

Academics and experts make the case for modernising Britain's antiquated election rules

The House of Commons' Public Administration and Constitutional Affairs committee has been gathering evidence on the rules governing the UK's elections. Michela Palese from the Electoral Reform Society summarises key areas in need of reform.



Voters, Holborn, London, 5 July 1945. Picture: Imperial War Museum/IWM [Non-Commercial licence/Ministry of Information Photo Division Photographer \[Public domain\]](#).

The core elements of the UK's electoral laws date back to Victorian times. Yet despite all the changes we've seen in society, legislation has failed to keep up with societal and cultural changes, and developments in digital technology. Current electoral legislation is not fit for purpose.

The most recent consolidation of electoral law – the 1983 Representation of the People Act – was almost 40 years ago, and it still retained much of the 19th-century legislation. The legal framework underpinning our electoral processes is '[complex, voluminous and fragmented](#)' according to the Law Commission, comprising 55 separate Acts of Parliament and 227 other pieces of legislation relating to elections, which have been retro-fitted onto rules from earlier centuries. Simplifying, updating and consolidating electoral law is therefore long overdue.

In March 2019, the House of Commons' Public Administration and Constitutional Affairs Committee (PACAC) launched an [inquiry](#) examining the case for comprehensive electoral law reform (voting systems, electoral boundaries and certain other issues were not included in the inquiry).

This followed a review by the Law Commission, whose 2016 [interim report](#) made a series of recommendations calling for electoral law to be updated, simplified and consolidated, including extending the imprints required for printed election literature to identify who has published them to online election material – something [the Electoral Reform Society has also strongly backed](#). The government is yet to implement the Law Commission's recommendations (citing a lack of time) and has instead proposed a series of piecemeal reforms to address some of the issues highlighted by the Commission.

Multiple experts and organisations – including the [Electoral Reform Society](#), Electoral Commission, Democracy Club and the Association of Electoral Administrators – have submitted evidence to the inquiry, highlighting the urgency of dealing with our 19th-century electoral law.

Here are some of the main findings from the evidence:

1. Our electoral laws should be updated with a view to the overall functioning of democracy, not simply with an eye to the next contest

Many of those who submitted evidence highlighted the fact that piecemeal reform increases perceptions of bias in election law-making, and argued that reform should be based on cross-party scrutiny and agreement. Government plans to impose mandatory voter ID – despite a lack of evidence of its need – raise concerns on this front, as academics [Stuart Wilks-Heeg and Maria Sobolewska](#) noted.

2. Developments in online campaigning need to be taken into account

Increased use of social media platforms and online channels for political campaigning has complicated the campaigning landscape and therefore makes updating electoral law more urgent. Concerns about the integrity of our elections and referendums have been increasingly prominent in public, particularly in relation to online campaigning and foreign donations.

3. The distinction between national and local campaigns has been blurred

Online campaigning has made it more difficult to distinguish between national and local campaign spending, which are treated as separate in spending limits. Though donations and spending at the national level are outside the scope of this current inquiry, they do need to be addressed. As [Justin Fisher](#) of Brunel University said: 'The lack of distinction between national and constituency-level campaign expenditure has been a potential problem since the 1950s.' Digital campaigning has exacerbated this problem – under current rules, money can be spent on local online advertising in key constituencies, while ascribing the spend to the national campaign.

4. Voter ID is the wrong priority

In the evidence the [Electoral Reform Society submitted](#), we highlighted that there is no evidence that personation is a widespread problem and that it does not appear to affect voter confidence compared to wider issues – such as large financial donations in election campaigns.

Many of those who provided evidence also agreed. Again, Wilks-Heeg and Sobolewska argued that the 'current government's focus on voter ID as virtually the sole priority for electoral law reform is very difficult to justify given that personation at polling stations is clearly not the key contemporary challenge to the integrity of UK elections... Available evidence suggests that electoral fraud is rare.'

Solace – the organisation representing public sector chief executives and leaders – [stated that](#) 'the wholesale implementation of voter ID is not necessary and that there is a greater risk of fraud in the absent voting process than during in-person voting.'

5. Support for digital imprints on election material is near universal

In addition to the ERS, a variety of stakeholders mentioned the need for transparency when it comes to online political advertising – from the Quakers to Solace. As [reported previously](#), the government's commitment to extend imprints to online material is welcome, but the rules will need to be well enforced and carefully designed to close the dangerous loopholes that currently exist.

6. Voter registration is in need of modernisation

Democratic exclusion is 'a more pressing issue for our democracy than the negligible rates of personation [fraud]', as [Heather Green](#) of the University of Aberdeen put it. Automatic voter registration – so voters no longer need to 'opt in' to their democratic right – would be a much-needed modernisation.

[Toby James](#) of the University of East Anglia agreed, and backed a series of potential reforms to lower, rather than raise, barriers to participation, including automatic registration for under-registered groups, trials to allow people to register on election day, and the creation of a website where people can check if they are already registered to vote.

7. Intimidation of candidates and others in public life should be tackled appropriately

Proposals to deal with intimidatory behaviour towards candidates and campaigners are welcome, but other important measures could be taken to tackle the abuse of those in public life, such as parties establishing a joint code of conduct and stronger processes for reporting and tackling abuse and harassment.

It is essential that we have robust, clear and coherent electoral laws that are understood by all those participating in our elections, and that the rules can be upheld and not exploited.

Both PACAC's inquiry and the Law Commission's interim report indicate that some of these issues are being seriously considered by a variety of actors. But there is more to be done to update our Victorian electoral laws – now's the time for politicians to act.

This post represents the views of the author and not those of Democratic Audit.

About the author

Michela Palese is a Research and Policy Officer at the Electoral Reform Society.

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