-4%	+7%	-0%
Gateshead	Lab hold	54%	26%	57% (p)	-3%	+1%	-0%
Hyndburn	Lab loss to Con	c45%	35%	36%	+4%	-2%	+3%
Kings Lynn and West Norfolk	Con gain	+50%	37%		-11%	+4%	+5%
Rotherham	Lab hold	51%	23%	27%	-4%	+3%	+1%
Stevenage	Lab hold	52%	30%	53% (p)	-8%	=	6%
Sunderland	Lab hold	46%	20%	23%	-7%	=	-8%
Trafford	Lab loss	52%	33%	51%	-4%	-1%	+1%
National Comparison		**30%?**	**30%**	**34%**	**-7%**	**+4%**	**+1%**

HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

AMc

cc PMc
AA
CS

Rt Hon John Prescott MP
Deputy Prime Minister and First Secretary of State
Office of the Deputy Prime Minister
26 Whitehall
London, SW1A 2WH

9 June 2003

Dear John,

Functioning of Elections in Scotland

I have seen Helen Liddell's letter to you of 29 May and Peter Hain's reply of 2 June.

2. I share Helen's concerns about the prospective increasing complexity of the electoral system in Scotland arising out of local government proportional representation and her decision to maintain the number of members of the Scottish Parliament. However I also agree that the wider concerns raised by Peter need to addressed before final decisions are made on an independent review.

3. I am also concerned that before a decision is made it needs to be made clear how an independent review would be financed. This is a matter for the Scotland Office to discuss

with the Electoral Commission but any funding or transfers of provision need to be accommodated within existing provision.

4. I am copying this letter to the Prime Minister, members of CNR and LP, to Sir Andrew Turnbull and First Parliamentary Counsel.

PAUL BOATENG

The Rt Hon Nick Raynsford MP
Minister of State for Local
Government and the Regions

OFFICE OF THE
DEPUTY PRIME MINISTER

26 Whitehall
London SW1A 2WH

Tel: 020 7944 3013
Fax: 020 7944 4539
E-Mail: nick.raynsford@odpm.gsi.gov.uk

Web site: www.odpm.gov.uk

Rt. Hon. John Prescott MP
Deputy Prime Minister
26 Whitehall
LONDON

- 2 JUN 2003

AMc

CS

JJH

REFERENDUMS ON ELECTED REGIONAL ASSEMBLIES: APPROPRIATE CONDUCT OF MINISTERS AND CIVIL SERVANTS

This letter seeks comments by Thursday 12 June on revised guidelines and advice on the appropriate conduct of all Ministers and civil servants during, and immediately after, the Boundary Committee's local government reviews (i.e. from June this year until, probably, July 2004). These reviews are a precursor to holding referendums on elected regional assemblies. I apologise for the short deadline. Colleagues will want to be aware of this guidance given that the announcement on which regions move to referendums first is intended this month.

The key points of the attached guidance are that:

- It is essentially "business as usual" during the period of local government reviews and immediately after receipt of the Boundary Committee's recommendations;
- Ministers will receive normal support of civil servants;
- Rules on use of paid publicity, in particular advertising, must be followed. It would be best to limit paid activity to explaining facts and encouraging debate;
- Ministers and officials should not express a preference as to any particular local government option or proposal for a region.

I wrote to you on 18 February seeking your and colleagues' agreement to guidelines and advice on the appropriate conduct of Ministers and civil servants in the run-up to any referendums on establishing an elected regional assembly. That draft guidance is now replaced by the guidance attached to this letter.

The Regional Assemblies (Preparations) Act has now received Royal Assent and so it seems timely to update the earlier guidance to reflect changes agreed to the Act during its passage through Parliament. The principal change was that where an assembly referendum is held, voters in two-tier parts of the region will have the opportunity to vote in a separate referendum on the same day on options for unitary local government. (The local government reorganisation would still only be implemented if an elected assembly is established).

You will shortly be announcing your decision on the region or regions in which you are directing a local government review – a necessary precursor to referendums. The attached guidance therefore focuses on the period from your announcement in June until the first referendums are ordered. It covers the time when the Boundary Committee will be conducting their reviews, and the period when we decide how to respond to their recommendations. As my previous letter indicated, we expect that more detailed guidance for Ministers and officials will be circulated before we lay the orders for the first referendums, which will probably be in June/July 2004.

I would be grateful for any further comments from you or colleagues about the revised guidance **as soon as possible and no later than Thursday 12 June**. Your announcement about the regions involved is likely to be made by the middle of June.

Once we have agreed the guidance, I would be grateful if colleagues would arrange for it to be cascaded within their Departments and to NDPBs if they think that would be helpful. We do not plan to publish this guidance formally, but I am happy for it to be placed on Departmental intra-nets. We would need to consider making it available externally if requested.

Obviously the guidance and advice cannot cater for every situation or question that may arise. Detailed questions on the approach which should be taken to particular issues or invitations should be addressed to: Richard Allan, Regional Policy Unit, Office of the Deputy Prime Minister, Zone 1/B5, Eland House, Bressenden Place, London, richard.allan@odpm.gsi.gov.uk, tel 0207 944 4990.

I am copying this letter to other members of Domestic Affairs Committee, Jack Straw, Valerie Amos, and to the Sir Andrew Turnbull and Clare Sumner (No 10).

Yours ever

Nick

NICK RAYNSFORD

Referendums on Elected Regional Assemblies

Detailed advice on appropriate conduct of Ministers and Civil Servants during, and immediately after, Boundary Committee reviews of local government structure

Background

1. Current plans are to deliver the first referendum(s) on elected regional assemblies in October 2004. Where an assembly referendum is held in a region, voters in two-tier parts of that region will have the opportunity to vote in separate referendums on the same day on options for unitary local government.

2. The Government has asked for responses by 16 May to its soundings exercise on the level of interest in each English region (outside London) in holding a referendum on establishing an elected assembly. Level of interest in a referendum is the primary factor in deciding where to direct local government reviews - a necessary precursor to an assembly referendum. We expect that local government reviews will be directed in one or more regions in June 2003. The reviews will be undertaken by the independent Boundary Committee and are expected to last up to 12 months. The Boundary Committee will then make recommendations to the Government on options for unitary local government.

3. This document offers general guidance and advice for the period from June 2003 to July 2004. It covers the period from when the Deputy Prime Minister directs the Boundary Committee to undertake local government reviews until the point when referendums are ordered. Further advice (including legal advice) may need to be taken on particular situations or questions that arise.

General advice

4. In effect, during this period it will be "business as usual" and the normal rules apply, though there are some particular issues to be aware of in relation to the local government reviews, which are set out below.

5. Ministers can continue to explain and justify their policy, including advocating a "yes" vote. They should receive the normal support of civil servants, including press offices. Press notices can report Ministers' advocacy of the policy. In the normal way, Ministers can attend political meetings to promote the policy, but civil service support must be strictly limited to providing factual briefing.

6. Paid publicity can be used to support the policy. However, Ministers and Departments should be wary of likely criticism over the use of public money for this purpose. The rules on the use of paid publicity, and advertising in particular, must be followed. It would be best to limit paid activity to explaining facts and encouraging debate.

7. Section 8 of the Act gives the Electoral Commission a specific power to encourage voting so we envisage that the Commission would take the lead on this.

During the Boundary Committee reviews

8. Once the Boundary Committee has been directed to carry out a local government review of a region anybody wanting to discuss the detail of reviews should be referred to the Boundary Committee. Ministers will want to avoid the impression that they are able to influence the outcome of reviews. Where the detail of reviews is raised in meetings with Ministers (perhaps in the margins of discussions about other matters) Ministers should make it clear that they cannot discuss the issues and urge that any representations are made to the Boundary Committee. They should merely 'listen' on such matters. An even-handed approach will be needed to avoid opening the Government to accusations of bias or unfairness towards particular organisations or individuals.

9. Of course, Ministers are also constituency MPs and may wish to make representations themselves, if their constituency falls within the region being reviewed. If they do so, they would need to make clear that they are doing so as a constituency MP. ODPM ministers who make representations will need to avoid involvement in the decision-making process.

After the Boundary Committee has made recommendations

10. Once the Boundary Committee's recommendations have been received, organisations and individuals may want to make representations to the Government about the Committee's recommendations. (The Act provides a six-week minimum period between the receipt of recommendations and when the order for local government referendum(s) can be made.)

11. The decision about whether to accept, reject or modify the Boundary Committee's recommendations will be for the Deputy Prime Minister. So other Departments should refer any specific requests to meet delegations on this issue to the Office of the Deputy Prime Minister. And Ministers from all Departments should avoid stating any public preference for any particular local government option or proposal.

12. The Government will have to be even handed about meeting those who wish to make representations. ODPM Ministers will need to receive delegations in 'listening mode'. A full note of any meeting should be kept and a need may arise to ensure that any new information is available to all concerned.

13. If, in the course of a discussion on another issue, delegations raise the Boundary Committee's recommendations with Ministers or officials in another Department:

    - Discussions should be conducted in "listening mode". No preference should be expressed as to any particular local government option or proposal.
    - All delegations should be asked to put their representations in writing to the Office of the Deputy Prime Minister.

– This aspect of the meeting should be noted and copied to the Office of the Deputy Prime Minister.

Ordering the referendums

14. For referendums in October 2004, the orders for the assembly referendum and the local government referendums to be held would need to be made before the House rises for the Summer recess. These orders will set the date of the polls and the order for the local government referendums will make clear the options for unitary local government being put to voters in each two-tier area.

15. Once the assembly referendum has been ordered, a number of controls in the Political Parties, Elections and Referendums Act 2000 (PPERA) will start to apply to it. Some of the provisions of PPERA may also be applied to the local government referendums.

16. The Cabinet Office will issue guidance for officials before the orders are made, covering the period running up to the referendums. They will also be ready to advise on a case-by-case basis on any tricky issues that emerge at those stages. ODPM Ministers will probably also circulate further advice to all Ministers around this time.

Other organisations

17. The principles set out in this guidance note apply equally to Non-Departmental Public Bodies, such as Regional Development Agencies.

Office of the Deputy Prime Minister
21 May 2003

Minister without Portfolio

CABINET OFFICE

70 Whitehall ▪ London SW1A 2AS
TELEPHONE: 020 7276 1091 ▪ FAX: 020 7276 1088 EMAIL: psianmccartney@cabinet-office.x.gsi.gov.uk

CS

C: AMc
PSMcF

29 May 2003

Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London SW1A 2WH

Dear Deputy Prime Minister

CHOOSING THE REGIONS TO PROCEED TOWARDS REFERENDUMS ABOUT AN ELECTED REGIONAL ASSEMBLY

I have seen a copy of Nick Raynsford's letter to you of 23 May.

I strongly support Nick's recommendation that you direct local government reviews in the North East, the North West and Yorkshire and Humberside.

Despite the opposition of Lancashire County Council, which Nick refers to, I am confident that the recommendation of local authorities in Lancashire – and in Cumbria for that matter - will be in favour of both single tier local government and a regional assembly in the North West. In Cheshire local Conservative parties, with some dissenting elements, will continue to oppose a referendum, but opinion among the local authorities and local government trade unions is very fluid and frequently very positive. Moreover, some areas of Cheshire already have single tier authorities which are functioning successfully and in which there would be keen support for a regional assembly.

I am copying this to the Prime Minister, members of CNR Committee and to Sir Andrew Turnbull.

Yours sincerely

Christian McCartney

PP. **RT HON IAN McCARTNEY MP**

(Approved by the Minister and signed in his absence)

CONFIDENTIAL

Fide

From: Pat McFadden
Date: 23 May 2003

PRIME MINISTER

cc Sally Morgan
Alastair Campbell
Peter Hyman

ELECTION/DECISION MAKING STRUCTURES

As yet this is only in draft but I thought you should see it to see how it is emerging. Ian McC will submit it to you formally when it is ready. He may also wish to tell Political Cabinet about it whenever that happens. He has been discussing this with Douglas and with Sally Dobson. His aims (ambitious) are as follows:

1) To have something where the big players can take major strategic decisions. Last time this was chaired by GB. Would you want that again or would you want to chair it yourself? Have a look too at the membership of this group. Does it look right? Are there others you will want on? Of course, formally, this group is unlikely to meet much if the last election is anything to go by.

2) To have a group for the 2004 elections – European, local and London – which involves the relevant "stakeholders". This is mainly to buy people in and is too unwieldy to actually run a campaign.

3) To have a group akin to the GE planning group chaired by Douglas to drive OQS much harder than at the moment and make the detailed preparation for the election.

This structure is similar to that which prepared for the last election but this time you might choose to chair the strategy group. Also, with Douglas in charge the planning group would be real (last time it became a bit of a dummy meeting chaired by JP). The thing to consider is whether you wish to be as outside the running of the campaign as last time. No 10 was marginal to most of the planning last time, even to the point of sitting in a different part of the building during the campaign. It was very clear to everyone in Millbank who took the decisions and who could be ignored. I assume that this time, you will want to be more involved.

Pat

CONFIDENTIAL

[DRAFT 21/5/3]

new Labour
new Britain

FROM: **IAN McCARTNEY**

TO: **TONY BLAIR**

CC: **JOHN PRESCOTT**
GORDON BROWN
DOUGLAS ALEXANDER
ALASTAIR CAMPBELL
DAVID TRIESMAN
PAT McFADDEN
SALLY MORGAN
SALLY DOBSON

Following recent consultation with No.10, Gordon Brown and Douglas Alexander, we have agreed a structure for planning a strategy for the next General Election.

This is attached at annexes A-D.

ANNEX A

Campaign Strategy Group

Remit: To determine strategy and message for the 2004 elections and the subsequent general election.

Frequency: To commence meeting June 2003 then to meet on an ad hoc basis as required.

Venue: No.10

- Rt Hon Tony Blair — Leader of the Labour Party
- Rt Hon John Prescott — Deputy Leader of the Labour Party
- Rt Hon Gordon Brown — Head of Election Strategy (chair)
- Rt Hon Ian McCartney — Labour Party Chair
- Douglas Alexander — Chair, Campaign Planning Group

- Alastair Campbell
- David Triesman

- Sally Dobson (secretary)

[redacted]

newLabour
newBritain

ANNEX B

2004 Election Stakeholder Group

Remit: To provide a forum for discussion of plans with key stakeholders and to receive feedback on campaigns on the ground.

Frequency: To hold an initial meeting in late June/ July (following the first meeting of the strategy group). Then to meet monthly from October 2003.

Venue: Old Queen Street

- Ian McCartney — Labour Party Chair (chair)
- Douglas Alexander — Chair, Campaign Planning Group
- David Triesman — Labour Party General Secretary
- Matt Carter — Assistant General Secretary
- Carol Linforth — Assistant General Secretary
- Eddie Morgan — Assistant General Secretary
- Hilary Perrin — General Secretary London Labour Party
- Ann Reeder — Head of Local Government
- Sally Dobson — General Election Planner (secretary)
- Alicia Chater — Chief of Staff, General Secretary's Office

<u>European Elections Representatives</u>

- Gary Titley MEP — Leader of the EPLP
- Peter Coleman — Chief Executive of the EPLP
- Rachel Cowburn — European Liaison No.10

<u>Local Government Elections</u>

- TBC — Deputy Prime Minister's Office
- Jeremy Beecham — NEC Local Government Representative
- Sally Powell — NEC Local Government Representative
- Toby Harris — Leader of the GLA Labour Group
- Stephen Byers — Local Government Forum Coordination
- [Welsh local government representative to be considered]

[redacted]

new Labour
new Britain

ANNEX C

Campaign Planning Group

Remit: To examine and agree the detailed planning for the 2004 elections and the general election.

Frequency: To hold an initial meeting in June 2003 (following the first meeting of the strategy group). Then to meet monthly from October 2003 until October 2004 when meeting frequency will be reviewed.

In between full Campaign Planning Group meetings the Group Chair will hold other meetings of the Labour Party staff members of this group. The frequency required to be determined by the amount of work needing to be progressed.

Venue: Old Queen Street

- Douglas Alexander (chair)
- Philip Gould
- Joan Hammell
- Peter Hyman
- Spencer Livermore
- Patrick Loughran
- Pat McFadden
- Sally Morgan
- Sue Nye
- Martin O'Donovan/Angela Wilkins

Labour Party Staff

- David Triesman
- Sally Dobson (secretary)
- Other staff to be identified once organisational structure within the organisation has been agreed.

[redacted]

new Labour
new Britain

ANNEX D

Party Chair's Progress Group

Remit: To ensure that all work across the party is progressing and that key stakeholders are up to date on work in progress.

Frequency: To be held fortnightly. Date of first meeting TBC.

Venue: Old Queen Street

Ian McCartney
Douglas Alexander
David Triesman
Sally Morgan
Pat McFadden
Sally Dobson

Further membership to be discussed

In addition:

The Party Chair and Douglas Alexander will meet regularly with the Leader of the House and the Chief Whip.

A review of the work of the Party Chair's Parliamentary Campaign Team is being undertaken to ensure that its members are enabled to make as full a contribution to the party's work as possible.

DEPUTY PRIME MINISTER

OFFICE OF THE
DEPUTY PRIME MINISTER
26 Whitehall
London
SW1A 2WH

Tel: 020 7944 8623
Fax: 020 7944 8621

The Rt Hon Nick Raynsford MP
Minister of State for Local Government and Regions
Office of the Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

22 May 2003

Dear Nick

GL, DA, EP and LP CORRESPONDENCE: COMBINING LOCAL, GLA AND EUROPEAN ELECTIONS

This letter gives you GL, DA, EP and LP clearance to proceed as proposed in your letter of 14 April in which you sought agreement to publish the government's response to the consultation on combining English local, GLA and European elections in 2004 and on the idea of weekend voting beyond 2004.

Replies were received from David Blunkett (24 April), Ian McCartney (25 April), Paul Boateng (28 April), Helen Liddell (28 April), Charles Clarke (30 April), Denis MacShane (30 April) and Paul Murphy (2 May). All were content but a number of issues were raised.

David was happy to support the proposal but said that before we pressed ahead with new methods of voting, we needed to be sure that we were able to use the best and most appropriate methods for future elections, legislating if necessary.

Ian agreed with the proposal to announce the intention to combine elections. He was disappointed that it would not be practicable to hold the 2004 elections over a weekend but agreed that further piloting should take place in order to better understand the impact that it had on voter turnout. To this end it was important that these pilots were high profile and took place on a large scale.

Paul (Boateng) agreed with the proposal to announce the combination of local, GLA and European elections. It not only afforded an opportunity to simplify the electoral cycle and address the risk of poor turnout but there were also clear cost benefits in adopting a combined approach compared with undertaking the GLA and English local

elections separately. On the issue of weekend voting, Paul was prepared to support your proposal to undertake pilots beyond 2004 but continued to advocate a cautious approach - estimates suggest that weekend voting would involve significant additional costs for both the Lord Chancellor's Department and local government compared with mid-week elections, whether they were combined or otherwise. With this in mind, it would be important for you to explore the issue of cost alongside the potential benefits to electors as part of the wider analysis of weekend voting. The current draft announcement looked at the pilots solely in terns of the benefit arising to electors from weekend voting and he would be grateful if it would be redrafted to better reflect this balance.

Helen said that the European elections were the only elections planned in Scotland in 2004 and the decision on combination therefore had no impact. However the issue of weekend voting did impact upon Scotland. She knew that a number of electoral administrators in Scotland responded to the consultation. In particular, those in areas such as the Western Isles where Sunday is regarded as a day set aside for religious observance were extremely concerned at the prospect of mandatory weekend voting. While they accepted that electors would be able to vote on either Saturday or Sunday, staff could not be forced to work on a Sunday and the Returning Officer would face serious staffing difficulties. In addition, many people in those areas would see Sunday voting as conflicting with fundamental aspects of their cultural and religious heritage. While she was content for the announcement on the combination of elections and further piloting of weekend voting to take place, she would wish to be consulted before any decision was reached on weekend voting where this would impact on Scotland.

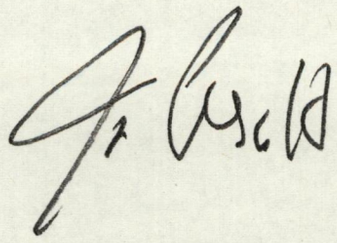
Charles strongly supported the proposal to combine the English local GLA and European elections. He was also content to support the proposal to undertake further testing of weekend voting beyond 2004.

Denis welcomed the initiative to combine elections and firmly believed that it would address the decline in voter turnout for European elections. Increasing voter participation would go some way to counter the perception among many citizens that the European Parliament lacked a democratic mandate.

Paul (Murphy) said that there were no other elections planned for Northern Ireland in 2004. However, as in Scotland, the issue of mandatory weekend voting would be a contentious one in Northern Ireland. While it may be accepted that electors would be able to vote on either Saturday or Sunday, staff could not be forced to work on a Sunday and the Chief Electoral Officer in Northern Ireland might face staffing difficulties. In addition, many people would see Sunday voting as conflicting with religious convictions. While he was content for the announcement on the combining of elections, he would wish to be consulted further before any decision was reached on mandatory weekend voting where this would impact on Northern Ireland.

Subject to you taking on board the views expressed above, you have GL, DA, EP and LP clearance to proceed as proposed.

I am copying this letter to the Prime Minister, members of GL, DA, EP and LP committees and Sir Andrew Turnbull.



JOHN PRESCOTT

Reed 22/5

Minister without Portfolio

CABINET OFFICE

70 Whitehall • London SW1A 2AS
TELEPHONE: 020 7276 0636• FAX:020 7276 1088 E-MAIL:psianmccartney@cabinet-office.x.gsi.gov.uk

CS

cc SM
PMc
JPO

21 May 2003

Yvette Cooper MP
Parliamentary Secretary
Lord Chancellor's Department
Selborne House
54-60 Victoria Street
London SW1E 6QW

Dear Yvette,

ALL-POSTAL VOTING AT THE 2004 ELECTIONS

Thank you for your letter of 16 May, copied to Nick Raynsford, on your proposals for holding all-postal ballots in the 2004 elections. I have also seen a copy of Nick's reply to you of 20 May.

I am pleased that the LCD will be able to find the resources to prepare the legislation necessary to allow some regions to hold all-postal ballots in 2004. I agree with your proposed approach, which is for the legislation to be limited to 2004 elections, and to provide for a power to designate the regions to undertake all-postal ballots on the basis of advice from the Electoral Commission rather than naming them specifically. I note Nick's concerns about conducting e-voting pilots 2004 in Wales only, and agree that it would be unfortunate were we to lose some of the momentum gained hitherto of testing electronic voting schemes in England. I would agree therefore that the wording of the bill should not specify the specific option of all-postal voting, but that it leaves the form of pilot scheme to be determined in secondary legislation. However, the political imperative is clearly for allowing all-postal ballots to take place, so we must ensure that our agreed approach in no way jeopardises achieving this primary goal.

The next step is for us to agree the criteria for deciding in which region(s) to conduct the pilots. I understand your officials are producing some options at the moment and I look forward to seeing the results.

I am copying this letter to Nick Raynsford and Clare Sumner in No. 10.

Ian

RT HON IAN MCCARTNEY MP

AMCC File
cc PMSF
JJM
CS

The Rt Hon Nick Raynsford MP
Minister of State for Local
Government and the Regions

OFFICE OF THE
DEPUTY PRIME MINISTER

26 Whitehall
London SW1A 2WH

Tel: 020 7944 3013
Fax: 020 7944 4539
E-Mail: nick.raynsford@odpm.gsi.gov.uk

Web site: www.odpm.gov.uk

Our Ref: R/009482/03

20 MAY 2003

Yvette Cooper MP
Parliamentary Secretary
Lord Chancellor's Department
Selborne House
54-60 Victoria Street
LONDON
SW1E 6QW

Dear Yvette

PILOT SCHEMES AT THE 2004 ELECTIONS

Thank you for sending me a copy of your letter of 16 May to Ian McCartney. Like you, I believe we need to move quickly if we are to achieve our objective of a successful programme of pilots in 2004. I can agree with the majority of your specific proposals on the way forward, but I believe it would be wrong at this stage to rule out e-voting pilots in England in 2004. Such pilots would build on the successful e-voting pilots earlier this month, they would be consistent with our collectively agreed published strategy, and they could be delivered by suppliers from the framework that we have already put in place. I would propose that a Bill for piloting in the 2004 elections would simply refer (as in the legislation covering local pilots) to a 'scheme' making provisions for variations to electoral law, and should not narrow our options simply to all-postal voting.

Our collective position on e-voting was set out in the Memorandum we published last September in response to the Electoral Commission's evaluation of the 2002 local elections pilot programme. In that Memorandum we re-stated the commitment that sometime after 2006 there would be an e-enabled general election, and went on to say that 'prior to the achievement of this aim of an e-enabled general election, other e-enabled elections would have been held on an extensive scale'. As you know, the e-voting pilots in May 2003 were the most extensive so far and appear to have been highly successful. We are already receiving informal expressions of interest from local authorities interested in undertaking e-voting in 2004, and I would find it very difficult to explain why – if we are to carry out all-postal pilots – we could not also continue with our programme of e-voting.

The *Representation of the People Act 2000*, which provides for piloting at local elections, does not refer either to all-postal or to e-voting. I suggest that the Bill you are preparing should adopt the same approach, leaving the form of the pilot scheme to be addressed in secondary legislation.

Turning to your other proposals, I agree that it would be sensible to seek a power in the Bill to designate regions, rather than naming the relevant regions in the Bill. It will be necessary to undertake full consultation before identifying a region for piloting and there would be a serious risk of delaying the Bill if we sought to include a named region.

On the question of designating a region, I favour the approach in which Government sets out the desired criteria for pilot regions and we then invite the Electoral Commission to come forward with proposals. I share your preliminary views about the sort of criteria that we might put forward: in addition we would I think want to consider a criterion related to the number of local elections taking place in a proposed region in 2004.

As to whether the proposed Bill should focus simply on the 2004 elections or have wider coverage, I think that the sensible course is to legislate only for 2004. Decisions on changing voting methods at a Westminster election would certainly be controversial and I believe we would add considerably to the risks of delay if we sought powers in this Bill to make such changes.

I would be happy to support your proposal for introduction of a Bill in the current session, if you think that can be achieved. It will be essential for your officials to work closely with mine as we take these matters forward.

I am copying this letter to the Prime Minister, Ian McCartney, members of LP Committee, Sir Andrew Turnbull and First Parliamentary Counsel.

Yours ever

Nick

NICK RAYNSFORD

BVI

From: Alasdair McGowan
Date: 16 May 2003

PRIME MINISTER

Cc: Jeremy Heywood
Sally Morgan
Alastair Campbell
Pat McFadden
Andrew Adonis
Simon Morys

REGIONAL ASSEMBLIES – REFERENDA

At your bilateral on Wednesday, JP is likely to raise the issue of which regions should be allowed referenda on regional assemblies. An announcement is needed in early June to allow the Boundary Committee for England to conduct reviews on options for the best form of unitary government in time for referenda in October 2004.

This is fundamentally a political decision but there are a number of factors to consider:

1. The level of support for a referendum

I have attached interim figures from the ODPM's year long soundings exercise, aimed at assessing the level of demand for a referendum in each region.

These suggest strong support for a referendum in Yorkshire and Humberside, only narrow support for a referendum in the North East (and interestingly, a narrow majority of 'individuals' against), and so far a majority against in the North West. However, ODPM say a very large number of responses are on their way from the North West, so these figures may change significantly. The 'individual' figures (i.e. those from ordinary members of the public) in the North East are also affected by a relatively large 'No' campaign in Northumberland and those in the North West by a very large 'No' campaign in Cheshire.

Opinion polls may be more scientific and suggest around 60-70% support for referenda in every region. However, this not especially surprising – people usually support referenda when given the option. The key test is whether they will turn out and vote for assemblies.

2. Our ability to win any referendum

Opinion polls tend to suggest clear 'Yes' votes in each of the three Northern regions.

But the crucial question is whether we could sustain these leads and crucially get out the vote. We can expect a very low turnout for any referenda. The turnout for the London referendum was only 34.8%, even with all the publicity surrounding it, and crucially it came on the same day as local elections. Any regional referenda would be held in October without local elections. If some of the mayoral referenda are anything to go by, we will seriously struggle to break 30%.

You have already seen David Triesman's advice which is that the Party is simply not geared up to fight anything more than a single referendum campaign and even this would be a distraction and drain on resources in the run up to the next General Election. In June 2004, we will face local elections, including elections for the London boroughs and the GLA, and European elections. To fight as many as three referenda campaigns 3-4 months afterwards would be a huge strain on resources.

And if the Party lacks resources to fight these campaigns, it is hard to see who will get out the vote. I would therefore expect the results to be tight and we could not guarantee winning any of them.

Even the North East campaign lacks real penetration, is narrowly based, and currently lacks charismatic leadership, with Joyce Quin looking the most likely to lead the campaign. But with a stronger campaign and guaranteed media support, the North East is winnable.

Overall, it is unclear whether mid-term disillusionment would lead people to vote against the assemblies because the government was campaigning for them, or whether it would lead them to vote for assemblies as a means of kicking Whitehall. The best we can expect in any of these three regions is narrow majorities on low turnouts. Only you can judge whether you are prepared to run the risk of losing referenda so close to the election.

3. The need to keep to a minimum any distraction from local government reviews

All three northern regions are predominantly unitary – the North East and North West being two thirds unitary and Yorkshire and Humberside being almost 90% unitary. So the level of distraction involved with boundary reviews is less for these regions relative to others. But clearly, the more referenda, the more reviews and the more distraction.

JP will argue with some justification that we cannot complain about this as it was Number 10 who insisted on local government reorganisation being made a condition of regional government. However, in those regions where support for a referendum/regional assembly is borderline, this is a perfectly legitimate consideration.

JP will want a clear steer on how many referenda you want to see. He will be pressing for two or three (there is no way the Boundary Committee could cope with more) – the North East, Yorkshire and Humberside and possibly the North West.

He will argue that there is no way we can politically exclude the North East – but that the results of the soundings exercise makes it hard not to give the go-ahead to Yorkshire. His view is that you will only boost turnout by building up a critical mass of interest. However, you could quite reasonably argue that with only limited resources it makes sense to concentrate them on the region which we are most likely to win.

One other key issue which is bound to arise is whether you personally would campaign in favour of a yes vote in the North East. You had previously indicated that you would, provided that regional government was accompanied by local government reorganisation. But you may wish to consider precisely how far you will wish to associate yourself with the campaign before you speak to JP.

You should ask JP for harder figures on support in each region with a view to a further discussion but give him a reasonably clear steer about where you want to go.

ALASDAIR McGOWAN

ANSWERS TO "DO YOU WANT A REFERENDUM IN YOUR REGION"
Interim figures at 15 May 2003

	Numbers		Percentages	
	Yes	**No**	**Yes**	**No**
East of England				
Individuals	86	178	33%	67%
Local authorities	11	16	41%	59%
Others	12	33	27%	73%
Total	**109**	**227**	**32%**	**68%**
East Midlands				
Individuals	90	149	38%	62%
Local authorities	3	17	15%	85%
Others	59	47	56%	44%
Total	**152**	**213**	**42%**	**58%**
North East				
Individuals	299	397	43%	57%
Local authorities	11	2	85%	15%
Others	130	10	93%	7%
Total	**440**	**409**	**52%**	**48%**
North West				
Individuals	851	1524	36%	64%
Local authorities	15	8	65%	35%
Others	130	160	45%	55%
Total	**996**	**1692**	**37%**	**63%**
South East				
Individuals	174	322	35%	65%
Local authorities	6	30	17%	83%
Others	51	55	48%	52%
Total	**231**	**407**	**36%**	**64%**
South West				
Individuals	196	288	40%	60%
Local authorities	8	26	24%	76%
Others	70	79	47%	53%
Total	**274**	**393**	**41%**	**59%**
West Midlands				
Individuals	46	215	18%	82%
Local authorities	0	18	0%	100%
Others	11	59	16%	84%
Total	**57**	**292**	**16%**	**84%**
Yorkshire & the Humber				
Individuals	498	228	69%	31%
Local authorities	6	2	75%	25%
Others	115	29	80%	20%
Total	**619**	**259**	**71%**	**29%**

OPINION POLL EVIDENCE ON SUPPORT FOR AN ELECTED ASSEMBLY

MORI POLL – MARCH 1999

Do you support or oppose giving greater powers of government to regions in England?

	NE	NW	Y&H
	%	%	%
Support	51	55	52
Oppose	23	29	23
Don't know	26	17	25
Net support	***+28***	***+26***	***+29***

Would you support or oppose your region getting its own elected assembly?

	NE	NW	Y&H
	%	%	%
Support	51	42	42
Oppose	29	44	42
Don't know	20	14	16
Net support	***+22***	***-2***	***0***

BBC POLL – MARCH 2002

Do you want devolution?

	NE	NW	Y&H
	%	%	%
Support for devolved assembly	72	72	72

CCN POLL – JANUARY 2003

In a referendum, would you vote in favour or against having a regional government?

[N.B these figures are based on those who said they were certain to vote – 792 people out of 4003 interviewed across eight regions.]

	NE	NW	Y&H
	%	%	%
In favour	71	65	74
Against	29	35	26

ODPM
15 May 2003

ELECTED REGIONAL ASSEMBLIES: KEY MILESTONES AND ACTIVITIES

Date	Task / Activity
16 May	Date by which responses requested to soundings exercise on level of interest in holding a referendum
21 May	Bilateral between DPM and PM – opportunity to discuss likely recommendations
By 28 May	DPM writes to CNR colleagues to inform them of his proposed decision on which region(s) go first
By 2 June	Consult Boundary Committee on exact start and end date for reviews, for inclusion in direction
By 12 June	DPM announces which region(s) will have referendums and directs Boundary Committee to undertake local government reviews
June 2003 to March/ April/ May 2004	Boundary Committee undertakes local government reviews (9 to 12 months)
End of May 2004	Date by which Boundary Committee's recommendations must be received – Bill provides for minimum of 6 weeks from receipt of recommendations before orders can be made
June 2004	European and local elections
By July 2004	Possibly publish draft Bill to establish elected assemblies
By mid-July 2004	Orders made causing referendums to be held – requires debate in both Houses
October 2004	First referendums in one or more regions

16 May 2003

Foreign &
Commonwealth
Office

London SW1A 2AH

Minister for Europe

Rt Hon Dr John Reid MP
Leader of the House of Commons and President of the Council
2 Carlton Gardens
LONDON
SW1Y 5AA

A Mac
cc CS
SW
MR

Dear John,

POSSIBLE LEGISLATION TO ALLOW ELECTORAL PILOTS IN EUROPEAN ELECTIONS

I am responding to Yvette Copper's letter to John Reid dated 7 May on possible legislation to allow electoral pilots in European elections.

I understand the concerns on the additional cost of electoral pilots but I am very concerned that the EP elections next year will not secure a high level of public participation. At a time when we are trying to make Europe's citizens feel more engaged with the European Parliament, a low electoral turnout would be very damaging and produce rogue results. As Minister for Europe I am particularly keen that we explore as many options possible to maximise interest and voter participation. I strongly support the use of postal ballots. As recent local elections in the UK showed, they are a useful tool to increase interest and participation.

In Rotherham (and elsewhere) postal ballots doubled participation to over 50 to 60 per cent.

I hope that financing and legislation can be out in place to make postal ballots used as widely as possible and not held up by local party political opposition.

I am copying this letter to the Prime Minister, members of LP, Nick Raynsford, Yvette Cooper and to Sir Andrew Turnbull.

Yours sincerely

Denis

Denis MacShane
Minister for Europe

R 715

The Rt Hon Nick Raynsford MP
Minister of State for Local Government and the Regions

OFFICE OF THE DEPUTY PRIME MINISTER

26 Whitehall
London SW1A 2WH

Tel: 020 7944 3013
Fax: 020 7944 4539
E-Mail: nick.raynsford@odpm.gsi.gov.uk

Web site: www.odpm.gov.uk

CS

cc PMCF
AMcG
SW14
MR

The Rt Hon Dr John Reid MP
Leader of the House of Commons and
President of the Council
2 Carlton Gardens
LONDON
SW1Y 5AA

Our Ref: R/007997/03

06 MAY 2003

Dear John

POSSIBLE LEGISLATION TO ALLOW ELECTORAL PILOTS IN EUROPEAN ELECTIONS

Thank you for your letter of 17 April. I have also now seen Ian McCartney's response. Like you and Ian, I believe that in order to achieve our commitment of an e-enabled General Election after 2006 it would be highly desirable to pilot e-voting in the European Parliamentary elections next June. This would allow us to maintain the momentum built up with the 2002 local e-voting pilots, and carried forward with the far more extensive 2003 pilots. The initial indications are that the 2003 pilots have reinforced the expectations generated by those in 2003. We expect early feedback in June from the Electoral Commission's evaluation of the pilots, and will await with keen interest their full report, which we expect will be published in July.

Policy responsibility for European Parliamentary elections rests, of course, with the Lord Chancellor's Department and so it will be Yvette who will need to bring forward proposals for legislation. Such legislation will, however, potentially have implications for local elections, particularly if European and local elections are combined, as we are minded they should be. Particular issues include the mechanism for selecting the region(s) for pilots, and the necessity that in any selected region combined local elections are run on the same pilot basis as the European election.

In our earlier discussions with you and Yvette, we have identified the broad approach for such joint local and European issues. On this basis, whilst we all recognise how tight the timing is, I am confident we would be able to resolve with Yvette any issues of detail. On timing, some of the pressure could be relieved if we adopted an approach analogous to that in the Local Government Bill for combination, where we have made special provision to allow consultations (for example, in the case of the European pilots, consultation with the Electoral Commission about which region to select) to be undertaken prior to enactment.

On the wider, non-legislative, issues around delivering e-pilots, the measures we have taken to support local e-pilots, and the experience we have gained, should prove helpful. In particular, we have put in place a framework of suppliers able to provide e-voting services to agreed technical, security and accessibility standards, and to agreed prices, over the next three years. This would allow detailed preparations for an e-enabled election to begin very soon after identification of a region in which piloting would take place. It will also allow us to achieve value for money in obtaining suppliers without the need for a further, lengthy, procurement exercise. The resources needed to pilot e-voting for the local authority element of a combined election in 2004 have already been identified in SR2002, although these would not of course cover the European Parliamentary element, which would need to be funded by LCD through the consolidated fund, in the normal way.

I am copying this letter to the Prime Minister, Ian McCartney, Yvette Cooper, members of LP Committee, Sir Andrew Turnbull and First Parliamentary Counsel.

Yours ever

Nick

NICK RAYNSFORD

SOFS PRIVATE OFFICE

NORTHERN IRELAND OFFICE
CASTLE BUILDINGS
BELFAST BT4 3SG

SECRETARY OF STATE
FOR
NORTHERN IRELAND

~~CS~~ AMcG
cc: JPO
MR
SW
RL
~~AMcG~~ CS
MH

Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

2 May 2003.

Dear John,

Helen Liddell copied to me her letter to you of 28 April about your forthcoming announcement setting out the Government's response to a recent consultation exercise on the proposal to combine English local, GLA and European Parliamentary elections and on the idea of weekend voting.

There are currently no other elections planned for Northern Ireland in 2004 other than the European Parliamentary elections and the decision on combination therefore would have no impact there.

However, as in Scotland, the issue of mandatory weekend voting would be a contentious one in Northern Ireland. While it may be accepted that electors would be able to vote on either Saturday or Sunday, staff could not be forced to work on a Sunday and the Chief Electoral Officer in Northern Ireland might face staffing difficulties. In addition, many people would see Sunday voting as conflicting with religious convictions.

/SH

INVESTOR IN PEOPLE

SOFS PRIVATE OFFICE

Whilst I am content for the announcement on the combining of these elections and further piloting of weekend voting to take place, I would wish to be consulted further before any decision is reached on mandatory weekend voting where this would have an impact on Northern Ireland.

I am copying this letter to the Prime minister, GL, DA, EP and LP colleagues, Gus Macdonald, Nick Raynsford, Yvette Cooper, Helen Liddell and Sir Andrew Turnbull.

Yours ever,

Paul

PAUL MURPHY

/SH

INVESTOR IN PEOPLE

File

Top: PD (MH)

« EUPS
PD(PM)
PD(CS)
VCS

Sanctuary Buildings Great Smith Street Westminster London SW1P 3BT
tel: 0870 0012345 dfes.ministers@dfes.gsi.gov.uk
Rt Hon Charles Clarke MP

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London SW1A 2WH

30 April 2003

Dear DPM,

COMBINING LOCAL, GLA AND EUROPEAN ELECTIONS 2004

I have seen the joint letter to you dated 14 April from Nick Raynsford and Yvette Cooper seeking agreement to an announcement of our response to the recent consultation on whether to combine English local, GLA and European Parliamentary elections and on the idea of weekend voting.

I strongly support their proposal to combine the English local, GLA and European elections on Thursday 10 June 2004. I am also content to support the proposal to undertake further testing of weekend voting beyond 2004.

I am copying this letter to the PM, FL, DA, EP and LP colleagues, Gus Macdonald and Sir Andrew Turnbull.

Charles Clarke

SKP 1/5/03

02072733965

Home Office

Home Secretary
50 Queen Anne's Gate, London SW1H 9AT

MH
cc: SW
MR
RL
PMcF

24th April, 2003

Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

Dear John,

COMBINING LOCAL, GLA & EUROPEAN ELECTIONS 2004

I have seen Yvette and Nick's letter of 14th April seeking agreement to announce the Government's intention to combine GLA, local and European elections on 10th June 2004, and to undertake further testing of weekend voting beyond 2004.

I am very happy to support this proposal. However, before we press ahead with new methods of voting, we need to be sure that we are able to use the best and most appropriate methods for future elections, legislating if necessary.

I am copying this letter to the Prime Minister, GL, DA, EP and LP colleagues, Gus McDonald and Sir Andrew Turnbull.

Best wishes,

David

DAVID BLUNKETT

DCO

File

SCOTLAND OFFICE
DOVER HOUSE
WHITEHALL
LONDON SW1A 2AU
www.scottishsecretary.gov.uk

PRIME MINISTERS
DIRECT COMMUNICATIONS UNIT
30 APR 2003
RECEIVED

Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

28 April 2003

CS
cc: HH
SSP
RF
LH

Dear Deputy Prime Minister,

COMBINING LOCAL, GLA AND EUROPEAN ELECTIONS 2004

Nick Raynsford and Yvette Cooper copied to me their letter to you of 14 April in which they seek agreement to an announcement setting out their response to recent consultation on the proposal to combine English local, GLA and European Parliamentary elections and on the idea of weekend voting.

As you know, there are no other elections planned for Scotland in 2004 and the decision on combination therefore has no impact here.

The issue of weekend voting, however, does impact upon Scotland. I know that a number of electoral administrators in Scotland responded to the consultation. In particular, those in areas such as the Western Isles where Sunday is regarded as a day set aside for religious observance, are extremely concerned at the prospect of mandatory weekend voting. While they accept that electors would be able to vote on either Saturday or Sunday, staff could not be forced to work on a Sunday and the Returning Officer would face serious staffing difficulties. In addition, many people living in these areas would see Sunday voting as conflicting with fundamental aspects of their cultural and religious heritage.

While I am content for the announcement on the combining of these elections and further piloting of weekend voting, to take place on 2 May, I would wish to be consulted before any decision is reached on weekend voting where this would impact on Scotland.

I am copying this letter to the Prime Minister, GL, DA, EP and LP colleagues, Gus MacDonald, Nick Raynsford, Yvette Cooper and Sir Andrew Turnbull.

Yours sincerely
Jayne Colquhoun

HELEN LIDDELL

pp (Approved by the Secretary of State and signed in her absence)

Recycled

HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

CS
c: JB
SW
MH
JK
MCF
SM

The Rt. Hon. Nick Raynsford MP
Minister of State
Office of the Deputy Prime Minister
26 Whitehall
London SW1A 2WH

28 April 2003

Dear Nick,

COMBINING LOCAL, GLA AND EUROPEAN ELECTIONS 2004

Thank you for your joint letter with Yvette of 14 April.

2. I agree with your proposal to announce the combination of the English local, GLA and European Parliamentary elections on Thursday 10th June. It not only affords an opportunity to simplify the electoral cycle and address the risk of poor turnout, but there are also clear cost benefits in adopting a combined approach as compared to undertaking the GLA and English local elections separately.

3. On the issue of weekend or Sunday voting, I am prepared to support your proposal to undertake pilots beyond 2004. However, I continue to advocate a cautious approach - estimates suggest that weekend voting will involve significant additional costs for both the Lord Chancellor's Department and local government compared to mid-week elections undertaken, whether they are combined or separately. With this in mind, it will be important for you to explore the issue of cost alongside the potential benefits to electors as part of the wider analysis of weekend voting. The current draft announcement looks at the pilots solely in terms of the benefits arising to electors from weekend voting and I would be grateful if it would be redrafted to better reflect this balance.

4. I am copying this letter to the Prime Minister, Yvette Cooper, GL, DA, EP and LP colleagues, Gus MacDonald and Sir Andrew Turnbull.

PAUL BOATENG

Minister without Portfolio

CABINET OFFICE

70 Whitehall ▪ London SW1A 2AS
TELEPHONE: 020 7276 0636 ▪FAX: 020 7276 1088 E-MAIL:ianmccartney@cabinet-office.x.gsi.gov.uk

25 April 2003

Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London SW1A 2WH

MH

cc SW
MR
RL
P.Mc

Dear Deputy Prime Minister

COMBINING LOCAL, GLA AND EUROPEAN ELECTIONS

I have seen copy of Nick Raynsford and Yvette Cooper's letter to you of 14 April, seeking colleagues' agreement to an announcement of our response to the consultation on whether to combine the local, GLA and European Parliamentary Elections in 2004.

I and my predecessors have all shared Nick and Yvette's view that combining these elections is highly desirable in order to avoid the 'ballot fatigue' that could be risked by holding two separate ballots within the space of a month. I am therefore pleased that responses to the consultation have been so favourable, and I agree with Nick and Yvette's proposal to make an announcement on 2 May that we intend to proceed with combination.

I also note the responses on weekend voting. As an advocate of weekend voting, I am disappointed that it will not be practicable to hold the 2004 elections over a weekend. However, I agree with Nick, Yvette and the numerous respondents to the consultation that further piloting should take place in order to better understand the impact that it has on voter turnout. To this end it is important that these pilots are high profile and take place on a large scale.

I am copying this letter to the Prime Minister, GL, DA, EP and LP colleagues, Gus Macdonald and Sir Andrew Turnbull.

Yours sincerely

pp. **RT HON IAN McCARTNEY MP**

(Approved by the Minister and signed in his absence)

Minister without Portfolio

CABINET OFFICE

70 Whitehall • London SW1A 2AS
TELEPHONE: 020 7276 0636 •FAX: 020 7276 1088 E-MAIL:psianmccartney@cabinet-office.x.gsi.gov.uk

WP
cc: MH
CS

24 April 2003

Rt Hon John Reid MP
Leader of the House of Commons
2 Carlton Gardens
London SW1Y 5AA

Dear John.

e-VOTING

I have seen a copy of Nick Raynsford's letter to you of 25 March.

I agree with Nick that we should use the opportunity of responding to the Electoral Commission's evaluation of this May's pilots to publish our plans for future piloting.

I note Nick's update on the development of a national electronic register. The success of the LASER project is a political imperative and I hope that we will do all that is possible to ensure the register is operational as soon as possible.

I am copying this to the Prime Minister, Nick Raynsford, Yvette Cooper, members of LP, Sir Andrew Turnbull and First Parliamentary Counsel.

Yours

RT HON IAN McCARTNEY MP

Minister without Portfolio

CABINET OFFICE

70 Whitehall ▪ London SW1A 2AS
TELEPHONE: 020 7276 0636 ▪FAX: 020 7276 1088 E-MAIL:psianmccartney@cabinet-office.x.gsi.gov.uk

24 April 2003

CS
G. MH
SSL
MR
RC
FC.

Rt Hon John Reid MP
Leader of the House of Commons
2 Carlton Gardens
London SW1Y 5AA

Dear John,

POSSIBLE LEGISLATION TO ALLOW ELECTORAL PILOTS IN EUROPEAN ELECTIONS

I have seen a copy of your letter to Nick Raynsford of 17 April.

As you know, I am continuing the useful discussions that you and Charles have been conducting on this and related issues with Nick and Yvette. We have all been in agreement on the need to continue our programme of piloting alternative voting methods in 2004. I am greatly encouraged that a slot in the legislative programme could be made available for a short bill to allow these pilots to take place. It is therefore essential that the necessary resources be allocated to make ready this small bill in time for the start of the third session.

I look forward to our discussion at LP on 6 May.

I am copying this to the Prime Minister, Nick Raynsford, Yvette Cooper, members of LP, Sir Andrew Turnbull and First Parliamentary Counsel.

RT HON IAN McCARTNEY MP

RT HON DR JOHN REID MP
LEADER OF THE HOUSE OF COMMONS
AND PRESIDENT OF THE COUNCIL
2 CARLTON GARDENS
LONDON SWIY 5AA
TEL: 020 7210 1025

Our Reference:

17 APR 2003

Dear Nick,

MH

CC MA. CS.

POSSIBLE LEGISLATION TO ALLOW ELECTORAL PILOTS IN EUROPEAN ELECTIONS

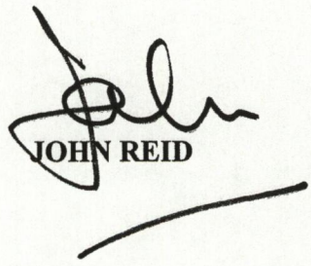
As you, Yvette, Ian and I have discussed previously, in order to meet our commitment to e-enabled elections after 2006, we need to press ahead urgently with work to develop pilots of alternative voting methods for the 2004 European and local government elections. However, we have established that under current legislation, such pilots are not possible during the European elections and that a short Bill would be needed in order to allow them to take place.

As you know, LP Committee is due to consider the proposed third session legislative programme at its meeting on 6 May. At this point, given the priority attached to pressing ahead with electoral pilots in 2004, the Committee will look very sympathetically at a request for a short Bill. However the Committee will need to be satisfied that both your Department and Yvette's are able to resolve any policy issues and instruct Counsel at the earliest possible opportunity. The timing of delivery of this Bill will be crucial, since in order to maximise the scope for getting orders laid to put in place arrangements before the 2004 elections, the Bill should ideally be introduced at the very start of the third session and rushed through. This timetable is tight and will only really work if the Bill is finalised in plenty of time for its introduction, has cross-party support and is accompanied by an effective Parliamentary handling strategy.

Given these constraints, I should therefore be grateful if before LP's meeting on 6 May, you could write to me outlining the content of the Bill and attaching a project plan setting out your proposed timing and the resources you have allocated for its delivery. It would also be helpful to have an indication of the likely areas of controversy in the Bill and an initial assessment of your proposed handling of these issues.

I am copying this letter to the Prime Minister, Ian McCartney, Yvette Cooper, members of LP Committee, Sir Andrew Turnbull and First Parliamentary Counsel.

Yours sincerely



JOHN REID

The Rt Hon Nick Raynsford MP
Office of the Deputy Prime Minister

Home Office

Michael Wills MP
PARLIAMENTARY UNDER SECRETARY OF STATE
50 Queen Anne's Gate, London SW1H 9AT

WP

cc. JJH
PD
AA
DS
SV
ER
WP
AB.

President of the Council and Leader of
The House of Commons
Privy Council Office
2 Cartlon Gardens
London
SW1Y 5AA

11 APR 2003

Dear President,

e-Voting

I have seen a copy of the letter of 25 March from Nick Raynsford to you, copied to members of PSX(E) and MISC17.

The letter sets out encouraging progress, and I shall be interested to see the evaluation of the May pilots in due course.

I agree with Nick Raynsford that a paper responding to the Electoral Commission's evaluation of the pilots and mapping out the future direction should be combined with the e-democracy publication already proposed, so that plans and proposals on e-voting are presented in the wider context of e-democratic participation as a whole.

I am copying this letter to colleagues in PSX(E) and MISC 17, to Peter Hain, Helen Liddell, Paul Murphy, Denis MacShane and to Sir Andrew Turnbull and Andrew Carter (UKDEL).

Yours sincerely

Michael

MICHAEL WILLS

File

WP
cc ER
MH
SC
VS

The Rt Hon Nick Raynsford MP
Minister of State for Local
Government and the Regions

OFFICE OF THE
DEPUTY PRIME MINISTER

26 Whitehall
London SW1A 2WH

Tel: 020 7944 3013
Fax: 020 7944 4539
E-Mail: nick.raynsford@odpm.gsi.gov.uk

Web site: www.odpm.gov.uk

25 MAR 2003

President of the Council and Leader of
The House of Commons
Privy Council Office
2 Carlton Gardens
London SW1Y 5AA

Dear President

e-Voting

I am writing to update you and colleagues on the progress we are making towards our e-voting pilots in the May 2003 local elections, and how this is helping in moving forward to meeting our collectively-agreed aim of an e-enabled General Election some time after 2006. We have arrangements in place for extensive e-voting pilots next May, covering 17 local authorities and up to 1.4 million electors. We are also working to promote internationally-agreed e-voting standards, that will help to promote security and to ensure a sound and competitive market in the supply of e-voting services. I would propose that in September, once we have the Electoral Commission's evaluation of the May pilots, we should publish a paper responding to the evaluation and mapping out the future path to achieve our stated goals. We will need to feed into this paper the work which Paul Boateng has requested in preparation of a business case for an e-enabled General Election: my officials are working closely with Yvette Cooper's on this subject.

For the 2003 pilots, ODPM alongside the Office of the e-Envoy, the Office of Government Commerce and with support from the Communications Electronics Security Group have been working in a close partnership with the Electoral Commission and the Local Government Association to put in place an extensive programme of pilots. We have procured a framework of suppliers able to offer e-voting services, meeting our security and technical requirements, at agreed prices over the next three years. (This framework, moreover, will allow suppliers to be used for elections other than English local elections, should the opportunities arise.) Suppliers from the framework have been matched with

each of the 17 authorities running e-voting pilots this year and preparations for the elections are now well underway.

The pilots will be an opportunity for extensive testing of diverse e-voting channels – kiosks in polling stations, as well as internet, SMS text messaging, touch-telephone and for the first time via Interactive Digital Television. Some 1.4 million electors will have the opportunity to cast their vote electronically. These pilots will be a significant advance on the more limited trials that took place last year, and will help both in developing our understanding of the technological issues and in building public confidence in electronic voting. Each of the pilots will be evaluated independently by the Electoral Commission, who plan to produce their evaluation reports by 1 August 2003. I understand that the Commission will also produce – as they did last year – a strategic evaluation of the whole pilot programme.

In our Memorandum responding to the Electoral Commission's evaluation of the 2002 pilots we set out our strategy of holding local electoral pilots and in time other e-enabled elections on an extensive scale. For 2004, this could include a further round of local election pilots, including in Welsh councils, all of whom have elections next year. This is the route map for achieving our public collectively-agreed goal of an e-enabled General Election some time after 2006. My officials and Yvette's are working together on a Programme Board, which also includes representatives from the devolved administrations, to develop our approach to future piloting and the other activities needed in support of a future e-enabled General Election. Among these activities are the development of a set of internationally-agreed standards for e-voting and also the development of an electronic electoral register.

Work on agreed technical and security standards is being taken forward through the Council of Europe and the international OASIS industry group. The standards are an essential pre-requisite to deliver interoperability of e-voting services and a sound market for such services in which there can be confidence especially in respect of security and efficacy. States would be able to take advantage of such standards, though there would be no requirement to do so, and the standards themselves would recognise the diversity of electoral processes and practices. The aim is that by May 2004 there will be a set of such standards in place. The UK has taken a leading role in putting in place this international initiative and is continuing to play an active part in the work, both through the involvement of my officials and through OeE support of the OASIS group.

On the development of an electronic register, we are working closely with the Electoral Commission and other stakeholders including the Improvement and Development Agency (IDeA). Our latest legal advice is that the IDeA's LASER project for an electronic electoral register could not be achieved without primary legislation. The Electoral Commission are publishing the results later this month of their review of wider registration issues, and we understand these will include proposals that would sit well with an electronic register that could be accessed nationally and would be a platform for national e-voting. In the light of this we will need to study carefully the options either for a local or a nationally-held register. In either case, a central question will be who is responsible for the data – the clear candidate is the Electoral Commission. All of this would require primary legislation, but a prior step could be to standardise the format of each local register and we may be able to make progress on this within the framework put in place by the IDeA for LASER. My officials are pursuing this.

By September this year, consequently, I envisage that we will want to respond in detail to the Electoral Commission's evaluation of the 2003 e-voting pilots; to set our intentions for e-voting pilots in 2004 and possibly beyond; to clarify the position on the development of an electronic register and to draw attention to progress in the development of international e-voting standards. I believe it would be right to combine a publication on these matters with the publication already proposed on the wider issues surrounding e-democratic participation. I would welcome your and colleagues views on this.

I am copying this letter to colleagues in MISC 17 and PSX(E), to Peter Hain, Helen Liddell. Paul Murphy, Denis MacShane and to Sir Andrew Turnbull and Andrew Carter (UKDEL).

Yours sincerely

Nick

NICK RAYNSFORD

(F)

DEPUTY PRIME MINISTER

CS
cc. PMCF

OFFICE OF THE
DEPUTY PRIME MINISTER
26 Whitehall
London
SW1A 2WH

Tel: 020 7944 8623
Fax: 020 7944 8621

The Rt Hon Robin Cook MP
President of the Council and Leader of the House
2 Carlton Gardens
London
SW1Y 5AA

10 March 2003

IMPLICATIONS OF THE MAY 2003 DEVOLVED ELECTIONS

As you know, elections for the Scottish Parliament and the National Assembly for Wales are due to take place on 1 May.

The impact of the elections will be greatest for the devolved administrations themselves. The formal election periods are due to start in Scotland on 1 April following the dissolution of the Parliament, and in Wales on 4 April with the start of the Assembly recess. The administrations will be conducting only essential business from these dates. It may also take a little time following the elections for incoming administrations to be formed and therefore for routine business to be resumed.

The elections will also have implications for the conduct of UK Government business. Douglas Alexander has today announced, on behalf of the Prime Minister, the publication of guidance for civil servants (which also covers the English local government elections on 1 May). Sir Andrew Turnbull is writing round to departments with copies of the guidance in the usual way, and I also enclose copies with this letter for colleagues' information. In summary, colleagues should bear in mind the following questions when planning their forward business:-

Decisions and announcements

- Do proposed decisions or announcements cover Scotland or Wales?
- Do they relate directly to devolved responsibilities or have an impact on them?
- Is there a risk that they might become issues of controversy during one or other of the campaigns?

Website: www.odpm.gov.uk
Email: john.prescott@odpm.gsi.gov.uk

(If the answer to any of these questions is "yes", colleagues should consider carefully whether it would be better to delay the decision or announcement concerned until after the devolved elections.)

- Where proposed decisions or announcements relate solely to UK Government responsibilities within England, will this be sufficiently clear both to the media and to the public?

Ministerial Visits

- What are the Government responsibilities and purposes which justify proposals for Ministerial visits to Scotland or Wales?

The Cabinet Office Machinery of Government Secretariat will be happy to discuss particular cases with departments, in consultation as necessary with the relevant Territorial Department and the Devolution and Constitution Division here in ODPM on any specific devolution-related sensitivities.

As colleagues will be aware, the Prime Minister has announced that elections to the Northern Ireland Assembly will take place on 29 May, and legislation is being introduced to allow them to be held on that date. Guidance on handling business during the election period in Northern Ireland will be issued in due course.

I am copying this letter to the Prime Minister, members of CNR, Douglas Alexander and Sir Andrew Turnbull.

JOHN PRESCOTT

ELECTIONS TO THE SCOTTISH PARLIAMENT, THE NATIONAL ASSEMBLY FOR WALES, AND LOCAL ELECTIONS IN ENGLAND

GUIDANCE ON CONDUCT FOR CIVIL SERVANTS IN UK DEPARTMENTS

1. Elections for the Scottish Parliament, and the National Assembly for Wales are due to take place on 1 May. This note provides guidance to civil servants in UK departments on their role and conduct in the forthcoming election campaigns. Separate and more detailed guidance is being issued to civil servants employed in the Scottish Executive and the National Assembly for Wales. Special care will need to be exercised following the start of purdah in the devolved Administrations, which is 1 April for staff in the Scottish Executive and 4 April for staff working in the National Assembly for Wales.

2. These elections are different from a UK General Election. The UK Government will remain in office whatever the outcome of the elections to the devolved legislatures. Ministers will continue to carry out their functions in the usual way. UK civil servants will continue to support their Ministers in their work.

3. However, it needs to be borne in mind that the activities of the UK Government could have a bearing on the devolved election campaigns and particular care will need to be taken during this period to ensure that civil servants conduct themselves in accordance with the requirements of the Civil Service Code. In particular, civil servants are under an obligation:

- not to undertake any activity which could call into question their political impartiality; and

- to ensure that public resources are not used for party political purposes.

During the period between the start of purdah in the devolved administrations (dates set out in paragraph 1) and the actual elections particular care should be exercised in relation to the announcement of UK Government decisions which could have a bearing on the elections to the devolved legislatures.

General principles

4. The following general principles should be observed by all civil servants, including special advisers:

a) there should be even handedness in meeting information requests from candidates from different political parties. Departments should reply to such requests within 24 hours and in accordance with the principles laid down in the *Code of Practice on Access to Government Information.*

b) particular care should be taken over official support, and the use of public resources, including publicity, for Ministerial announcements which could have a bearing on the devolved elections.

c) similar care should be taken over announcements of decisions made at official level.

d) special care should be taken in respect of paid publicity campaigns which should not be open to criticism that they are being undertaken for party political purposes.

e) officials should not be asked to provide new arguments for use in election campaign debates.

5. As with all UK Government Ministers, the Secretaries of State for Scotland and Wales will continue to be in charge of their respective departments, and civil servants should continue to support these Ministers in the normal way. However, civil servants will wish to be aware of the need to avoid any action which is, or could be construed as being, party political or otherwise controversial in the context of the devolved elections.

6 All discussions between the devolved administrations and the UK Government during the campaign period should be conducted in accordance with the principles laid down in this guidance.

Ministerial visits

7. In the pre-election period particular care should be taken in respect of proposed visits to Scotland and Wales. While there might be good arguments for the territorial Secretaries of State to visit Scotland or Wales, the basic test of whether the visit is for government or party/electoral purposes must be satisfied. Official support must not be given to visits and events with a party political or campaigning purpose. In cases of doubt, further guidance should be sought from the Machinery of Government Secretariat in the Cabinet Office on 020-7276-2471.

Announcements

8. Similarly, announcements on non-devolved matters could have a bearing on the devolved elections. Ministers will be aware of the potential sensitivities in this regard and might decide, on advice, to

postpone making controversial announcements until after the elections. Obviously this needs to be balanced carefully against any implication that deferral could itself influence the political outcome. Each case should be considered on its merits. Again, in cases of doubt further advice should be sought from the Machinery of Government Secretariat in the Cabinet Office on 020-7276-2471.

9. Announcements on UK Government responsibilities within England for matters devolved in Scotland and Wales are, of course, quite in order. But it is very important to stress the territorial extent of any such announcement. Failure to do so could lead to voters in Scotland or Wales believing that the announcement also affects them, and thus might influence how they vote.

Information Activities

10. Guidance on information activities during elections can be found in Guidance note G to Cabinet Office General Election Guidance issued in May 2001. For assistance in interpreting how this should apply during devolved elections, and in all cases of doubt, guidance should be sought from the Head of the Government Information and Communication Service.

11. Official Websites will be scrutinised closely by the news media and the political parties during the Election period and must be handled with great care.

Political Activities

12. Political activity connected with these elections falls within the definition of national political activity. Detailed guidance on the restrictions on civil servants' involvement in national political activities is set out in Departmental staff handbooks.

Special Advisers

13. UK special advisers who wish to participate in any of the election campaigns or help in a Party headquarters or research unit must first resign their appointment. Special advisers appointed by UK Ministers who resign in these circumstances will not be entitled to severance pay as their resignation is deemed to be voluntary. The restrictions on special advisers' involvement in national political activities are set out in the *Model Contract for Special Advisers.*

14. Special advisers must be careful not to take any public part in the campaign. They should not, for example, accompany their Minister on campaign visits or brief the press on election-related issues. Nor can this activity be done on unpaid leave. However, in the individual's own time, backroom support such as stuffing

envelopes and liaison with the Party are permitted.

15. Official resources such as telephones, computers, fax machines and official stationery must not be used in support of these elections.

Public Appointments

16. Public appointments made by UK Ministers, or UK senior civil service appointments could have an effect on the devolved administrations for example, where the remit of the body concerned is UK wide. Particular care should be taken in relation to any such appointments and consideration given to postponing the appointment process where it has the potential to be controversial or to influence the course of the elections.

Statistical Activities

17. During devolved elections, statistical activities should continue to be conducted in accordance with the *National Statistics Code of Practice* and requests for information should continue to be handled in accordance with the *Code of Practice on Access to Government Information.*

18. For further guidance on statistical activity during elections, please consult Guidance Note H to the Cabinet Office General Election Guidance issued in May 2001. For assistance in interpreting how this should apply during devolved elections, consult your Head of Profession or the National Statistician.

Local Elections

19. Local elections will also be held in England on 1 May. The period of sensitivity preceding local elections is not fixed to any particular date, but the general convention is that particular care should be taken in the three weeks preceding the elections – in this case from **10 April 2003**. During this period, particular care will need to be exercised in relation to the announcement of sensitive decisions with a local dimension, and paid publicity campaigns.

20. Political activity connected with these elections falls within the definition of local political activity. Detailed guidance on the restrictions on civil servants' involvement in local political activities is set out in Departmental staff handbooks.

21. Special advisers may undertake all forms of local political activity - with the approval of their Minister. Special advisers planning to help with the local elections should note that any campaigning must be done outside office hours or on paid or unpaid leave from their Departments.

Non-Departmental Public Bodies

19. While NDPBs and other public sector bodies are not formally covered by this guidance, they do spend public money and may make public announcements or employ civil servants. Decisions on individual matters are for the bodies concerned, but the principles set out above are generally applicable.

Cabinet Office
Machinery of Government Secretariat
March 2003

RESTRICTED

The Rt Hon Patricia Hewitt MP
Secretary of State for Trade and Industry

CS

CC JH SPO

The Rt Hon John Prescott MP
Deputy Prime Minister and
First Secretary of State
Dover House
Whitehall
LONDON
SW1A 2AU

Secretary of State
Department of
Trade and Industry

1 Victoria Street
London SW1H 0ET

Direct Line
020 7215 6272

DTI Enquiries
020 7215 5000

URL http://www.dti.gov.uk.
e-mail mpst.hewitt@dti.gsi.gov.uk

28 February 2003

Dear John,

REFERENDUMS ON ELECTED REGIONAL ASSEMBLIES: APPROPRIATE CONDUCT OF MINISTERS AND CIVIL SERVANTS

I have seen Nick Raynsford's letter of 18 February to you outlining guidelines on the appropriate conduct of all Ministers and civil servants in the run-up to calling any referendum(s) on establishing an elected regional assembly.

I am content with the key principles set out in the guidance. I await notice of clearance from your office and subject to any comments raised by colleagues, will arrange for the relevant details to be disseminated within my Department and to the Non-Departmental Public Bodies sponsored by my Department, including the Regional Development Agencies.

I am copying this letter to Nick Raynsford, DA colleagues, Jack Straw, Clare Short, the Cabinet Secretary and Clare Sumner (No. 10).

Best wishes,

Patricia

PATRICIA HEWITT

DEPUTY PRIME MINISTER

OFFICE OF THE DEPUTY PRIME MINISTER
27 NOV 2002

OFFICE OF THE
DEPUTY PRIME MINISTER
26 Whitehall
London
SW1A 2WH

Tel: 020 7944 8623
Fax: 020 7944 8621

CS
C: AMc

The Rt Hon Nick Raynford MP
Minister of State for local Government
and Regions London
Office of the Deputy Prime Ministers
26 Whitehall
London
SW1A 2WH

27 November 2002

Dear Nick

GL, DA AND LP CORRESPONDENCE: POLITICAL PARTIES AND REFERENDUMS ACT: PAID TIME OFF FOR COUNCILLORS

This letter gives you GL, DA and LP clearance to proceed as proposed in your letter of 9 October seeking agreement to proposals to bring forward legislation to amend Schedule 7 to the Political Parties, Elections and Referendums Act 2000 (PPERA) regarding paid time off for councillors.

Replies were received from Robin Cook (22 October and 1 November), Paul Murphy (as Secretary of State for Wales, 18 October), Peter Goldsmith (24 October), Anne McGuire (18 October), Paul Boateng (22 October), Patricia Hewitt (24 October), Yvette Cooper (24 October), John Reid (as Secretary of State for Northern Ireland, 16 October) and Charles Clarke (as Minister without Portfolio, 21 October).

In his letter of 22 October, Robin said that he considered it necessary to take a broader approach to the problems caused by the PPERA than the one proposed. He said that the central problem was that the PPERA had not made a sufficiently watertight distinction between the receipt of funds for political purposes and the receipt of assistance for elected representatives to carry out their official functions. He said that there was strong feeling in the House about the interpretation of the Act as it affects MPs, and advised that we did not proceed only to address the problem as it affects councillors. You wrote back to Robin on 25 October saying that the wider issues were now the responsibility of the Lord Chancellor and were far less clear than those relating to councillors so it was not yet possible to bring forward legislative proposals to deal with them. Robin then replied on 1 November noting your and others' strong

desire to deal as soon as possible with the more straightforward issue of paid time off for councillors, and on that basis was content for you to proceed with the necessary provisions in the Local Government Bill.

Paul Murphy wholly agreed with your conclusion that it was wrong for the value of councillors' time to be treated as a political donation from the councillor's employer.

Peter agreed with the advice given by First Treasury Counsel and supported your proposal.

Anne said the proposed Local Government Bill did not extend to Scotland and that steps would need to be taken to ensure that the provisions related specifically go amending the PPERA for the purposes outlined in your letter did relate to Scotland. She said it would be helpful if Scotland Office officials could be kept informed of progress on this issue.

Paul Boateng agreed that we should address this issue at the earliest opportunity and supported your proposal.

Patricia said that she intended to clarify the position in the forthcoming Companies Bill and she would be grateful in the meantime if ODPM and LCD officials could liase with her officials over the wording of any public announcements, and in particular any announcement to Parliament by written parliamentary answer.

Yvette supported your view that the right course of action was to legislate separately on the issue of paid time off for councillors.

John was content for you to proceed as proposed.

Charles was in full agreement with your proposals on providing for employers to give paid time off to councillors.

Subject to the comments above, you have GL, DA and LP clearance to proceed as proposed.

I am copying this letter to the Prime Minister, members of GL, DA, LP and Sir Andrew Turnbull.

JOHN PRESCOTT

file

CONFIDENTIAL - PERSONAL

HOUSE OF LORDS
LONDON SW1A 0PW

Permanent Secretary and
Clerk of the Crown in Chancery

Sir Hayden Phillips GCB

Tel. 020 7219 3246
Fax. 020 7219 2075
e-mail: perm.sec@lcdhq.gsi.gov.uk

25th November 2002

Sir Andrew Turnbull KCB KCVO
Secretary to the Cabinet
and Head of the Home Civil Service
Cabinet Office
70 Whitehall
London SW1A 2AS

JJH.
C: CS

Dear Andrew

I agreed to let you and other colleagues have a note about how specific legislation and generic rules will be needed before any referendum could be held, and the coverage of each. We also identified a number of timetable issues. The attached paper covers these points. It is very detailed but serves as a work of reference. This letter attempts to summarise the key points for us.

Primary Legislation

What the Political Parties, Elections and Referendums Act (PPERA) already provides:

2. PPERA already provides the foundation requirements for all referenda e.g. the basic minimum timetable, the restrictions on who may be a 'permitted participant', and spending controls on them. These provisions are summarised in section (a) of the note.

What specific legislation is needed:

3. Specific legislation for a particular referendum will cover the form of the question, the date of the poll, the franchise, and the setting of the referendum period. These elements are set out in section (b) of the note.

Additional specific rules:

4. The work done on the Regional Assemblies (Preparations) Bill revealed a number of extra necessary provisions such as combination of polls and funding - **specific** to a particular referendum - which could be put in the new Bill or made in secondary legislation after the Bill is enacted. If they are made after the Bill is enacted this would lengthen the legal framework for the referendum by at least two months.

Secondary Legislation

Generic rules on conduct:

5. There are also detailed **generic rules on conduct** which would need to be made to hold a referendum. As you are aware, work is well advanced on a draft Generic Conduct Order; section (c) sets out essentially what is the adaptation of election rules to a referendum. The legal requirement in these rules is that they need to be made and be in force **at least 5 weeks before a poll date**, but in practice it is preferable that they are made before the start of a referendum period.

Additional generic rules:

6. There are a number of **necessary additional generic rules** which could not be included in the Generic Conduct Order because they are made under separate provisions of the PPERA, and require separate implementation mechanisms. Section (d) sets out in detail what these rules are and how they would come into force. At least those set out at *i., iii., v. and vii.* will need to be in place **before the start of the referendum period**.

Timetable

Setting the referendum period:

7. If the referendum period is to start when the Bill is introduced, an Order under section 101(4) of PPERA will need to be made immediately after introduction. As it is subject to the affirmative resolution procedure, in practice in order for the referendum period to start on the day of introduction, it may need to be debated and approved by both Houses of Parliament the same day as the Bill is introduced (it may be technically possible for debates to be held prior to introduction but it may be difficult to obtain Parliament's approval at that point).

8. The Referendum Conduct Order will need to be in force by 5 weeks prior to the poll. Subject to whether or not we engage in a public consultation on this, the timetable would see the Order made either by March 2003 or by May 2003 (although the former timetable may not allow for our (Cabinet Office) 12 weeks minimum consultation period.) Section (e) sets out the timetable for the generic conduct rules. This is a better position on timing than we had thought possible at your meeting.

9. The timetable for the rest of the generic rules, which will need to be in place before the start of the referendum period, is difficult to predict accurately without knowing how long the Electoral Commission would take to draft the Guidance in section (d)i., which is likely to take the longest time. To get an estimation of this would require us to seek the Commission's views. Once drafted, the Guidance must be submitted to the Lord Chancellor to be laid for 40 days before both Houses of Parliament. It should be possible for it to be made by March 2003 but it may be sooner.

Options for a referendum period:

10. The normal expectation would be that the referendum period would begin on the day on which the relevant Bill is introduced into Parliament. The presumption in the PPERA is a 10 week minimum before the poll:

- 28 days for application for recognition as a designated organisation
- 14 days for decision by the Electoral Commission on the "official organisations" and
- 28 days to the poll itself.

11. Section (f) in the paper lists five variations of the start and length of the referendum period. Section (g) follows with five timetable scenarios. (It should be noted that the Electoral Commission does not favour the referendum period starting when the Bill is introduced to Parliament.)

12. As you are aware, the Lord Chancellor has received a 'letter before action' from a group which would be campaigning for a 'No' vote in a referendum on the Euro alleging that if the PPERA has failed to impose spending limits on the government for the whole referendum period, that would be a breach of human rights. The preliminary legal view is that the strength of their argument and the Lord Chancellor's response may be affected if it is resolved that the referendum period is to be set by a section 101(4) Order. However, a final view on the overall strength of their arguments has not yet been reached.

13. How the Government goes about setting the referendum period in any referendum is clearly going to be a matter which will be scrutinised very carefully.

14. A copy of this letter goes to Stephen Wall and Jeremy Heywood.

Yours ever

Hazel

Referenda

(a) What elements of rules for a referendum are already provided for in the Political Parties, Elections and Referendums Act?:

i. The concept of the 'referendum period';

ii. The various elements which lead to a minimum 'referendum period' of 10 weeks (28 days to apply for designated body status; 14 days for the Electoral Commission (hereafter called simply "the Commission") to decide on the umbrella bodies; a minimum of 28 days for the campaign);

iii. The Commission's obligation to make a report on the intelligibility of a referendum question specified in primary legislation;

iv. The Secretary of State's duties to seek the Commission's views with respect to the wording of a referendum question specified in secondary legislation and to lay a report on those views;

v. The definition of those who are "permitted participants" in a referendum;

vi. The Commission's powers to designate organisations to receive assistance as umbrella campaigning bodies;

vii. The rules on financial assistance available to designated organisations;

viii. The rules on referendum expenses during the referendum period, including the limits imposed on non-permitted participants and all permitted participants; and how expenses are to be determined (eg benefits in kind, expenditure disbursed before the referendum period but for activity that falls within the period);

ix. Rules on donations to permitted participants;

x. Rules for the publication of referendum related material, including restrictions on Government and access to broadcasting and postal services;

xi. The appointment of the Chief Counting Officer (either the Chairman of the Electoral Commission or such other person as he shall appoint) and the requirement to appoint a counting officer for each electoral area.

(b) What elements would need to be specifically provided for, either in primary legislation or in an order made under specific primary legislation?:

i. the question to be asked. If a statement is to be made preceding the question, that must also be set out;

ii. the form of the ballot paper (if it is desired to change from the standard form which is set out in the Conduct Order);

iii. the date of the referendum;

iv. the commencement of the referendum period;

v. the franchise for the purposes of the referendum. This may need to include modifications to the provisions on electoral registers;

vi. provision for combination of polls if required;

vii. payment for charges and expenses of Counting Officers;

viii. provision disapplying s.126 if desired (to make sure that the rules on 'publishing' referendum material do not apply to prescribed forms etc);

ix. provision to allow the Commission to encourage voting and put forward factual points on referendum issues;

x. provision regulating challenges if this is desired, either through an ouster clause or by detailed application with modifications of rules relating to election petitions;

xi. provision for all-postal voting if desired (although this could also be done under a further order under s.129 PPERA);

xii. any specific amendments to the PPERA that are considered necessary for the referendum concerned.

There is also provision in the PPERA (s.109(6)) to alter by Order the periods of 28 days and 14 days required for designating umbrella organisations. This would have to be made specifically in relation to the referendum in question.

If any provisions relating to the conduct of the referendum are made in the Bill (for example, the form of the ballot paper), the Bill will also need to make provision under s.129(3) of PPERA to ensure that the generic rules also apply.

The above list has benefited from the detailed work done on the Regional Assemblies (Referendums) Bill, which has identified a number of lacunae in the PPERA. We cannot guarantee that, extensive though it is, it is exhaustive.

(c) What generic rules on the conduct of referendums need to be made under section 129 of PPERA?:

i. adapting conduct of elections rules so that they can apply to a referendum. This includes measures like:

- basic format of forms and ballot papers;
- appointment of presiding officers and clerks at each polling station; powers of the police etc;
- conduct of the referendum in the polling station (eg the equipment that has to be provided; provision of assistance to disabled voters);
- notices to be displayed in the polling station;
- rules for polling agents, attendance at the polling station otherwise than for the purpose of voting etc;
- procedures for the count of votes;
- rules for the declaration of the result;
- rules for the safekeeping of the ballot papers etc.

ii. timetable for publication of notices of the referendum;

iii. appointment of referendum agents;

iv. provision for absent voting;

v. designation of polling stations;

vi. hours of polling;

vii. duties of Chief Counting Officer and counting officers;

viii. modification of the rules if it is decided to use all-postal voting;

ix. power for the Chief Counting Officer to use e-counting, and associated modifications to the rules;

x. appropriate application with modifications of elections legislation, including rules relating to offences.

(d) What other generic rules need to be made under provisions of PPERA before a referendum can be held?:

i. **The Commission's Code of Guidance on referendum expenses (Schedule 13, paragraph 3);**
The Electoral Commission may prepare such a Code. They theoretically do not have to, but may prefer to do so and government policy may be that it is better that they do so. If such a Code were to apply to a referendum it would need to be in force before the start of the referendum period. They must submit it to the Lord Chancellor who must lay it before Parliament. If either House resolves not to approve it within 40 days after it is laid it cannot be brought into force. Otherwise it can be brought into force after that 40 day period by the Lord Chancellor.

ii. **The prescribed form to deal with the return of referendum expenses under s.120(5);**
The Electoral Commission prescribes this by their own regulations. The Electoral Commission's regulations can be made quickly and do not require any Parliamentary procedures. It would be preferable that the form is prescribed before the start of the referendum period but it may be theoretically possible for it to be prescribed later as long as it is prescribed before the end of the referendum period.

iii. **Any Regulations under s.126(6) to provide for the regulation of non-printed referendum related material (eg internet sites);**
These do not have to be made but there is probably a policy preference that they are made. After consulting the Electoral Commission, they would need to be laid before Parliament by the Lord Chancellor and would usually come into force 21 days after they are laid, unless Parliament rejects them.

iv. **Commission's regulations under Schedule 15, paragraphs 10(3)(b) and 11(2)(d) and 11(3)(d);**
Schedule 15 relates to donations to permitted participants who are not registered political parties. The Electoral Commission may specify certain types of information that must be provided in statements to them by permitted participants in the referendum about donations received. The Electoral Commission's regulations are not subject to any Parliamentary procedure and can be made quickly.

v. **Rules on Referendum Campaign Broadcasts;**
The ITC and the Radio Authority must, as a condition of their licences, require certain broadcasters to make party political broadcasts. They may also require them to observe rules that they may draw up about such broadcasts, such as relating to on whose behalf such broadcasts may be made and their length and frequency. Paragraph 4 of Schedule 12 applies the same provisions to referendum campaign broadcasts. They should already have issued revised licences but may or may not

have made rules. If they were to make rules they would need to do so before the start of the referendum period.

vi. **Rules of Court for forfeiture of unlawful donations (section 60 of PPERA and paragraph 7 of Schedule 15);**
These are to be made by the Rules Committee for the magistrates and Crown court. They are in the process of being made and should come into force, on current projections, by March 2003. However, they are only needed if a permitted participant receives an unlawful donation and accepts it. It should be possible to not have these in place before the start of the referendum period, provided they are in force in time to deal with the procedure by which the Electoral Commission may take proceedings against any permitted participant who has accepted unlawful donations during the referendum period, which is likely to be after the end of the referendum period.

vii. **Any amendments to secondary legislation made under PPERA to take account of policies surrounding the particular referendum.**
For example, the Lord Chancellor has power under paragraph 4 of Schedule 13 to amend the meaning of referendum expenses in that Schedule by means of secondary legislation, on which he must first consult the Electoral Commission and which must then be laid before and approved by both Houses of Parliament. If he wants to do so, then he would need to do so before the start of the referendum period.

(e) Timetable for the generic conduct rules

There is a well-advanced draft of the Conduct of Referendums Order, which has been drafted by an ODPM lawyer on the instructions of an outside consultant. The Electoral Commission has set up a working party to look at the implications for it of the proposals in the Regional Assemblies (Preparations) Bill and issues raised in that context have informed discussion of the generic Order. The consultant is checking the Order again in the light of those comments. Departmental lawyers in LCD, following the Transfer of Functions, have not yet turned to it in detail, but should be free to do so once the European Parliament (Representation) Bill is introduced.

We were about to send the draft Order to the devolved administrations for their views. Particular arrangements apply in Northern Ireland, while in Scotland electoral administration is, as in England, handled through the local authorities. Under s.129 PPERA, the Government is obliged formally to consult the Electoral Commission before making the Order. The Order requires the affirmative resolution procedure.

We estimate that it would be possible to deliver to the following minimum timetable:

- December 2002 – consideration of the draft by departmental lawyers and finalisation of the text.
- January 2003 – formal consultation with the Electoral Commission (who are already well aware of the contents of the Order).
- February 2003 – Order laid in draft.
- March 2003 – resolutions passed in each House and the Order made.

This is the timetable that is statutorily required. However, it makes no provision for public consultation, or consultation with bodies such as the Association of Electoral Administrators or SOLACE, or the political parties. This might imply a timetable of:

- December 2002 – finalisation of the draft.
- January 2003 – public consultation.
- March 2003 – formal consultation with the Electoral Commission.
- April 2003 – Order laid in draft.
- May 2003 – Order made.

Even this would not allow the 12 weeks minimum consultation period recommended by the Cabinet Office guidelines.

(f) Options for the referendum period

The advantage of shortening the referendum period is that it enables campaigning to be concentrated. The permitted levels of expenditure of permitted participants are limited by statute, and are not dependent on the length of the campaign. The same is true of the designated organisations. They are entitled to a further limit on campaign expenditure. They are also entitled to direct financial assistance and to access to a number of free services (leaflet delivery; referendum broadcasts) but these are not dependent on the length of the campaign. There is, however a downside, which is that this would give space for an informal campaign to begin during which there would be limited expenditure limits. The limits mainly bite only on activity during the referendum period itself.

However, the organisation of a referendum is not simply a matter of the campaign. There are a large number of practical arrangements which need to be put into place. For example, time needs to be given to allow people to apply for absent voting. There is therefore a limit to how little notice can be given of the date of the referendum. For elections, the standard minimum period of notice is 5 weeks.

An important element of the PPERA rules is the 'referendum period'. During that period, there are certain restrictions on who may undertake activity in relation to the referendum; what that activity may be; and what costs may be incurred in respect of referendum-related activity.

The referendum period falls into two parts:

- A minimum of 28 days before the date of the poll, as required by s103(1) of the PPERA. For the 28 days immediately before the poll the tightest restrictions (in particular prohibition on publication of material by the Government) apply as set out in s.125 of the PPERA.

- Any other period determined as falling into the referendum period either under the specific Act establishing the referendum in question, or by order under the PPERA if the referendum period begins before that Act was enacted.

The minimum period for this part of the referendum period, as laid down in the PPERA, is 6 weeks (s.109(2) and (3)). During the first 28 days of this time, the Electoral Commission would invite applications for recognition as a designated organisation to whom additional assistance would be made available. In the succeeding 14 days, the Electoral Commission would determine which, if any, organisation would be designated as the 'official' organisation representing each possible outcome to the referendum question.

The Explanatory Notes to the PPERA say that the normal expectation would be that the referendum period would begin on the day on which the relevant Bill is introduced into Parliament. In the case of the Scottish and Welsh

devolution referendums, this would have given a 'referendum period' of 4 months.

There are a number of options for lengthening or shortening the formal 'referendum period':

a. The referendum period could begin on the date of introduction of the Bill, but the intervals in the designation process could be shortened. This would, however, give a dangerously short period in which to complete the Parliamentary passage of the legislation. It would also give very little time to campaigning organisations to prepare their bids for designation and might be challenged on those grounds. We understand that the Electoral Commission's tentative position is that they would not support a shortened designation period.

b. The referendum period could begin at some later date in the passage of the Bill, or even after Royal Assent. In either one of those cases, the six week period for the identification of designated organisations could be shortened perhaps to 2 weeks + one week. In this case, the organisations would have had plenty of notice of the imminence of the referendum and could be well advanced in their preparation of evidence that they were the best placed to be the umbrella organisation. Even then, there will be a point at which challenges may be made on the grounds of unreasonableness and it would be prudent to consult widely before going down to such a short time-scale. There may also be problems for the Electoral Commission in considering applications within 1 week.

c. As apparently envisaged when the PPERA was passed, the referendum period could begin on the day of introduction of the Bill, but would extend for longer than the 10 weeks implied by the minimum provisions.

d. The referendum period could begin at some later date in the passage of the Bill, at any time more than 10 weeks before the scheduled date of the referendum. We understand that this is the Electoral Commission's preferred option. They would not want the formal period to begin until the question had been settled.

e. The time allowed for designation could be increased, in combination with any starting point, provided this still left a clear 28 days before the poll.

Where an Order retrospectively validates a Bill as triggering a referendum before it becomes an Act, that Order must set the referendum period and may not set a period of longer than 6 months, finishing on the day of the referendum itself.

(g) Possible timetables

OPTIONS AND STEPS TO BE TAKEN	TIMEFRAME
(a) Referendum period beginning on the date of the Bill.	
1. Generic rules needed prior to start of referendum period made and in force and, if preferred, generic conduct Order made.	By end May 2003 or possibly sooner.
2. Parliamentary debates on section 101(4) Order.	Varies depending on arranging slots for debates (may need to be done immediately after introduction of Bill).
3. Introduction of Bill.	Once Bill drafted and legislative slot available.
4. Section 101(4) Order to be made and to come into force setting referendum period.	Immediately after introduction.
5. Referendum period begins.	As above.
6. 28 day application period for designated organisations (this period can be reduced in the section 101(4) Order).	28 days or less.
7. 14 day period for consideration by Electoral Commission of above applications (which period can also be reduced by the section 101(4) Order). Assuming the question is set out in the Bill, by the end of this time the Electoral Commission should have published their views on the referendum question (there is not a set time frame but this ought to be before the start of the campaign period).	14 days or less.
8. If not made before the start of the referendum period, generic conduct Order to be made and in force prior to about 5 weeks before the poll.	By March or May 2003 (see also 1 above).

9. 28 day campaign period begins (during which government publicity is restricted).	28 days (or such period as may be set by way of modification of PPERA under the section 101(4) Order if desired).
10. Date of the Poll (Bill to be enacted at some point prior to this date).	At the earliest 5 weeks from coming into force of the generic conduct Order.
(b)(i) Referendum period begins at a later point during the passage of the Bill.	
1. Introduction of Bill.	Once Bill drafted and legislative slot available
2. Parliamentary debates on section 101(4) Order.	Varies depending on arranging slots for debates (could be done before the above step).
3. Generic rules needed prior to start of referendum period made and in force and, if preferred, generic conduct Order made. These could be completed prior to the introduction of the Bill or afterwards but before referendum period is started under section 101(4) if preferred.	By end May 2003 or possibly sooner.
4. Section 101(4) Order to be made and to come into force setting referendum period.	Once debates can be arranged and the Bill is introduced.
5. Referendum period begins.	Immediately after section 101(4) comes into force (if desired).
6. 28 day application period for designated organisations (this period can be reduced in the section 101(4) Order).	28 days or less.
7. 14 day period for consideration by Electoral Commission of above applications (which period can also be reduced by the section	14 days or less.

101(4) Order). Assuming the question is set out in the Bill, by the end of this time the Electoral Commission should have published their views on the referendum question (there is not a set time frame but this ought to be before the start of the campaign period).	
8. If not made before the start of the referendum period, generic conduct Order to be made and in force prior to about 5 weeks before the start of the poll.	By March or May 2003 (see also 3 above).
9. 28 day campaign period begins (during which government publicity is restricted).	28 days (or such period as may be set by way of a modification of PPERA under the section 101(4) Order if desired).
10. Date of the Poll (Bill to be enacted at some point prior to this date).	At the earliest 5 weeks from coming into force of the generic conduct Order.
(b)(ii) Referendum period begins after Bill enacted.	
1. Introduction of Bill.	Once Bill drafted and legislative slot available.
2. Assuming the referendum question is set out in the Bill, the Electoral Commission publish their views on the referendum question.	As soon as reasonably practicable after the Bill is introduced (section 104(2) PPERA).
3. Bill enacted.	As soon as Bill can be passed through Parliament.
4. Generic rules needed prior to start of referendum period made and in force and, if preferred, generic conduct Order made. These could be completed prior to introduction or afterwards but during the passage of the Bill, or even after the Bill is enacted if preferred.	By end May 2003 or possibly sooner.

5. Referendum period begins on date set by Bill or by secondary legislation in Bill.	As soon after Bill enacted as desired.
6. 28 day application period for designated organisations (this period can be reduced by a section 109(6) Order).	28 days or less.
7. 14 day period for consideration by Electoral Commission of above applications (which period can also be reduced by a section 109(6) Order).	14 days or less.
8. If not made before the start of the referendum period, generic conduct Order to be made and in force prior to about 5 weeks before the start of the poll.	By March or May 2003 (see also 4 above).
9. 28 day campaign period begins (during which government publicity is restricted).	28 days (or such different period as may be set by the Bill itself if desired).
10. Date of the Poll (Bill to be enacted at some point prior to this date).	At the earliest 5 weeks from the coming into force of the generic conduct Order.
(c) Referendum period begins on introduction of the Bill but referendum period is set for a longer period than the 10 week minimum.	
The steps will be as (a) above but the application period for designated organisations, the period for consideration of them by the Electoral Commission and the campaign period could be extended, as desired. [The first two of these would be done by an Order under section 109(6) of PPERA, which would need to be debated in Parliament, made and in force prior to the start of the referendum period.] These changes could be made under Section 101(4) Order.	Introduction of Bill not before generic rules made, which should be by end May 2003 or possibly sooner. 10 week to 6 month referendum period may run from that point (once Bill introduced and section 101(4) Order made) but should not end less than 5 weeks from the coming into force of the generic conduct Order, which may be March or May 2003. The total referendum period could not be longer than 6 months.

(d) Referendum period begins during passage of the Bill but not immediately following introduction and 10 week minimum referendum period is not reduced.	
The steps will be as (b)(i) but the application period for designated organisation and the period for consideration of them by the Electoral Commission will not be reduced.	Referendum period should start before generic rules made, which should be by end May 2003 or possibly sooner. 10 week period may run from that point (once Bill introduced and section 101(4) Order made) but should not end less than 5 weeks from the coming into force of the generic conduct Order, which may be March or May 2003.
(e) As (d) above but the application period for designated organisation and the period for consideration of them by the Electoral Commission are extended.	
The steps will be the same as (b)(i) except that it will be increased by the amount that those two periods are extended.	Referendum period should not start before generic rules made, which should be by end May 2003 or possibly sooner. Extended referendum period may run from that point (once Bill introduced and section 101(4) Order made) but should not end less than 5 weeks from the coming into force of the generic conduct Order, which may be March or May 2003. The total referendum period could not be longer than 6 months.

F

From: Pat Mcfadden
Date: 22 November 2002

PRIME MINISTER

cc: Jeremy Heywood
Jonathan Powell
Clare Sumner
Alastair Campbell
Godric Smith

JOHN SPELLAR, THE AEEU AND THE MAIL ON SUNDAY

John has been contacted by the MoS over a story they are going to run concerning his AEEU links. It has three elements:

1) His use of an office rented from the union at £500 a year. This has been reported to the Electoral Commission as a benefit in kind which has not declared. They are investigating but I think they may well find that is below market rent and therefore the gap is an undeclared benefit. JS feels this is not an issue as he has plenty of money in his office costs allowance to pay the difference but that's not the point. It's what he hasn't declared that could be the problem, not paying for it. If the Elec Commission find against him he will have broken the law, but so far they have not.

2) His Secretary who works part time for him and part time for the AEEU. She is paid in part by the office costs allowance and in part by the union. I see no problem with this.

3) A car he received from the union. For a time in Opposition JS was both an MP and the political officer of the union. The latter post was declared in the Register of Members' interests. When he resigned from this post on becoming a Minister, the union gave him the car. He did not declare it separately in the register of interests but claims he had no need to as the job for the union – through which he had the car – was declared.

Attached are the lines he has given the Mail on Sunday. It may be we get further calls on this over the weekend. I think it is important for him to stress that if the Elec Commission make any findings he will fully comply but he doesn't want to do this because he says it assumes he's guilty of something.

Pat

Department for
Transport

From the Minister of State

Pat McFadden

22 Nov 2002

In correspondence with Electoral Commission regarding the level of rent on office at Amicus. Await that decision but have a substantial underspend on MP's office cost allowance.

Secretary works part time for MP, part time for union as secretary of their research department. Paid for by MP's office cost allowance.

Prior to 97 election continued work as political officer for union, including provision of car. This was declared in register of interests. After election joined Government and ended that arrangement.

JOHN SPELLAR MP

155068

FCS/02/221

SECRETARY OF STATE FOR WALES

CS
cc: AMS

Commission on the Powers and Electoral Arrangements for the National Assembly for Wales

1. Paul Murphy wrote to John Prescott and other Cabinet colleagues on 23 October seeking views on how to handle requests from the Richards Commission for evidence from the Government.

2. The FCO has less involvement with the Devolved Administrations, including the Welsh Assembly, than many other government departments, as foreign policy is a reserved matter. However, I chair regular Ministerial and Devolved Administrations meetings on European Union matters. These work well. I am responsible for the Concordats on Co-ordination of EU Policy and International Relations, and the FCO has worked closely with the Devolved Administrations in their overseas activities, for instance in facilitating overseas travel by Ministers from the Devolved Administrations.

3. I am content with your proposal that we should draw up a joint memorandum to the Commission, and the FCO would be happy to contribute to such a memorandum.

4. Like you I think we should be robust in our overall defence of the existing balance of powers between Westminster and the Assembly. It was this for which the Welsh people voted in the referendum, by a tiny majority and without any of the statutory rules as to the fairness of referendum campaigns now provided by the Political Parties, Treaties and Referendums Act 2001. Given the skepticism for any devolution shown by the 49% who voted No, it is highly probable that the

referendum would have been lost had the balance been tilted for them in the Assembly's direction. In any event, it is far too early to start a review of this kind.

5. I might add that the fact of this salami tactic "commission" illustrates, yet again, the serious questions about the reliability of the Liberal Democrats as "partners" in the government.

6. A copy of this minute goes to the Prime Minister, Deputy Prime Minister, other Cabinet colleagues and Sir Andrew Turnbull.

(JACK STRAW)

Foreign and Commonwealth Office
18 November 2002

From the Secretary of State
for Work and Pensions

DWP Department for Work and Pensions

Richmond House
79 Whitehall
London
SW1A 2NS

Telephone
020 7238 0800

Email
ministers@dwp.gsi.gov.uk
www.dwp.gov.uk

SOS/02/1248

Rt Hon Peter Hain MP
Wales Office
Gwydwr House
Whitehall
London SW1A 234

Your ref: PO 327

22 November 2002

AMac.
cc CS

Dear Peter,

COMMISSION ON THE POWERS AND ELECTORAL ARRANGEMENTS OF THE NATIONAL ASSEMBLY FOR WALES

1. Paul Murphy wrote to John Prescott and Cabinet colleagues on 23rd October seeking views on how to handle requests from the Richards Commission for evidence from the Government.

2. I am content with the proposal that we should draw up a joint memorandum that would be publicly available and would form the basis of your oral evidence to the Commission.

3. A copy of this letter goes to the Deputy Prime Minister, Cabinet colleagues and Sir Andrew Turnbull.

Best wishes,

Andrew.

ANDREW SMITH

File

The Rt Hon Patricia Hewitt MP
Secretary of State for Trade and Industry

The Rt Hon Peter Hain MP
Secretary of State for Wales
Wales Office
Gwydyr House
Whitehall
London
SW1A 2ER

8 November 2002

Secretary of State
Department of
Trade and Industry

1 Victoria Street
London SW1H 0ET

Direct Line
020 7215 6272

DTI Enquiries
020 7215 5000

URL http://www.dti.gov.uk.
e-mail mpst.hewitt@dti.gsi.gov.uk

Dear Peter,

COMMISSION ON THE POWERS AND ELECTORAL ARRANGEMENTS OF THE NATIONAL ASSEMBLY FOR WALES

I am writing in response to Paul Murphy's letter of 23 October in which he outlined a proposed approach to the work of this Commission. I agree that we need to ensure that the Commission's recommendations take account of the Government's views and experience of devolution in practice in Wales and therefore support the proposed approach.

I will ask my officials to liaise with yours on the drafting of the proposed written evidence to the Commission.

I am copying this letter to Cabinet colleagues and to Sir Andrew Turnbull.

Best wishes,

Patricia

PATRICIA HEWITT

AMc File
cc JJH
AA
CS

CHIEF SECRETARY TO THE TREASURY

HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

The Rt. Hon. Peter Hain MP
Secretary of State
Wales Office
Gwydyr House
Whitehall
London SW1A 2ER

5 November 2002

Dear Secretary of State,

COMMISSION ON THE POWERS AND ELECTORAL ARRANGEMENTS OF THE NATIONAL ASSEMBLY FOR WALES

Paul Murphy copied to me his letter of 23 October to the Deputy Prime Minister making proposals as to how to handle the Commission, which has been set up by the Assembly under the Partnership Agreement between Labour and the Liberal Democrats.

2. I am generally content with Paul's suggestion that, although there is no commitment on the Government's part to give evidence to the Commission or to pay any attention to its report, the Government should submit written evidence to the Commission on the lines of a memorandum

to a Select Committee, to be agreed by colleagues, that you should give evidence to the Commission in public, and that you should offer the Commission an informal official briefing on how the devolution settlement works in Whitehall.

3. I would ask that my officials are kept closely in touch with developments, particularly if the Commission starts to take evidence on greater fiscal freedom for the Assembly. This is of course a reserved matter.

4. I agree that the Government's position on the devolution settlement is that there are no grounds for a radical revision to the Welsh devolution settlement only a few years after it received the Welsh electorate's support, and that the existing partnership with the Assembly is working well.

5. I am copying this to Cabinet colleagues and Sir Andrew Turnbull.

Yours sincerely

Richard Clarke

pp **PAUL BOATENG**

(Approved by the Chief Secretary and signed in his absence)

RT HON ROBIN COOK MP
LEADER OF THE HOUSE OF COMMONS
2 CARLTON GARDENS
LONDON SW1Y 5AA
TEL: 020 7210 1025

Our Ref: 0015252

cc AMc

- 1 NOV 2002

Dear Minister,

POLITICAL PARTIES, ELECTIONS AND REFERENDUMS ACT: PAID TIME OFF FOR COUNCILLORS

Thank you for your further letter of 25 October. As I said in my letter of 22 October, I have every sympathy with the difficulties the current system poses for councillors, but it is essential that relief of that specific problem does not reduce the pressure for action to address the much wider problems with the Political Parties, Elections and Referendums Act.

I remain concerned about our slow progress in finding a solution to the wider problems. However, I note your and others' strong desire to deal as soon as possible with the rather more straightforward issue of paid time off for councillors, and on that basis I am content for you to proceed with the necessary provisions in the Local Government Bill. We must recognise that the strength of feeling within the House on these issues is such that the position of MPs is almost certain to be raised during the Bill's passage, irrespective of scope. If we do proceed with action to remedy the specific and pressing problem of paid leave for councillors, it is essential for handling purposes that Ministers are able to state in the House our collective view on the Act as it affects MPs, and when we intend to remedy the underlying problems within the Act. Thus, I would ask that you or Derry be in a position to update LP on where we stand with the wider issues when we meet on 18 November to consider the Bill.

I am copying this letter to the Prime Minister, members of LP, DA and GL Committees, Sir Andrew Turnbull and First Parliamentary Counsel.

Yours sincerely

ROBIN COOK (Approved by the Leader and signed in his absence)

The Rt Hon Nick Raynsford MP
Minister for Local Government and the Regions
Office of the Deputy Prime Minister

R 31/10

Minister without Portfolio and Party Chair

CABINET OFFICE

House of Commons ▪ London SW1A 0AA
TELEPHONE: 020 7219 0945 ▪ FAX: 020 7219 0526 E-MAIL:PSjreid@cabinet-office.x.gsi.gov.uk

29 October 2002

Am cc RH
cc CS
JJH
AT
SW

Rt Hon John Prescott MP
Deputy Prime Minister
Dover House
Whitehall
London SW1A 2AU

Dear John,

COMBINING LOCAL, GLA AND EUROPEAN ELECTIONS

I have seen a copy of Nick Raynsford and Yvette Cooper's helpful letter to Charles Clarke of 23 October, which addresses the concerns that he had about proposals to consult on pioneering weekend voting.

I understand that the relevant terms of the current draft consultation paper now meet these concerns that I am therefore happy to agree fully to Nick and Yvette's approach.

I am copying this to the Prime Minister, GL, DA, EP and LP colleagues, Gus Macdonald and Sir Andrew Turnbull.

Yours ever,

THE RT HON JOHN REID MP

Wales Office | Swyddfa Cymru

Office of the Secretary of State for Wales
Gwydyr House
Whitehall
London SW1A 2ER

Swyddfa Ysgrifennydd Gwladol Cymru
Tŷ Gwydir
Whitehall
Llundain SW1A 2ER

Ysgrifennydd Gwladol Cymru
Secretary of State for Wales

Rt Hon Paul Murphy MP

Tel: 020 7270 0549
Ffon: 020 7270 0549

Fax: 020 7270 0568
Ffacs: 020 7270 0568

Amcg
ccs

18 October 2002

Dear Nick,

POLITICAL PARTIES, ELECTIONS AND REFERENDUMS ACT 2000: PAID TIME OFF FOR COUNCILLORS

You wrote on 9 October seeking agreement to legislating retrospectively to ensure that paid time off for local council duties is not treated as a political donation from the councillor's employer.

I wholly agree with your conclusion that it is clearly wrong, in policy terms, for the value of such time to be treated in this way. And the arbitrary way in which it applies to individual councillors, according to the status of their employer, is clearly in conflict with our commitment to widen the range of people willing to put themselves forward for elected office.

You have, of course, sought Peter Goldsmith's legal advice but, subject to this being in line with that of Counsel, I agree with your proposal to make provision to restore our long-standing policy position in the forthcoming Local Government Bill.

Copies of this letter go to the Prime Minister, members of GL and LP, Peter Goldsmith and Sir Andrew Turnbull.

Yours ever,
Paul

The Rt Hon Nick Raynsford MP
Minister of State for Local Government and the Regions
26 Whitehall
London
SW1A 2WH

The Rt Hon Patricia Hewitt MP
Secretary of State for Trade and Industry

CS
cc: AM

The Rt Hon John Prescott MP
Deputy Prime Minister
Office of the Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

Secretary of State
Department of
Trade and Industry

1 Victoria Street
London SW1H 0ET

Direct Line
020 7215 6272

DTI Enquiries
020 7215 5000

URL http://www.dti.gov.uk.
e-mail mpst.hewitt@dti.gsi.gov.uk

24 October 2002

Dear John,

POLITICAL PARTIES, ELECTIONS AND REFERENDUMS ACT 2000:
PAID TIME OFF FOR LOCAL COUNCILLORS

I have seen Nick Raynsford's letter to you of 9 October seeking agreement to an early announcement and legislation in respect of the treatment of paid time off for local councillors as a political donation. I agree with him that there is a need for urgent action on this issue, and support his proposals.

Nick makes the point in his letter that treating paid time off for local councillors as a political donation is contrary to our long-standing policy intentions, not least in the disincentive it gives for people to stand as councillors. It is also a matter of concern to British businesses, which, in the light of the Electoral Commission's advice, have had to report such paid time off to the Commission under Schedule 7 to the Political Parties, Elections and Referendums Act (PPERA). This is both onerous for businesses to administer and intrusive as far as employees are concerned, since it makes public at a detailed level their individual remuneration. My department has received many representations from businesses on this issue and I believe we should amend the law as quickly as possible to remedy this unintended consequence of the PPERA.

Nick refers in his letter to the amendments under the PPERA to the Companies Act 1985. The Companies Act provisions are, for the most part, unrelated to the requirements under Schedule 7 to the PPERA, and I do not take the view that companies are required to treat paid time off for local

councillors as a political donation for the purpose of the Companies Act requirements relating to prior shareholder authorisation or disclosure within the directors' report. There is, however, understandable confusion on this point, and I intend to clarify the position in the forthcoming Companies Bill. I would be grateful in the meantime if ODPM and LCD officials could liaise with mine over the wording of any public announcements, and, in particular, of any announcement to Parliament by written parliamentary answer.

I am copying this letter to the Prime Minister, members of GL and LP, Peter Goldsmith and Sir Andrew Turnbull.

Best wishes,

Patricia

PATRICIA HEWITT

The Rt Hon Nick Raynsford MP
Minister of State for Local Government and the Regions

Yvette Cooper MP
Parliamentary Secretary
Lord Chancellor's Department

The Rt Hon Charles Clarke MP
Minister without Portfolio
House of Commons
LONDON
SW1A 0AA

Amy
cc: SW
MR
RL
FC

23 OCT 2002

Dear Charles

COMBINING LOCAL, GLA AND EUROPEAN ELECTIONS

We have seen a copy of your letter to John Prescott of 7 October, about the proposal to consult on moving the English local and GLA elections in 2004 so that they take place at the same time as the next elections to the European Parliament.

You suggest that we should consult on the possibility of pioneering weekend voting. We agree with this, and indicated this in our letter of 25 September to colleagues. We have now agreed the terms of a consultation paper, which invites views on weekend voting, as well as on the other issues arising from combining these elections.

We discussed at our meeting on 23 September the position the Government should take with regard to whether the 2004 poll should be on a Thursday or should take place at the following weekend. We have discussed this further, and are clear that the consultation document should present in a neutral way the arguments for and against weekend voting and invite views. However we also believe, as we agreed with you at our meeting, that the document should indicate that at this stage the Government is minded to hold the election in 2004 on the Thursday. The draft we propose does not close off the option of weekend voting in 2004, but given the constraints that in practice we face we believe that it is sensible to be transparent about our current preference.

You also ask whether the additional costs of holding the elections over two days might not be substantially offset by combining the elections. We propose that along side the consultation we should do further detailed analysis of the costs and benefits of weekend voting. Initial estimates by the LCD and ODPM officials have put the net effect of holding both elections together over a two day weekend to increase costs by around £50 million. However we ought to do further assessments and also cost voting on a single day at the

weekend. It is worth noting that neither ODPM, LCD (or indeed the Treasury) have made budgetary provision for the additional costs of weekend elections in 2004 expenditure. The Treasury have said that they are concerned that we should not make a commitment to weekend voting for the 2004 elections. The current draft achieves this.

We note your views on all-postal voting, and we will continue to work with LCD colleagues on the fraud and human rights issues. We agree postal voting in Scotland would be an interesting idea. This is something Helen Liddell may wish to consider with the Scottish Executive, which is responsible for local elections under the devolved arrangements.

We are copying this to the Prime Minister, GL, DA, EP and LP colleagues, Gus Macdonald and Sir Andrew Turnbull.

pp. [signature]

NICK RAYNSFORD

APPROVED BY THE MINISTER AND SIGNED IN HIS ABSENCE

[signature]

YVETTE COOPER

HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

The Rt. Hon. Nick Raynsford MP
Minister of State
Office of the Deputy Prime Minister
26 Whitehall
London SW1A 2WH

22 October 2002

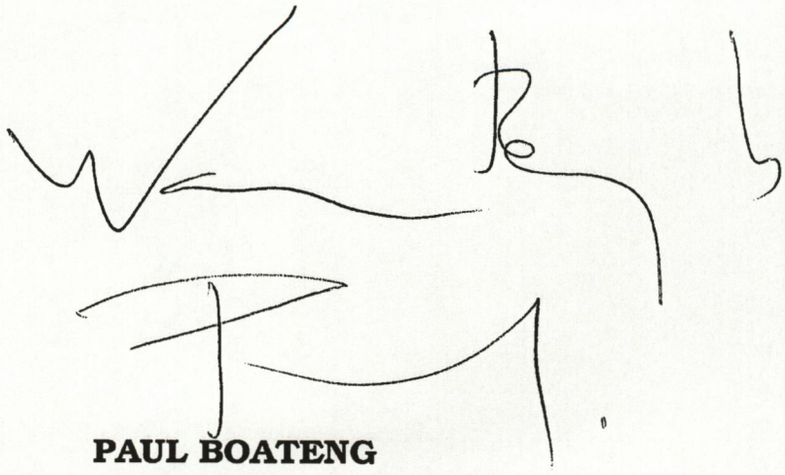
Dear Nick,

POLITICAL PARTIES, ELECTIONS AND REFERENDUMS ACT 2000: PAID TIME OFF FOR COUNCILLORS

Thank you for your letter of 9 October to John Prescott.

2. The Electoral Commission's publication of Counsel's opinion on paid time off for councillors clearly causes uncertainty for both standing and prospective councillors and damages our participation agenda. I agree that we should address this issue at the earliest opportunity and, subject to Peter's advice on the legal position, support the proposal to place our position on record and announce the intention to introduce retrospective legislation in the Local Government Bill.

3. I am copying this letter to the Prime Minister, members of GL and LP, Peter Goldsmith and Sir Andrew Turnbull.



PAUL BOATENG

RT HON ROBIN COOK MP
LEADER OF THE HOUSE OF COMMONS
2 CARLTON GARDENS
LONDON SWIY 5AA
TEL: 020 7210 1025

CS

cc. Mtx.

Our Ref: 0015038

22 OCT 2002

Dear John,

I have seen Nick Raynsford's letter of 9 October, and I am writing to say that I consider it necessary to take a broader approach to the problems caused by the Political Parties, Elections and Referendums Act than the one proposed.

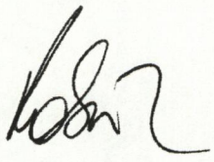
I have every sympathy with the difficulties the current system poses for councillors, but the problems with the Act are wider than those alone. The central problem is that PPERA turns out not to have made a sufficiently watertight distinction between the receipt of funds for political purposes (e.g. election campaigns) and the receipt of assistance for elected representatives to carry out their official functions. It is this central problem that needs to be addressed, rather than one single consequence of the problem.

It may be helpful to rehearse the background to the particular case. The Electoral Commission received many representations, including from Mr Speaker, against their interpretation that PPERA required any support to elected representatives to be registered as a political donation. This appeared at its most eccentric in their claim that BAA car park passes should be declared by MPs as a political donation. It was the Electoral Commission that chose to make paid leave for councillors the test case on which they sought counsel opinion, and at the time they advised us that this offered the best prospect of securing an alternative interpretation. In the event they got an unwelcome opinion which left us all worse off.

There is very strong feeling from the House on the perversity of the interpretation of the Act by the Electoral Commission as it affects MPs. I could not advise that we therefore proceed only to address the problem, as it affects councillors. There would in any event certainly be an amendment on the position of MPs and given the view of Mr Speaker, such an amendment would have a high probability of being accepted. Some Members may even oppose the relief of the problem for councillors on the grounds that it will reduce pressure for action on the problem as it affects MPs.

I therefore would support a wider approach which resolves the underlying problem.

Yours sincerely



ROBIN COOK

Rt Hon John Prescott MP
Deputy Prime Minister

HLi

SCOTLAND OFFICE
Parliamentary Under Secretary of State
Dover House
Whitehall
London SW1A 2AU

Telephone: 020 7270 6806/6741
Fax: 020 7270 6703
www.scottishsecretary.gov.uk

AN OIFIS ALBANNACH
Fo-rùnaire Stàite na Pàrlamaid
Taigh Dhòbhair
Whitehall
Lunnainn SW1A 2AU

CS
cc: ATC

The Rt Hon John Prescott MP
Deputy Prime Minister
Office of the Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

18 October 2002

Dear John,

POLITICAL PARTIES, ELECTIONS AND REFERENDUMS ACT 2000: PAID TIME OFF FOR COUNCILLORS

Nick Raynsford copied to Helen Liddell his letter to you of 9 October. He is seeking agreement to his proposal to bring forward legislation to amend Schedule 7 to the Political Parties, Elections and Referendums Act 2000 (PPERA) regarding paid time off for councillors. As Helen Liddell is out of the country, I am responding to this.

I am content to agree to Nick's proposals in relation to early announcement of his intention to legislate.

As the proposed Local Government Bill will not extend to Scotland, however, steps will need to be taken to ensure that the provisions related specifically to amending the PPERA for the purposes outlined in Nick's letter do extend to Scotland. Should legal advice be that this could be achieved within the Local Government Bill, then I am content that this be used as the legislative vehicle to rectify the current provisions related to paid time off for councillors.

It would be helpful if Scotland Office Officials could be kept informed of progress on this issue, particularly in relation to consideration of the draft legislation in respect of Scottish interests.

Copies of this letter go to the Prime Minister, members of GL and LP, Peter Goldsmith and Sir Andrew Turnbull.

Sincerely

ANNE McGUIRE

Recyded

Wales Office | Swyddfa Cymru

Office of the Secretary of State for Wales
Gwydyr House
Whitehall
London SW1A 2ER

Swyddfa Ysgrifennydd Gwladol Cymru
Tŷ Gwydir
Whitehall
Llundain SW1A 2ER

Ysgrifennydd Gwladol Cymru
Secretary of State for Wales

Rt Hon Paul Murphy MP

Tel: 020 7270 0549
Ffon: 020 7270 0549

Fax: 020 7270 0568
Ffacs: 020 7270 0568

AMc

e: SW
MR
CS

Our ref: PO/337

17 October 2002

Dear John,

Nick Raynsford and Yvette Cooper wrote to colleagues on 25 September about a proposal to move the date of elections to English local authorities and the GLA in 2004 so that they take place at the same time as elections to the European Parliament – and to make provision in the Local Government Bill to achieve this, subject to the outcome of consultations.

While I fully recognise the arguments in favour of combining these elections, oversight of local government matters in Wales falls to the National Assembly. As you know, they have already exercised their power to move the next local elections from May 2003 to May 2004 and it is absolutely right that they should decide whether conditions in Wales make this further change appropriate.

Accordingly, I strongly endorse Nick and Yvette's proposal that the power to move the 2004 elections in Wales should be available to the Assembly to use as they wish. From conversations I had had with the Assembly, I know they will welcome this.

I am copying this letter to the Prime Minister, to Nick Raynsford and Yvette Cooper, GL, DA, EP and LP colleagues, Gus MacDonald and Sir Andrew Turnbull.

Yours ever,

Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London SW1A 2WH

Tel: 020 7270 3000
Fax: 020 7270 0568

Ffôn: 020 7270 3000
Ffacs: 020 7270 0568

NORTHERN IRELAND OFFICE
11 MILLBANK
LONDON
SW1P 4PN

SECRETARY OF STATE
FOR
NORTHERN IRELAND

The Rt Hon Nick Raynsford MP
Minister of State for Local Government
Office of the Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

16th October 2002

Dear Nick

POLITICAL PARTIES, ELECTIONS AND REFERENDUMS ACT 2000; PAID TIME OFF FOR COUNCILLORS

Thank you for your recent letter seeking agreement to seek retrospective legislation to clarify that the value of paid time off for councillors is not treated as a political donation.

I am content for you to proceed as proposed. It is important that the Government values and encourages employers to allow their staff who are councillors paid time off to attend council business. The fact that a number of anomalous circumstances could potentially arise risking a criminal prosecution makes the need for this to be dealt with even more important.

Copies of this letter go to the Prime Minister, members of GL and LP, Peter Goldsmith and Sir Richard Wilson.

Yours ever

JOHN REID

INVESTOR IN PEOPLE

AMc

cc. CS
NA
SW
MR
RL

HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

The Rt. Hon. Nick Raynsford MP
Minister of State
Office of the Deputy Prime Minister
26 Whitehall
London SW1A 2WH

Yvette Cooper MP
Parliamentary Secretary
Lord Chancellor's Department
Selborne House
54-60 Victoria Street
London SW1E 6QW

16 October 2002

Dear Nick,

COMBINING LOCAL, GLA AND EUROPEAN ELECTIONS 2004

Thank you for your joint letter with Yvette of 25 September.

2. I am generally content with your proposal to consult on moving the date of the English local and GLA elections in 2004 so that they take place at the same time as the next European Parliament elections. As well as simplifying the electoral cycle and seeking to address the problem of poor turnout, there are clearly cost benefits in adopting a combined approach as compared to undertaking the GLA and English local elections separately.

3. My only concern is that we should approach cautiously the issue of consultation on weekend or Sunday voting. As you make clear, such a measure poses many practical difficulties as well as significant additional costs for the Lord Chancellor's Department and local government compared to mid-week elections undertaken combined or separately. The current approach risks raising expectations of weekend or Sunday voting before the full costs and benefits of such proposals have been properly considered. I therefore propose that while the consultation paper should make clear that we are keen to seek views on the principle of such voting arrangements, it must avoid implying any commitment to their adoption in the context of the 2004 elections.

4. I am copying this letter to the Prime Minister, Yvette Cooper, GL, DA, EP and LP colleagues, Gus MacDonald and Sir Andrew Turnbull.

PAUL BOATENG

SCOTLAND OFFICE
Parliamentary Under Secretary of State
Dover House
Whitehall
London SW1A 2AU

Telephone: 020 7270 6806/6741
Fax: 020 7270 6703
www.scottishsecretary.gov.uk

AN OIFIS ALBANNACH
Fo-rùnaire Stàite na Pàrlamaid
Taigh Dhòbhair
Whitehall
Lunnainn SW1A 2AU

Rt Hon John Prescott MP
Deputy Prime Minister
Eland House
Bressenden Place
London
SW1E 5DU

14 October 2002

Dear John,

COMBINING LOCAL, GLA AND EUROPEAN ELECTIONS 2004

Nick Raynsford and Yvette Cooper copied to the Secretary of State for Scotland their letter to you of 25 September. They are seeking agreement to their proposal to move the date of English local and GLA elections in 2004 so that they can take place at the same time as the next elections to the European Parliament. As Helen Liddell is out of the country, I am responding to this.

I am content with the proposal to this change restricted to 2004 only.

The date of Scottish Parliament Elections is a reserved matter and Section 2 of the Scotland Act 1998 provides that ordinary general elections should be held on the first Thursday in May in the fourth calendar year following the previous ordinary general election. The Act also provides for the Presiding Officer to propose a day for holding the poll which is not more than one month earlier, nor more than one month later than the first Thursday in May. In addition, provision is also included for the Presiding Officer to propose a day for the holding of a poll where an Extraordinary general election is required. Although the next Scottish Parliament elections are due to be held on 1 May 2003 and will not, therefore be affected by the European elections, current provisions mean that they will coincide every twenty years. I am therefore also content with the approach being taken to ask The Electoral Commission to make recommendations about how best to avoid elections occurring within a few weeks of each other.

As you may know, the Scottish Executive has made provision in the Scottish Local Government (Elections) Act 2002 for local government elections in Scotland to be held every four years on the same day as the elections to the Scottish Parliament. Any decisions taken in terms of the timing of parliamentary elections will also therefore affect local government

Recycled

elections in Scotland, which, as you know, are a devolved matter. I am pleased therefore that contact is also to be made with the Scottish Executive on this issue.

Any consideration of combining elections to the Scottish Parliament, and therefore local government elections in Scotland, with European parliamentary elections would have a significant impact in Scotland as each of these elections has a different voting system. This carries the potential for significant challenges for electoral administrators and the electorate alike. I am sure that this issue is one which The Electoral Commission will consider as part of its review.

I am copying this letter to the Prime Minister, Nick Raynsford, Yvette Cooper, GL, DA, EP and LP colleagues, Gus MacDonald and Sir Andrew Turnbull.

Sincerely

Anne

ANNE McGUIRE

The Rt Hon Nick Raynsford MP
Minister of State for Local Government and the Regions

CS
JP. JMo
AA.

OFFICE OF THE DEPUTY PRIME MINISTER

26 Whitehall
London SW1A 2WH

Tel: 020 7944 3013
Fax: 020 7944 4539
E-Mail: nick.raynsford@odpm.gsi.gov.uk

Web site: www.odpm.gov.uk

The Rt Hon John Prescott MP
Deputy Prime Minister
Office of the Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

9 OCT 2002

Dear Deputy Prime Minister,

POLITICAL PARTIES, ELECTIONS AND REFERENDUMS ACT 2000; PAID TIME OFF FOR COUNCILLORS.

The Electoral Commission, following advice from Counsel, has now published advice on its web site stating that the value of paid time off for council business which employers often allow their employees who are councillors should be treated as a donation under the Political Parties, Elections and Referendums Act 2000 (PPERA). This is contrary to our long-standing policy intentions, and as the Commission itself accepts is unnecessary, has anomalous effects where say an employer is a foreign company, or a public body, and is undesirable, not least in the disincentive it gives for people to stand as councillors. This letter seeks your and colleagues' agreement by Tuesday 22 October to proposals for rectifying this problem. These involve an announcement of our intention to seek at the next opportunity retrospective legislation to restore our long-standing policy, and that we should legislate for this in the forthcoming session, in the Local Government Bill.

Schedule 7 of the PPERA, which came into force on 16 February 2001, provides for the control of donations for political purposes to individual members of a political party, groups composed of party members and holders of elective office. If such sums count as donations then the sum must be reported to the Electoral Commission and, if the donor is a company, the Companies Act provisions on political donations come in to play e.g. shareholder agreement is required to make such donations. Any such donations received from impermissible donors – for example foreign companies of public bodies – must be returned.

It has always been the Government's policy intention that these provisions do not apply to the receipt by a councillor of paid time off for carrying out his or her duty as a councillor. There are strong arguments in favour of this. First, the value of this paid time off is not in common sense terms a political donation, but rather a contribution the employer chooses to make to civic society, in a similar way to the granting of paid time off for employees to serve as magistrates or school governors. Secondly, employers giving paid time off for council business means that people are able to serve as councillors who might otherwise be unable to do so. Rather than seeking to inhibit or discourage employers from giving such paid time off, our policy has been to encourage it, helping to open up council membership to a wider, more representative range of citizens. Thirdly, were the value of such paid time off to be a donation under the 2000 Act, a number of wholly anomalous circumstances would arise, including for example, a councillor whose employer is a foreign or public body having to refund to the employer the value of that time off or else risk a criminal prosecution.

The Electoral Commission accepts this analysis and is entirely content as a matter of policy that paid time off for councillors should not be a donation within the 2000 Act controls. However, they are strongly of the view that the Act, as it stands, requires such payments to be treated as controlled donations, however undesirable that may be as a policy, and that a contrary interpretation – given the drafting of the Act would undermine the controls on a much wider front. Given the damaging effect that such a conclusion could have on companies' willingness to grant time off to their employers for these important civic duties, we joined with the Electoral Commission to seek Counsel's opinion on the interpretation of the statute. He concluded that the controls of Schedule 7 do apply in this case and that the Government's policy intention could only be achieved by amending the legislation to exclude paid time off from the definition of a donation and to retrospectively authorise the retention and non-registration of any donations received before the amendments come into force.

We are clear that our long-standing policy that paid time off for councillors should not count as a political donation is right if we are not to discourage people from putting themselves forward as candidates. If indeed the PPERA has the opposite effect, and I would welcome Peter Goldsmith's views on this, I am clear that we must take steps as soon as practicable to remedy the position. The legislative remedy suggested by Counsel would seem to be a candidate for the local government bill or perhaps some other legislative vehicle. I would be grateful for Peter's view on this too.

But a further issue is that the Electoral Commission have placed guidance on their website setting out Counsel's opinion and explaining how the Commission will handle past and future donations which fall into this category. Whilst we, of course, recognise and respect the independence of the Electoral Commission who have a statutory role in relation to the registration of donations, "going public" in this way now makes it imperative that the Government should place its position on record. Subject to Peter's advice on the legal position, I therefore propose to announce as soon as practicable, by a written parliamentary answer, that the government continues to value and wants to encourage all employers to grant paid time off for council business for those of their employees who are councillors, and that we intend at the next opportunity to legislate with retrospective effect to clarify that the value of such time off is not a donation under the PPERA.

Given in particular that there remains a risk of criminal prosecution being sought against councillors receiving paid time off from employers who are impermissible donors under the PPERA until we legislate, we need to progress this expeditiously. There are other concerns about schedule 7 to the PPERA about donations to MP's which we are considering in particular with Robin Cook, and about which the Speaker has written to me. These are now matters for Derry Irvine. If we were to conclude that these needed to be addressed through legislation, this could be a vehicle for legislating for paid time off for councillors. However, these issues are far less clear cut than the paid time off questions, any solution of them less developed, and if we were to go down the approach seemingly favoured by the Speaker we have a strong indication from the Commission that they would publicly oppose this as undesirably weakening the regime for transparency provided by the PPERA. Accordingly, I believe the right course is now to legislate separately on paid time off – which would command wide support including from the Electoral Commission – and to do this in the Local Government Bill.

I should be grateful for your and colleagues' views on these proposals, and particularly for your agreement, subject to Peter's legal advice, to the proposed early announcement and proposed legislation.

Copies of this letter go to the Prime Minister, members of GL and LP, Peter Goldsmith and Sir Richard Wilson.

Yours sincerely,

pp **NICK RAYNSFORD**

Approved by the Minister
and signed in his absence