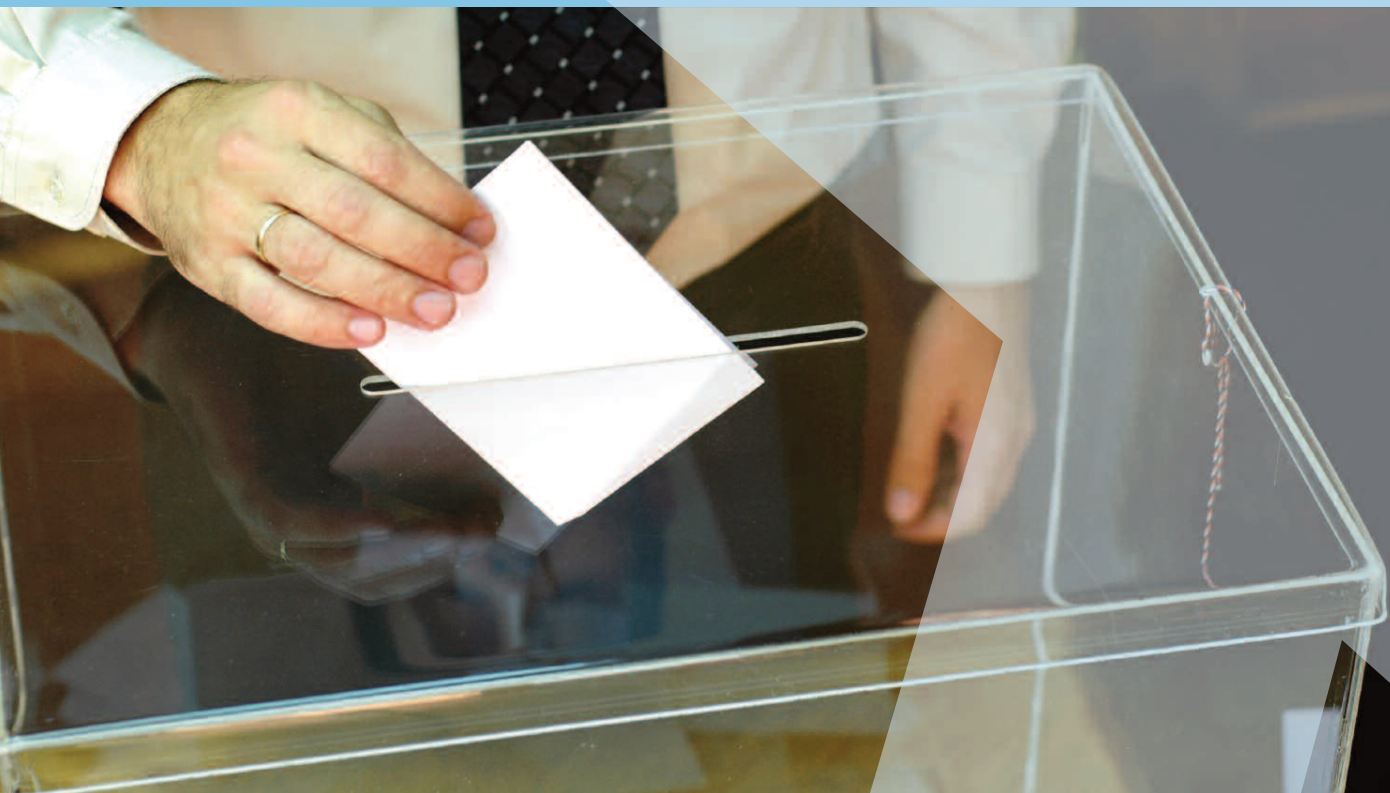


# Purity of Elections in the UK

## Causes for Concern



**A report commissioned by  
The Joseph Rowntree Reform Trust Ltd.**

**Stuart Wilks-Heeg  
University of Liverpool**

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# Foreword

“...and by all lawful means to promote or endeavour to secure purity of election for Parliament, and for all municipal and other public bodies in the United Kingdom, and by all lawful means to influence public opinion in favour of all such legislative or social reforms as shall to the Company appear desirable.”

This was one of the objectives Joseph Rowntree set for himself, his fellow directors and successors in the founding document of the Joseph Rowntree Reform Trust Ltd in 1904. Whilst Appendix B illustrates the nature of the concerns that Joseph may have had at the turn of the twentieth century, Stuart Wilks-Heeg has amply demonstrated in this report that whilst the issues of concern may have changed, Directors were right to return to this subject in the twenty-first century.

Stuart covers the territory well. The impurities he considers include:

- The 2007 ‘election that never was’ – would it have been possible to have conducted it properly?
- Are the electoral registers complete and accurate?
- Is the postal vote safe?
- Does electoral ‘modernisation’ increase turnout – or is it just unreliable and expensive?
- What is the influence of *Biraderi* on voting behaviour?
- Can seats be easily bought?

This is a serious list and it adds to the present discomfiture in British politics today. Frustratingly the answers to many of the problems highlighted in this report are known and are to be found in the electoral arrangements in Northern Ireland, a clear case of ‘what works’, as set out in the conclusion to the report. We would also comment that the need for parties to focus their financial resources on a few voters in a few marginal seats could be solved by the introduction of proportional representation.....but that is another story!

The most recent convictions for electoral fraud, whereby a Slough councillor and his agents were found guilty of corrupt and illegal practices in relation to applications for registering to vote and postal voting, were reported in the media as this report was being prepared for publication, proving the need for urgent reform of electoral administrative processes and the timeliness of our report. The election commissioner, Richard Mawrey QC, has stated that postal voting on demand is “lethal to the democratic process”. He concluded in his judgment on the case: “There is no reason to suppose this is an isolated incident. Roll stuffing is childishly simple to commit and very difficult to detect. To ignore the probability that it is widespread, particularly in local elections, is a policy that even an ostrich would despise.”

We hope that this report will assist the process of encouraging the government to lift its head from the sand. We can only agree with Sir Christopher Kelly, Chair of the Committee on Standards in Public Life, who, in commenting on this case, has stated: “This latest example of electoral fraud in Slough at last year’s local government elections highlights the need for fundamental changes to our electoral system.... Electoral fraud is not a trivial matter. It is an affront to the democratic principle of one-person one vote. Left unchecked it will eventually undermine trust and confidence in the democratic process and by implication the electorate’s consent to the outcome of elections.”

**David Shutt**

Chair of the Joseph Rowntree Reform Trust Ltd.

March 2008

## About the authors

### Stuart Wilks-Heeg

Stuart Wilks-Heeg is Lecturer in Social Policy at the University of Liverpool. He was educated at the London School of Economics and the Universities of Copenhagen, Rotterdam and Liverpool. Stuart has previously published widely on the subject of local politics and local government, including *Local Government from Thatcher to Blair: The Politics of Creative Autonomy* (Polity Press, 2000 – with Hugh Atkinson). In 2006, Stuart published *Whose Town is it Anyway? The State of Local Democracy in Two Northern Towns* (with Steve Clayton), reporting on the findings of a major, two year study of local democracy in Burnley and Harrogate, funded by the Joseph Rowntree Charitable Trust. In addition to electoral studies, Stuart's current research also includes work on comparative approaches to social inclusion and the politics of urban regeneration in Liverpool and Manchester.

### David Shutt

David Shutt, Chair of the Trust from 2007 and Vice-Chair from 1989 to 2005, is also a Trustee of the Joseph Rowntree Charitable Trust and Chair of their Power and Responsibility Committee. David is a chartered accountant based in Halifax and a Quaker. A former Mayor of Calderdale, with long experience as a Liberal Democrat Councillor, he has been a parliamentary candidate in every election between 1970 and 1992. He was founder and Chair of Calderdale Community Foundation and has represented JRRT on the boards of companies in which it has invested. He was appointed a life peer in 2000 and made Liberal Democrat Chief Whip in the House of Lords in 2005.

## About the Joseph Rowntree Reform Trust Ltd.

The Joseph Rowntree Reform Trust Limited, founded in 1904 by the Liberal, Quaker philanthropist, Joseph Rowntree, was set up as a company which pays tax on its income and is therefore free to give grants for political and campaigning purposes, to promote democratic reform and constitutional change. It does so by funding campaigning organisations and individuals who have reform as their objective, and since it remains one of the very few sources of funds of any significance in the UK which can do this, it reserves its support for those projects which are ineligible for charitable funding. The Trust aims to correct imbalances of power, strengthening the hand of individuals, groups and organisations who are striving for reform. It rarely funds projects outside the UK, directing most of its resources towards campaigning activity in this country.

## Acknowledgement

This publication is part-funded by a legacy from Dr Henry Drucker, who lectured in Politics at Edinburgh University from 1967–86. Fascinated by electoral politics, he taught courses on political parties; wrote *Doctrine and Ethos in the Labour Party* (1979); was BBC Scotland's election night pundit; and took students to fiercely contested by-elections in the early 1980s when the Social Democratic Party burst on the scene. In 1987, he left Edinburgh to direct the £340m Campaign for Oxford. Later, in 1996, he briefly advised the Labour Party on fund-raising. As a result, he became an unswerving and public advocate of measures to reduce the expense of elections and increase the transparency of donations. Dr Drucker died in 2002.

# Preface

During the past decade, views on electoral procedures in the UK have moved from a broad consensus in favour of ‘modernising’ reforms to a highly polarised debate centred on competing claims about the extent of electoral malpractice and the degree to which ballot secrecy and security are being compromised. The extension of postal voting has come under particular scrutiny for its potential vulnerability to electoral fraud, while pilots of electronic voting and counting have also encountered numerous technical problems and raised concerns about the security of the vote. Over the same time period, new regulations establishing transparent procedures for the declaration of donations to political parties and introducing limits on expenditure during election campaigns have evidently failed to settle disputes about the possible role of financial resources in determining electoral outcomes. Indeed, it is no exaggeration to say that current controversies about the integrity of elections in the UK are without precedent in recent British political history.

There is no sense in which any of these controversies are abating. During the last quarter of 2007 alone: the Gould report on the Scottish elections of May 2007 was published, reaching the conclusion that “the voter was treated as an afterthought”; court hearings into allegations of electoral malpractice commenced in Birmingham, Peterborough and Bradford; inter-party talks on the reform of party finance were convened and subsequently broke down; and a fresh row broke out surrounding possible Labour Party transgressions of the law on donations to political parties. In December 2007, the Electoral Commission called for “an open and wide-ranging debate about the most appropriate effective structure for the delivery of elections across the UK”. The case for such a review was further underlined shortly after the turn of the New Year. On 22 January 2008, a Council of Europe report was published, expressing serious concerns about the lack of safeguards against fraud within British electoral law.

In light of such concerns, this report was commissioned by the Joseph Rowntree Reform Trust to review the extent to which there is evidence of electoral principles and processes being undermined in the UK. The research on which the report is based principally comprised a review of existing documentary sources in the public domain, drawn from a broad range of governmental, legal, academic and journalistic sources. I was assisted in this task by two PhD students at the University of Liverpool, Stephen Ackers and James Milton, and I have been grateful throughout for their dedication and attention to detail. The documentary review was augmented with a set of ten interviews with key national figures involved in electoral law and administration, including senior representatives from the Electoral Commission, the Electoral Office for Northern Ireland, the Association of Electoral Administrators, the Society of Local Authority Chief Executives and the Association of Chief Police Officers. I wish to convey my thanks to all those who made themselves available for interview, and also to Mark Ross, David Shutt and Tina Walker of the Joseph Rowntree Reform Trust for their comments on two drafts of this report. It goes without saying that all of the views expressed in this report are my own.

The research for this report has been underpinned by a rigorous commitment to construct an evidence-based analysis of UK electoral processes. Every effort has been made to cross-reference sources and to verify the accuracy of all available data, in line with the highest standards of independent scholarship. At the same time, it has been my intention throughout to present



my findings in as accessible a manner as possible. To the non-specialist, debates about electoral processes may well appear to be essentially bureaucratic and legalistic, and there is a sense in which they must be both of those things. However, there is much more at stake here than the technicalities of administrative or legal practice. When experienced international election observers conclude that voters have been treated “as an afterthought”, or that elections “are very vulnerable to electoral fraud”, it is clear that ensuring the integrity of our electoral process should be a matter of great, and immediate, public concern.

On the day before this report was due to go to press, the judgment of Richard Mawrey QC, acting as the Electoral Commissioner for the Slough Election Court, was issued. The judgment not only emphasises that the reforms introduced by the Electoral Administration Act 2006 have proved deficient in combating electoral fraud, but also that the rationale for postal voting as a means of boosting turnout is likely to be fundamentally flawed. As the judge argued in the executive summary of the judgment: “What makes it so sad is that the whole concept of postal voting on demand is based on a demonstrably false premise. Ease of voting has really nothing to do with it (...) It's not *how* you vote that brings out the voters. It's the choices you are given”.

**Stuart Wilks-Heeg**

Liverpool

March 2008



# Purity of Elections in the UK

## Executive Summary

### Key Findings

- Experienced election observers have raised serious concerns about how well UK election procedures measure up to international standards.
- There have been at least 42 convictions for electoral fraud in the UK in the period 2000–2007.
- Greater use of postal voting has made UK elections far more vulnerable to fraud and resulted in several instances of large-scale fraud.
- There is widespread, and justifiable, concern about both the comprehensiveness and the accuracy of the UK's electoral registers – the poor state of the registers potentially compromises the integrity of the ballot.
- There is a genuine risk of electoral integrity being threatened by previously robust systems of electoral administration having reached 'breaking point' as a result of pressures imposed in recent years.
- Public confidence in the electoral process in the UK was the lowest in Western Europe in 1997, and has almost certainly declined further as a result of the extension of postal voting.
- The benefits of postal and electronic voting have been exaggerated, particularly in relation to claims about increased turnout and social inclusion.
- There is substantial evidence to suggest that money can have a powerful impact on the outcome of general elections, particularly where targeted at marginal constituencies over sustained periods of time.
- Outside of ministerial circles, there is a widespread view that a fundamental overhaul of UK electoral law, administration and policy is urgently required.

## Free and fair elections?

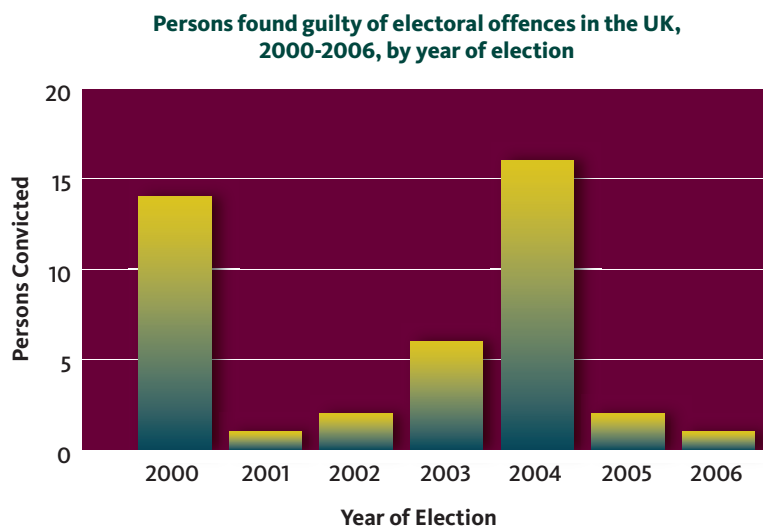
Current controversies about the integrity of elections in the UK are without precedent in recent British political history. During the past decade, views on electoral procedures in the UK have moved from a broad consensus in favour of ‘modernising’ reforms to a highly polarised debate centred on competing claims about the extent of electoral malpractice and the degree to which ballot secrecy and security are being compromised.

“The United Kingdom delivers democratic elections despite the vulnerabilities in its electoral system. These vulnerabilities could easily affect the overall democratic nature of future elections in Great Britain.” Council of Europe (2008)

The government’s perspective, summarised in the recent ‘Governance of Britain’ Green Paper, is that it “has extended the use of postal voting with appropriate safeguards”, as part of wider efforts “to make voting more convenient”. This governmental insistence that appropriate safeguards are in place has created a growing impasse in its relationship with the Electoral Commission, which has repeatedly called for more stringent measures to enhance ballot security. Meanwhile, other reviews of UK electoral processes have raised serious concerns about how well UK election procedures measure up to international standards. These reviews include the Gould report on the 2007 Scottish elections, which suggested that voters had been treated “as an afterthought”, and a Council of Europe monitoring report which concluded that British elections “are very vulnerable to electoral fraud”.

## Patterns of electoral malpractice

An estimated 42 convictions for electoral offences were made from 2000–2007. It is unlikely that there has been a significant increase in electoral malpractice since the introduction of postal voting on demand in 2000; available figures suggest that 32 convictions were made from 1994–99. In both periods, the offences arose almost exclusively from local elections, and related to a tiny proportion of all elections contested. However, cases tried since 2000 underline that the extension of postal voting has clearly enhanced the vulnerability of UK elections to large-scale fraud. The likelihood of such fraud occurring could – and should – have been predicted on the basis of evidence of growing proxy vote fraud during the 1990s. Moreover, the potential for the political



control of a major city council or the outcome of a contest for parliamentary constituency to be determined by 'stolen votes' has been clearly demonstrated by recent fraud cases, most notably the offences considered by the Birmingham election court in 2005.

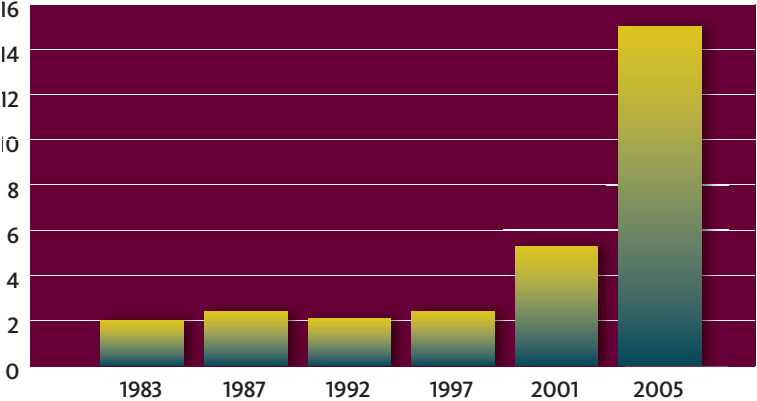
Concerns about potential electoral malpractice are not restricted to metropolitan areas. Since 2000, accusations of electoral malpractice have been investigated by every police force in England, with the exception of the City of London police. Convictions for electoral fraud, which represent a small proportion of the cases reported to police forces, have been brought against representatives of all three major parties, as well as minor parties such as the British National Party. While the majority of prosecutions for electoral offences concern white males, several cases have involved proven instances of large-scale vote-rigging within British Pakistani and Bangladeshi communities. There is some anecdotal evidence to suggest that practices associated with traditional forms of Pakistani 'clan politics' have been a common factor in a significant minority of recent prosecutions for electoral fraud.

There is no evidence to date suggesting that electoral malpractice has occurred as a result of pilots of various forms of electronic voting. However, serious questions about the security of electronic voting from organised fraud remain unanswered. Meanwhile, pilots of electronic counting have revealed multiple instances of votes being counted incorrectly.

### The legacies of electoral modernisation

Current concerns about electoral integrity stem directly from reforms intended to modernise the electoral process, provide voters with greater convenience and choice, and increase turnout. Since 2000, these objectives have primarily been promoted through the availability of postal-voting on demand and pilots of all-postal voting and various forms of electronic voting.

Percentage of votes cast by post at UK general elections, 1983–2005



Evidence suggests that the benefits of electoral modernisation have been exaggerated. Postal voting has proved popular with some voters, resulting in a steady rise in the take up of postal voting on demand. However, while the use of postal voting has an immediate, beneficial impact on turnout, it also appears that the 'turnout premium' levels off and then declines at subsequent elections. There is no evidence at all to suggest that electronic voting raises turnout. While popular with those who have used it, e-voting principally appears to constitute a costly exercise in providing greater choice to voters who would otherwise have voted by post or at a polling station.

## The state of the registers

There are major failings evident in relation to the state of the UK's electoral registers. Without comprehensive registration of voters, the objective of maximising electoral participation is immediately compromised. While estimates that up to ten per cent of eligible voters are absent from the electoral register are frequently cited, such figures have little or no authority, and recent pilot research in London suggests that in some areas up to one third of eligible voters may be unregistered.

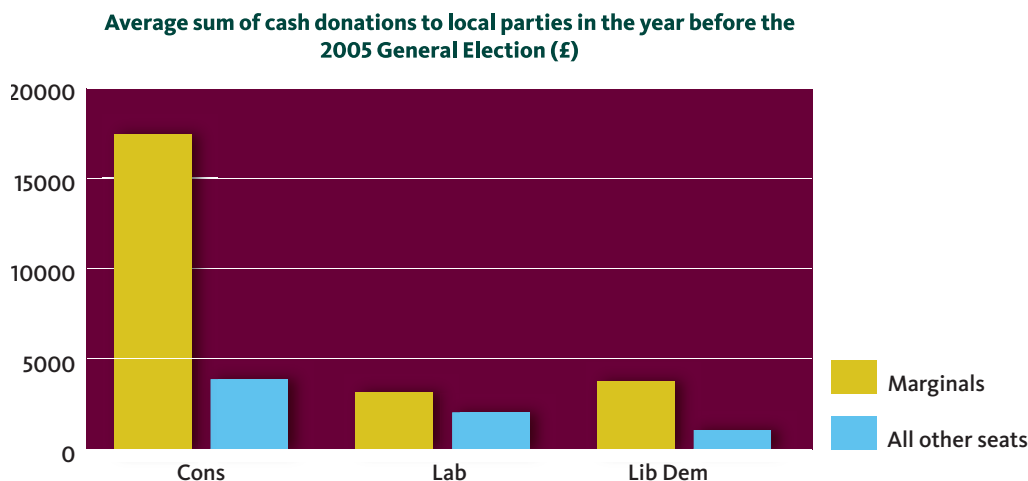
“It does not take an experienced election observer, or election fraudster, to see that the combination of the household registration system without personal identifiers and the postal vote on demand arrangements make the election system in Great Britain very vulnerable to electoral fraud.”

Council of Europe (2008, p.12)

However, the tendency for registers to contain inaccurate information, including cases where the voter is deceased, fictitious or registered in multiple localities, is widely recognised. There is no sound basis from which to estimate the extent of inaccuracies on the registers. The Council of Europe's recent investigation of the UK electoral system argued that it was vulnerable to fraud largely because of its “rather arcane system of voter registration”, based upon a system of household, rather than individual, registration.

## Money and the marginals

It is widely recognised that money can have a significant impact on electoral outcomes. The UK's non-proportional electoral system tends to prompt parties to channel financial resources to a relatively small number of marginal constituencies. The same pattern is increasingly evident in relation to donations to constituency parties. Evidence relating to the 2005 General Election suggests that highly targeted spending, much of it committed in advance of the official campaign period, clearly impacted on results in a number of marginal seats. This approach is most clearly associated with the Conservative Party, which is in a unique position to attract and channel large-scale donations from a small number of wealthy individuals to support campaigns in marginal seats. Although legal, such practices clearly exploit a ‘loophole’ in existing regulations and indicate the potential for a general election outcome to be significantly influenced by a small number of large-scale donors making funds available to target ‘swing voters’ in marginal seats.



There are significant factors influencing levels of turnout, particularly in general elections, which have been seriously neglected by debates concerning electoral processes over the past decade. Most significantly, there is powerful statistical evidence, assembled from multiple general elections, to suggest a strong correlation between candidate campaign spending and the number of votes cast for that candidate. There is wider evidence to suggest that turnout is best promoted by political parties engaging with the electorate rather than simply by rendering voting ‘more convenient’.

## Legislative failings and administrative frailty

Since 2000, UK electoral legislation has had to play ‘catch up’, with the reality of the electoral process being rendered more vulnerable to fraud through the extension of postal voting. The provisions introduced by the Electoral Administration Act 2006 fall short of what is required to ensure that electoral malpractice is kept to an absolute minimum. Just as problematic, however, has been the tendency for major legal changes to be introduced within months of elections taking place, thereby placing enormous pressures on highly localised systems of electoral administration.

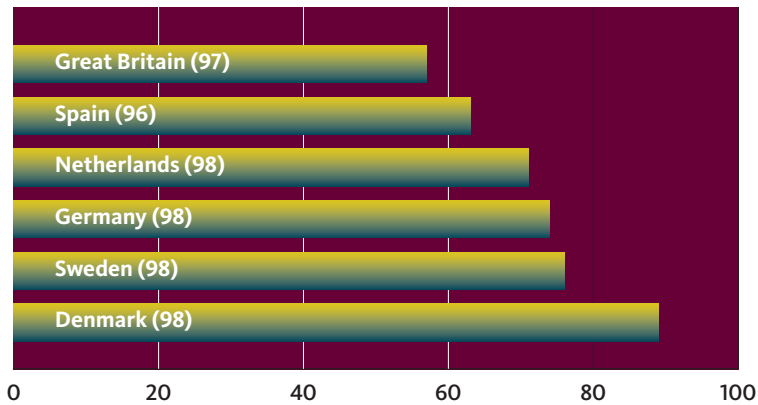
“In many areas of the UK we have noted concerns that the current structure for the delivery of electoral administration is close to breaking point and we believe it is insufficiently robust and coordinated to meet the challenges of elections in the twenty-first century.” Electoral Commission (2007)

The extension of postal voting and the piloting of all-postal voting have exposed significant weaknesses in the capacity of the printing industry, while pilots of e-voting and e-counting have highlighted ongoing problems with existing software and hardware. There have been numerous instances in which problems arising from the administration and management of elections have come close to leaving electoral outcomes open to challenge. The ‘general election that never was’, in Autumn 2007, served to highlight many of the serious problems facing electoral administrators. There is a near-universal consensus among electoral administrators that, had an election been called for November 2007, significant administrative problems would have arisen, perhaps on a scale that could have raised questions about the legitimacy of the election result. This ‘lucky escape’ underlines the need for a major review of electoral procedures and processes in the UK.

## Falling public confidence

Public confidence in the electoral process in the UK was already very low by West European standards in 1997. There is clear evidence to suggest that public confidence in UK elections may have declined further over the past decade. Surveys conducted on behalf of the Electoral Commission show an increase in the proportion of electors regarding postal voting as being “very or fairly unsafe from fraud” from 34 per cent in 2004 to 46 per cent in 2005. More in-depth survey research for the 2004 all-postal pilots revealed that while 71 per cent of voters in non-pilot areas regarded postal voting as safe, only 51 per cent of voters in pilot areas felt this was the case. Among British Asian voters in 2004, the proportion regarding postal voting as safe was just 46 per cent.

**Percentage expressing full confidence in election outcomes in six West European countries, 1997-2002**



## **Moving towards solutions: lessons from Northern Ireland**

It is difficult to refute the view recently expressed by the former Chair of the Committee on Standards in Public Life that the government appears to be “in denial” about the challenges to the integrity of UK elections. In November 2007, the government reiterated its determination to continue with its “electoral modernisation strategy”, using existing legislative provisions and further piloting of alternative electoral arrangements. By contrast, the Electoral Commission has called for electoral pilots to cease and has begun its own detailed review of the current legal and policy frameworks for elections in the UK. Outside of ministerial circles, there is widespread appetite for such a debate.

“The most important challenge facing all of those involved in running elections (...) is to reaffirm a shared commitment to putting electors at the heart of electoral policy and decision-making”

Electoral Commission (2007)

The possibility cannot be dismissed that root and branch reform of British electoral law and administration is required, as opposed to further consolidation of legislation and administrative procedures originating in the nineteenth century. The nature of this task may be less onerous than it would seem. It has been widely noted in recent reviews of UK election procedures that many viable solutions to the problems that have emerged in recent years are already in place in one part of the UK. Over the past decade, electoral reforms introduced in Northern Ireland have provided for more accurate electoral registers, strengthened the role of electoral administration, sharply reduced accusations of malpractice, and raised public confidence in the electoral process. The task of emulating these achievements in mainland Britain is the key challenge facing electoral policy today.



# Introduction: A tale of two elections

“One minute after the polls closed in May we told the government about our grave concerns. And at the end of last week, I sent a note to the Ministry of Justice saying that those difficulties still exist and asking how we could overcome them. The message needs to get out that there’s the possibility of problems that could affect the conduct of the election.”

John Turner, Chief Executive of the Association of Electoral Administrators (AEA),  
quoted in *Scotland on Sunday*, 30 September 2007

## The General Election that never was

In early October 2007, media speculation about a possible ‘snap election’ had reached its peak, with rumours of a possible Autumn poll having first emerged in mid-August. The 10 o’clock news broadcast on BBC Radio 4 on Thursday 4 October opened, unsurprisingly, with an item weighing up the likelihood of an election being called for early November. The lead item was immediately followed by a bulletin about the nation-wide postal strike, scheduled to take place until Tuesday 9 October. By Saturday 7 October, Gordon Brown had announced his decision not to call a general election. By contrast, talks between the Royal Mail and the Communication Workers Union initially proved far less conclusive. An agreement bringing the end to the official strike action was subsequently reached on Friday 12 October, although a number of localised wildcat strikes persisted well into October, most notably in Merseyside and London. By mid-October time, a considerable backlog of mail had built up and it was not until 15th November that the Royal Mail was able to confirm that it had largely cleared the backlog, other than in parts of London, Surrey, Merseyside and Cheshire (Royal Mail, 2007).

Little, if any, connection was made between these two sets of events in the days before, or after, election speculation was finally cut short. Yet, in the week before the 2005 General Election a total of 5,362,501 ballot papers had been delivered to voters by the Royal Mail. Over three-quarters of these ballot papers, dispatched as a further 4,110,039 items of mail, reached returning officers in time to be included for consideration in election count across the UK. As of 15th November 2007, a full two weeks after the likely date of the ‘General Election that never was’, the Royal Mail was still advising “customers planning large mailings ... to speak to their usual Royal Mail contact, who will have the most up-to-date information, and will be able to help plan mailings around any remaining backlogs” (Royal Mail, 2007).

Had an election been called, it is unclear how the risk would have been handled of millions of voters being potentially disenfranchised by the aftermath of the postal dispute. More significantly, however, the postal dispute was by no means the only serious problem raised by the possibility of a snap election. Perhaps more so than with any recent general election, the ‘General Election that never was’ in November 2007 revealed multiple issues of concern about procedures for elections in the UK, and the principles underpinning them. These issues went far beyond the

long-standing, and legitimate, complaint that the absence of fixed parliamentary terms provides the incumbent with an automatic advantage in any general election. In the period of frenzied media speculation between the initial rumours of a 'snap' election and the eventual announcement that no election would take place, serious doubts were expressed about whether the administrative capacity existed to run a general election at such short notice. Notably, such concerns received negligible attention in comparison to media coverage regarding the possible date of a forthcoming election.

The overwhelming concern expressed by returning officers in the midst of election speculation was that the likely period of an autumn election campaign would have coincided with the timing of the annual canvas through which electoral registers are updated locally. Senior election administrators estimated that around 1 million voters could have been disenfranchised as a result, in addition to the estimated 3.5 million eligible voters who are not on the register. At the same time, problems experienced at the May 2007 local elections had revealed the significant pressures imposed on electoral administrators by factors such as constant legislative changes, short election time-frames, ongoing problems with suppliers and a general inadequacy of resources. Reflecting on these difficulties, the Chief Executive of the AEA, John Turner, warned that an Autumn 2007 General Election would "probably be the worst in living memory" (BBC, 2007).

Whether the concerns raised by electoral administrators had any significant influence on Gordon Brown's decision to wait for a general election is unclear. It is more likely that opinion polls and other intelligence from the key Labour-Conservative marginals reignited Labour's concerns about the impact of Conservative initiatives intended to boost levels of support for their candidates in target seats. By mid-2007 there was growing evidence of the impact of the Conservatives' strategy of targeting additional resource on local parties and candidates in marginal seats. It is almost certain that local polls taken in such seats (even more so than national polls showing a rise in support for the Conservatives) were the most critical factor influencing Gordon Brown's decision not to call an election. Had an election been called, there can be no doubt that it would have principally constituted a 'battle for the marginals', dominated by the two main parties' attempts to secure the support of around 8,000 'swing voters' across as few as 30–35 parliamentary seats (Electoral Reform Society, 2007). As Polly Toynbee noted, on what could have been the morning after the 2007 General Election, the implications of a general election being fought on these terms are as worrying as they are profound:

*"In recent elections the battleground was minuscule – around 200,000 votes in marginal constituencies. But now the number has shrunk to vanishingly small: imagine each party targeting its entire election budget on just this handful of people, anointed by geographical accident to be the nation's kingmakers." (Guardian, 2 November 2007).*

There can be little doubt, then, that the eventual decision not to call an election in Autumn 2007 represented a 'lucky escape' for British democracy. But, the problems that would almost certainly have conspired to render the 2007 election "the worst in living memory" have not disappeared. Neither will these issues be resolved simply by reverting to the convention for springtime elections; the concerns highlighted by the 'General Election that never was' are not the political equivalent of 'Seasonal Affective Disorder'. The problems undermining British electoral practices are far more deep-rooted. The question we need to ask, in the most simple terms, is "how did we get into this mess?" To answer that question, we need to begin with the tale of another general election, although in this case, one which very definitely took place: the landmark General Election of 1997.

## 1997 and all that

If the 1997 General Election represented a landmark event in British post-war electoral politics, it was not simply because 18 years of Conservative rule were ended by a Labour landslide. The 1997 election broke several records all at once. Labour's 179 seat majority in the House of Commons was the largest achieved by any party in the post-war era. But the size of the majority also reflected the fact that the 1997 election produced the least proportional result since 1945: Labour's 43.3 per cent of the votes translated into 63.3 per cent of seats in the Commons. The claim to the result representing a landslide was also tempered by the fact that the turnout of 71.4 per cent was the lowest since 1945. Perhaps most remarkable of all, particularly set against the drop in turnout, the 1997 campaign constituted, by a large margin, the most expensive in post-war history – costing the three main parties a combined £80 million in today's prices.

In the aftermath of Labour's victory, the issues raised by the slump in turnout and the sharp rise in campaign spending figured prominently on the new government's agenda. Meanwhile, Labour's manifesto commitment to hold a referendum on "a proportional alternative to the first-past-the-post system" was quietly pushed into the background. Instead, turnout rapidly became the overriding concern, particularly after the local elections of 1998 and the European elections of 1999 recorded turnouts of 28 and 24 per cent respectively, thereby setting new records for the lowest levels of electoral participation in living memory. It was in this context that a Working Party on Electoral Procedures, led by George Howarth MP, was established in 1998, with a remit to make recommendations for reforms to electoral law for which cross-party support could be demonstrated. At the same time, the Home Affairs Select Committee began its own review of electoral law and administration. Both reviews published their reports during 1999, reaching broadly common conclusions. In short, it was held that 'modernising' electoral practices would bring them into line with wider social change, render the act of voting more convenient and thereby serve to increase turnout.

The issue of party spending at the 1997 General Election, together with the concerns about 'sleaze' in British politics that had also peaked at the election, also remained high on the agenda. Alongside the Howarth review of electoral procedures, a separate review of the funding of political parties was carried out by the Committee on Standards in Public Life (1998), chaired by Lord Neill, amid growing calls for the introduction of new regulations concerning expenditure on general election campaigns. The terms of the review reflected widespread agreement that more transparent, independently monitored procedures relating to the finances of political parties were required in order to address concerns about declining public confidence in the integrity of party politics.

In both cases, the recommendations arising from the reviews were translated swiftly and almost wholesale into primary legislation. Specific proposals for changes to electoral procedures, particularly those contained in the Howarth review, formed the basis for the Representation of the People Act (RPA) 2000. The Act introduced significant changes to electoral processes, including the introduction of postal voting on demand and provision for local piloting of various other forms of electoral 'modernisation', such as electronic voting and electronic counting. During the same year, the passage of the Political Parties, Elections and Referendums Act (PPERA) 2000 took forward many of the recommendations of the Neill Committee's report. PPERA 2000 introduced new regulations relating to party finances and the financing of election campaigns. This Act also formally created an independent body, the Electoral Commission, established with a remit to monitor the electoral process and advise on electoral law, promote political participation, and maintain registers of donations to political parties and spending on election campaigns. The two Acts represented major additions to the legal framework for UK elections, constituting

the most significant reforms to electoral law in more than 100 years. The desirability of securing cross-party consensus for change was therefore evident, as Jack Straw MP, as Home Secretary, was at pains to point out when moving the second reading of the Representation of the People Bill in November 1999:

*“The working party on electoral procedures (...) included representatives of all the principal political parties, electoral administrators and representatives of local government. I am pleased to say that the working party was able to proceed by consensus (...) I hope that a similar spirit of co-operation will characterise our deliberations over the Bill. Electoral law is so fundamental to our democracy that changes to it should, wherever possible, proceed by consensus.”* (Hansard, 30 Nov 1999: Column 160)

## **Electoral modernisation: from consensus to controversy**

In 2000, the developing consensus about the desirability of new legislation governing elections, particularly provisions for various forms of ‘remote voting’, extended far beyond the political parties. The measures found particular support within local government and the search for ways of raising turnout was broadly welcomed by the press, attracting limited criticism from journalists. The case for postal voting, in particular, was felt by many observers to have been proven virtually beyond doubt within months of RPA 2000 receiving Royal Assent. The first, small-scale pilots of all-postal voting at the May 2000 local elections appeared to highlight the potential for a dramatic increase in turnout. Postal voting was shown to increase turnout in areas as diverse as Wigan and Stevenage, with a particularly dramatic increase in Gateshead, where turnout in two wards was doubled, reaching almost 60 per cent, through the use of all-postal ballots. Yet, amid the rush to embrace electoral modernisation, some dissenting voices could already be heard, particularly among specialists in electoral law. The Conservative party’s former advisor on electoral law, Paul Gribble, was one of the first to go public with his concerns. Writing in the Daily Telegraph days after the May 2000 elections, Gribble highlighted the problems experienced with electronic counting in the elections to the Greater London Authority, suggesting that greater legal safeguards would be required to prevent misconduct:

*“I am not suggesting for a moment that our elections are not among the most trustworthy in the world. But there is a danger, because of certain changes taking place, that British elections as we know them will never be the same again, and that they may not continue to be seen to be free and fair. Extensive reforms are under way that will alter many vital aspects of election procedures. Some of them will reduce the opportunities for the procedures to be fully scrutinised and could well increase the opportunities for unscrupulous individuals to cheat the system.”* (Daily Telegraph, 9 May 2000)

Gribble constituted something of a lone voice in May 2000. But, over the course of the next four years, his early concerns were increasingly added to by emerging critics of the reforms. One year on, the investigative journalist Nick Davies, reporting on existing evidence of electoral misconduct in the UK, warned that changes to electoral procedures were “at best over-confident and at worst like an invitation to corruption” (Guardian, 9 May 2001). By 2003, the Electoral Commission, while continuing to support the case for postal voting, had become increasingly concerned about issues of ballot security. The Electoral Commission (2003b) called for more robust security measures for postal voting, legislation defining new offences concerned with postal ballots, greater powers for prosecutors, and the introduction of individual voter registration. Government ministers resisted the proposals, instead pushing ahead with its own plans for all-postal pilots across four English regions at the combined European Parliament and local elec-

tions in June 2004, despite the serious reservations expressed by the Electoral Commission and subsequently amplified by the House of Lords.

The 2004 pilots were to prove a crucial turning-point in the debate, not least because the attitude of the media towards postal voting began to develop a more critical, and increasingly investigative, edge. In the run up to the 2004 local elections, the local and national press ran multiple stories highlighting the potential for serious administrative problems, including the enormous pressures being placed on the printing industry and the postal service. Of even greater concern, however, was the sharp rise in media reporting of allegations of potential fraud associated with postal ballots. While few such allegations of fraud were ultimately investigated by police, widespread press coverage of the issue had given growing credence to the view that postal voting was vulnerable to fraud. Most significantly, one of the few cases that were ultimately brought to court in relation to the 2004 local elections demonstrated unequivocally the scope for organised electoral fraud to be committed on a large scale where all-postal ballots were used. In May 2005, six Labour Party members were found guilty of tampering with possibly thousands of postal ballots in elections for the Aston and Bordesley Green wards of Birmingham City Council.

As the media widely reported at the time, in reaching his verdict on the Aston and Bordesley Green election petitions, Judge Richard Mawrey QC suggested that the evidence pointed to a level of organised fraud “that would disgrace a banana republic”. The text of Mawrey’s judgment reads as a damning critique of the security of postal voting and, particularly, the lack of safeguards designed to prevent electoral fraud. Uncompromising, direct and, at times, almost polemical in style, the written judgment arguably still represents the most detailed analysis of the vulnerability of postal voting to organised fraud. In an Afterword to the executive summary of the judgment, Mawrey took issue with a governmental statement asserting that “the systems already in place to deal with the allegations of electoral fraud are clearly working”:

*“(95.) Anybody who has just sat through the case I have just tried and listened to the evidence of electoral fraud that would disgrace a banana republic would find this statement surprising. To assert that ‘the systems already in place to deal with the allegations of electoral fraud are clearly working’ indicates a state not simply of complacency but of denial.*

*(96.) The system to deal with fraud are not working well. They are not working badly. The fact is that there are no systems to deal realistically with fraud and there never have been. Until there are, fraud will continue unabated. (Paragraph numbering and emphasis in original)*

The tone of the judgment delivered by Mawrey also reflected a wider shift in the debate surrounding electoral modernisation. Within five years of the passage of RPA 2000, broad consensus had given way to controversy. As a result, the debate surrounding electoral procedures and electoral law has become increasingly polarised. On one side of the divide, a range of critical voices, drawn from the ranks of legal experts, senior police officers, journalists and academics, have expressed serious concerns about the security of postal voting, pointing to apparent flaws in the system and to widespread allegations of fraud. In a letter to the Electoral Commission in 2005, Chief Superintendent Dave Murray of Thames Valley Police suggested that “the application procedure to allow individuals to have a postal vote in Local, European and National elections is superficial, cursory and flawed” (Thames Valley Police, 2005). Writing in the Times on 21 January 2007, the academic Michael Pinto-Duschinsky (2007) suggested that it was clear that “there are problems of electoral malpractice in a considerable number of British cities”. Speaking

on Newsnight on BBC 2 on 31 October 2007, the former Chair of the Committee on Standards in Public Life, Sir Alistair Graham suggested that the Committee had been “deeply shocked about the denial not only in the (Electoral) Commission, but also in the then Department for Constitutional Affairs, about the scale of postal vote fraud and the fact that nobody was monitoring what the scale of that fraud was”.

On the other side of the divide, the Government has continued to argue that the evidence of electoral misconduct is negligible and that appropriate safeguards are in place to protect against electoral fraud, particularly following the Electoral Administration Act 2006. The government’s perspective, summarised in the recent ‘Governance of Britain’ Green Paper, is therefore that it “has extended the use of postal voting with appropriate safeguards”, as part of wider efforts “to make voting more convenient”. The stance is also clearly reflected in the government’s response to the Electoral Commission’s recommendations arising from the May 2007 electoral pilot schemes, which had raised numerous concerns about the continuation of such pilots. Having dismissed virtually all of the Commission’s most significant concerns, the Government’s response reiterated that its objective remained to:

*“achieve a future voting process that promotes a convenient range of choices to eligible people and maximum effectiveness and efficiency, without compromising accessibility and security.”*  
(Ministry of Justice, 2007. p.9)

As is often typical of polarised argument, the debate surrounding the purity of UK elections have become dogged by serious shortcomings. From the outset, there has been little or no reference to any clear statement of principles for ensuring the integrity of elections. Instead, the starting point for discussion has always been the case for electoral modernisation, a project justified almost entirely by concerns about falling turnouts. While some critics have made reference to general principles of electoral integrity, such as ballot secrecy and equality of the vote, such principles have, astonishingly, been pushed to the periphery of the debate in recent years. Just as worryingly, much of the discussion has taken place alongside a void of research, meaning that debate has rarely been founded on systematic evidence and informed analysis. Rather, government has regarded the lack of evidence of fraud as an indicator of the purity of elections, when it really reflects an absence of data. Critics, meanwhile, have too often resorted to anecdote, conjecture and media-generated exposure of apparent flaws in electoral procedures.

As the remainder of this report seeks to demonstrate, these failings are by no means insurmountable. There are general, widely held principles, used as a basis for international standards, against which we may seek to assess the integrity of electoral processes in the UK. Despite the serious lack of existing research on electoral malpractice, there is also enough of an evidence base to offer at least an initial assessment of the extent to which UK elections conform to these standards. And, for all that it has been caught in the crossfire between electoral modernisers and their discontents, the enormous body of research, data and analysis produced and commissioned by the Electoral Commission since 2000 provides a rich source of data for such an exercise. It is to the evidence base which the report now turns, beginning with an assessment of the extent to which UK elections conform to international standards for democratic elections.

# Chapter One:

## Free and fair elections?

“The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.”

Article 21 (3) of the Universal Declaration on Human Rights

“Every citizen shall have the right and the opportunity (...) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.”

Extract from Article 25 of the International Covenant on Civil and Political Rights

### The integrity of elections: international standards

If there is disagreement within the UK regarding the integrity of its own electoral processes, there is, by contrast, widespread international consensus regarding the principles associated with free and fair democratic elections (Democratic Audit, 2001; Electoral Commission, 2007). The core principles, enshrined in both the ‘Universal Declaration of Human Rights’ and the ‘International Covenant on Civil and Political Rights’, are those of periodic elections, universal suffrage, equality of the vote, and the secret ballot. From this notion of a human right to democratic freedoms, more detailed statements outlining the general conditions for the purity and integrity of democratic elections have been developed by international organisations. As a result, a clear and consistent set of standards for the conduct of elections internationally may be derived from the various handbooks supplied to election observation missions (United Nations, 2005; SIDA, undated; IDEA, 1997; OSCE/ODIHR, 2005). The principles laid down in these handbooks derive in large part from the ‘Declaration on Criteria for Free and Fair Elections’, adopted by the Inter-Parliamentary Union in 1994. The Declaration specifies that elections should be:

- held at regular intervals, based on principles of universal suffrage, the equality of the vote and the secret ballot;
- governed by impartial procedures for registering voters, managing elections and counting votes, which also guarantee the security and transparency of the electoral process;
- free from all forms of violence, fear and intimidation, and secure from fraud and other forms of malpractice;
- supported by wider freedoms of assembly, association and speech, along with open access to the media;
- and underpinned by legislative, policy and institutional frameworks which provide for fair and open competition between political parties, including possible regulation of party funding and election spending.

That such widely accepted generic conditions for elections to be adjudged ‘free and fair’ should feature rarely as an explicit feature of current debate surrounding UK elections will perhaps be unsurprising to anyone familiar with the workings of the British constitution. As with many other aspects of the political process, the principles guiding democratic elections in the UK have become an assumed part of Britain’s unwritten constitution and an essentially implicit feature of constitutional law. There have, however, been several attempts to evaluate the extent to which internationally recognised democratic principles are entrenched in British electoral procedures. As the following section suggests, there is a growing tendency for such studies to raise serious concerns about the impact of recent electoral reforms in the UK.

## Do UK elections meet agreed international standards?

Since the early 1990s, the work of Democratic Audit has sought to provide a comprehensive assessment of the extent to which British political processes measure up against a variety of established international standards for democracy and used these to define a set of ‘Democratic Audit criteria’ (Weir and Beetham, 1999; Beetham *et al*, 2002). While critical of multiple aspects of British democracy, the analyses produced by Democratic Audit in 1999 and 2002 raised relatively few concerns in relation to the criteria derived from international standards for the principles and procedures governing democratic elections in the UK. Indeed, at the end of the 1990s Democratic Audit assessment of electoral processes was largely positive: “we found that national elections in the UK largely met international human rights standards, being held at regular intervals by almost wholly secret ballot, and being free of bribery, intimidation and other abuses” (Weir and Beetham, 1999, p.41). However, despite declaring a generally clean bill of health, Democratic Audit did identify three general concerns. First, it was suggested that ballot-tracing

### BOX 1.1

#### Selected extracts from the Inter-Parliamentary Union’s Declaration on Criteria for Free and Fair Elections

“(…) the authority of the government can only derive from the will of the people as expressed in genuine, free and fair elections held at regular intervals on the basis of universal, equal and secret suffrage”.

“Every adult citizen has the right to access to an effective, impartial and non-discriminatory procedure for the registration of voters”.

“The right to vote in secret is absolute and shall not be restricted in any manner whatsoever”.

“States should (… ) provide for the formation and free functioning of political parties, possibly regulate the funding of political parties and electoral campaigns (… )”.

“State authorities should ensure the integrity of the ballot through appropriate measures to prevent multiple voting or voting by those not entitled (… ) and (… ) should ensure that the ballot is conducted so as to avoid fraud or other illegality”.

Source: Inter-Parliamentary Union (1994)



mechanisms potentially undermined the secrecy of the ballot. Second, falling rates of voter registration were regarded as the effective disenfranchisement of a significant minority of the electorate, particularly those from socially excluded groups. Third, concerns were raised about the legal denial of votes to prisoners, together with the effective denial of votes to some elderly and disabled people as a result of defective provisions for postal and proxy votes.

The over-riding issues of concern raised by Democratic Audit in 1999 related to wider aspects of electoral politics about which international standards are far less specific. First, there were significant concerns raised about the influence of campaign spending on electoral outcomes, particularly at a time when concerns about 'sleaze' in British politics had become paramount. Here, it was noted that the enforcement of local limits on campaign spending had received far less attention than concerns about unregulated national election spending, despite the strong correlation between local campaign spending and votes gained (Weir and Beetham, 1999). Moreover, Democratic Audit suggested that existing regulations relating to local campaign spending were seriously deficient in preventing abuse:

*"It is known that the limits on local expenditure were being circumvented on a large scale prior to the Representation of the People Act 1989, which quadrupled the limits in an effort to curtail abuse. Genuine uncertainties about what counts and does not count as local election expenditure abound. The costs of national poster and advertising campaigns, the visits of party leaders, the increasing use of telephone banks at national level to chase voters in marginal constituencies, all raise unresolved issues of illegality."* (Weir and Beetham, 1999, p.90)

Second, Democratic Audit paid particular attention to the effects of the UK's non-proportional electoral system, which was seen to undermine the basic notion of political equality that "every elector's vote should count for one, and none for more than one" (Weir and Beetham, 1999, p.45). Given the significance of specific individual constituency contests for the overall outcome of general elections, Democratic Audit also highlighted concerns about the possible political manipulation of boundary review processes through which the geography of parliamentary seats was determined. The Audit also noted that the nature of the electoral system could not be divorced from the issues of campaign finance highlighted above, since it was the character of the electoral system which led the parties to focus their attentions on swing voters in marginal seats. As such, enormous geographical variation could be observed in the extent to which national campaigns impinged on local parliamentary contests, with that variation hinging on the relative 'marginality' of a seat for each of the main parties. Taking Bootle and Kensington as the archetypal safe seats for Labour and the Conservatives respectively, the authors note:

*"'Bootle Man' and 'Kensington Lady' no doubt received their election addresses, courtesy of a free mail service, but they were not solicited by direct mail, they were not telephoned six times during the campaign, their view were not sought nor their fears assuaged, they were not invited to an intimate question-and-answer session with a party leader. Such privileged status was reserved for the 'swing voters'."* (Weir and Beetham, 1999, p.66)

While Democratic Audit's third major review of democracy in the UK (2002) continued to raise major concerns about the nature of the electoral system and its broader ramifications for party politics, the broadly positive assessment of underlying election processes was largely repeated (Beetham *et al*, 2002). Indeed, by 2002, Democratic Audit had begun to take the view that reforms introduced by RPA 2000 and PPERA 2000 offered clear potential to strengthen the democratic quality of election procedures. RPA 2000 was seen to have "righted some wrongs that Democratic Audit noted in 1996 and 1999" (p.89) particularly as it had made "procedures for registration and voting easier and more inclusive" (p.294). Meanwhile, the establishment of the Electoral

Commission was welcomed for its potential to overcome concerns about political manipulation of electoral boundaries, and for its role in overseeing a new legal framework requiring political parties “to register with the Electoral Commission and conform to strict rules on finance and expenditure” (p.294).

Democratic Audit’s relatively sanguine view of UK electoral processes was thus accompanied by a much clearer health warning about the influence of wider forces impacting on elections. However, subsequent reports assessing UK elections against the same international standards have raised more fundamental concerns about British electoral procedures. The electoral observation report completed by the Office for Democratic Institutions and Human Rights, following its invitation to observe the 2005 General Election, pointed to a number of areas in which international norms were potentially being breached. In addition to the potential human rights violations raised by the denial of the vote to convicted prisoners and the provision for ballot tracing, the ODIHR report pointed to the absence of checks for multiple registration, and raised major concerns about the challenges which postal voting on demand presented in relation to the secrecy and the integrity of the ballot. In the report’s executive summary it was suggested that:

*“The introduction of postal voting on demand in 2000, without the need to present a reason for the application, has demonstrated the vulnerability of any trust based electoral process (...) Although the legal and administrative procedures in this regard appear to have been developed to prioritise enfranchisement, the issue of postal voting raised lingering doubts about the ability to securely regulate this aspect of the process.”* (OSCE/ODIHR, 2005, p.1)

Some of ODIHR’s recommendations were addressed by the Electoral Administration Act 2006. Most notably, the need to ensure compliance with Paragraph 8 of the 1990 OSCE Copenhagen Document, which establishes that electoral observers should be permitted access to all stages of the election process, has now been addressed. Yet, the majority of the report’s recommendations, including the consolidation and simplification of electoral law and the possible introduction of requirement for voters to produce ID, have yet to be taken up by government. In the meantime, further interventions from independent observers during 2007 have significantly added to the list of ways in which UK elections may fail to meet up to established democratic norms.

## **2007: a bad year for the electorate**

If the ‘general election that never was’ raised a series of hypothetical questions about the purity of UK elections, 2007 also gave rise to numerous concrete examples of problems with British electoral processes. During the course of the year, three separate electoral monitoring reports were prepared, each of which raised serious concerns about the integrity of British elections. The origins of, and the issues raised by, these reports may be summarised as follows:

**The Council of Europe Monitoring Committee report:** Following a motion proposed by David Wilshire MP in June 2006, the Council of Europe’s Monitoring Committee established an Inquiry led by Herta Däubler-Gmelin and Urdzula Gacek to investigate whether evidence of electoral fraud warranted UK elections to be subject to the Council of Europe’s monitoring procedure. Following the visit of a Council of Europe delegation to the UK from 26–28 February 2007, and subsequent referral of specific issues to the European Commission for Democracy through Law (the Venice Commission), a full report was issued on 22 January 2008. While Däubler-Gmelin and Gacek’s (2008) report found that the UK had not ultimately “fallen short of honouring its democratic commitments to the Council of Europe”, the authors raised major concerns about the

vulnerability of UK elections to electoral fraud. In particular, “the, rather arcane, system of voter registration” combined with the availability of postal voting on demand led Däubler-Gmelin and Gacek (2008) to conclude that the United Kingdom “delivers democratic elections *despite* the vulnerabilities in its electoral system” (p.1, emphasis in original).

**The Open Rights Group’s report on the 2007 Scottish elections and the 2007 English local election pilots:** The Open Rights Group (ORG) is a not-for-profit organisation campaigning on ‘digital rights’ issues. Under the provisions contained in the Electoral Administration Act 2006, ORG established an Election Observation Mission to observe the English local elections and the Scottish Parliamentary and local elections held in May 2007. The Mission focussed particularly on issues raised by e-counting in Scotland and e-voting and e-counting pilots in England. ORG’s subsequent (2007) report highlighted a number of serious concerns about the vulnerability of e-voting and the accuracy of e-counting and alluded to many of the problems subsequently identified in the Scottish elections by an independent review (see below). ORG concluded that “it cannot express confidence in the results declared in the areas observed”.

**The Gould report on the 2007 Scottish elections:** On 23 October 2007 the independent review of the Scottish elections of 2007 led by Ron Gould published its findings. The review had been established in the immediate wake of a series of problems that emerged during the May 2007 elections for the Scottish Parliament, culminating in a dramatic increase in the number of rejected ballot papers and problems with electronic counting hardware and software. Gould (2007) identified serious problems relating to electoral legislation, electoral administration, ballot paper design, and the poor planning underpinning the deployment of electronic-counting technologies (see box 1.2 overleaf for a more detailed summary). The report concluded that “voters were overlooked as the most important stakeholders to be considered at every stage of the election”.

## BOX 1.2

### Summary of the Gould Report on the 2007 Scottish Elections

Registered electors presenting themselves at polling stations in Scotland on 3 May 2007 were provided with two separate ballot papers, requiring them to cast three sets of votes. The first ballot paper was for local council elections, using the 'single transferable vote' system, and requiring voters to indicate ranked preferences for candidates. The second ballot was a 'combined' ballot paper for the Scottish Parliament elections using the 'Alternative Member System' (AMS). Under AMS, electors cast a single vote for a constituency candidate and a single vote for a regional party list.

On the morning of Friday 4 May 2007, media reports on the outcome of the 2007 Scottish elections were dominated by two main stories – the possibility of the Scottish National Party (SNP) emerging as the largest party in the Scottish Parliament, and the chaotic scenes that had dominated the count. With SNP claiming a narrow victory, the events were described by one media source as follows: 'polling descended into chaos with tens of thousands spoilt ballot papers, faulty counting machines and bad weather delaying the return of ballot boxes' (Guardian Unlimited, 4 May 2007). While the outcome of the poll was ultimately not challenged, initial speculation as to the causes of the problems experienced was quickly followed by moves to conduct a more thorough investigation. In the immediate aftermath of the election, the Electoral Commission announced that an independent review would be established. Within a month, the review had commenced, led by Ron Gould, Canada's former Assistant Chief Electoral Officer.

With the review underway, James Mitchell and Christopher Carman of the University of Strathclyde published a report providing further analysis of the rejected ballots. Mitchell and Carman's report drew comparisons with previous Scottish elections, examined the data relating to the contrasting electoral systems used, and assessed the possible reasons for geographical variations in the proportion of rejected ballots. While only 1 per cent of ballot papers had been rejected in Scottish constituencies at the 2005 General Election, in 2007 spoilt ballot papers constituted 2 per cent of the votes for Scottish local councils, and 3.5 per cent of the votes cast for the Scottish Parliament elections. In their analysis Mitchell and Carman (2007) established that:

- of 146,097 ballot papers rejected at the Scottish Parliamentary elections, 85,644 concerned constituency contests (4.1 per cent of the total) and 60,455 regional lists (2.9 per cent);
- the proportion of spoilt ballots had risen sixfold for the constituency contests and fourfold for the regional list contests, compared to the previous elections held in 2003;
- the proportion of ballot papers rejected in constituency contests had risen across all constituencies, but had done so most dramatically in areas with higher levels of socio-economic deprivation – in three Glasgow constituencies rejected ballots comprised ten per cent or more of total votes cast.

## BOX 1.2 continued

While the remit of the Gould review was relatively broad, reflecting the range of problems experienced in the May elections, it was agreed that the review team would not explore the issue of the validity of the vote. The review process included a series of more than 20 meetings with key stakeholders and expert witnesses held in June and July, consideration of 27 written submissions, analysis of public consultation conducted by the Electoral Commission, and a review of the rejected ballot papers. The review team's final report was issued on 23 October 2007 and raised fundamental concerns about the entire electoral process. In summary, the review identified seven 'issues areas' which, taken together, created an electoral process in which "the voter was treated as an afterthought":

- **Legislation:** UK electoral legislation was found to be "fragmented" and "antiquated", with recent "poorly conceived and badly timed" amendments only serving to compound these problems;
- **Roles, relationships and accountability:** these were also found to be "extremely fragmented", to the extent that efforts to ensure smooth running of elections were "hindered at almost every stage of the process";
- **Planning and timing:** the elections were undermined by a lack of realistic timetabling and an absence of effective planning, returning officers were too reliant on external suppliers and there was inadequate contingency planning;
- **Combined elections:** holding local councils and Scottish Parliament elections simultaneously was arguably cost effective and may have ensured greater turnout in the local elections but added to voter confusion, constituting "not only a disservice to the local councils and candidates but also to the electorate as well";
- **Ballot papers and voting issues:** the design of the ballot papers was the major cause of the high number of rejected ballot papers – a possibility that had been highlighted by the otherwise inadequate 'user testing research', but appears to have been overlooked by the essentially partisan debate surrounding ballot paper design. There was an "over reliance on postal voting";
- **Public information:** while many aspects of the public information campaign designed to explain both the new AMS ballot paper and the introduction of STV were seen as commendable, the report also criticised the delayed roll-out of the campaign and the failure to ensure that the information reached all sections of the electorate;
- **The count:** the report criticised the count for placing "unreasonable demands" on election officials and, while accepting the rationale for electronic counting, also raised multiple concerns about the failure to ensure adequate legal, policy and administrative procedures were in place to facilitate e-counting, particularly with regard to contingency planning.

## Issues for further investigation

Significant concerns arise from the initial assessment of UK election procedures against international standards presented in this chapter. The findings of recent electoral observation and monitoring reports would, in themselves, be grounds enough to advocate an urgent review of British electoral law and administration. Indeed, the issues raised by the Gould report alone have been a major catalyst behind the Electoral Commission's decision to engage in a fundamental review of electoral policy with the aim of "putting electors at the heart of electoral policy and decision-making" (Electoral Commission, 2007c). However, it is also important to probe deeper and to examine the extent to which wider evidence supports or refutes the conclusions reached by the election studies outlined above. A review of the wider evidence base is presented in chapters two and three, which focus, respectively, on assessing the extent of electoral malpractice and on evaluating the legacies of a decade of electoral modernisation in the UK.

At the same time, it is important to note that the international standards discussed here have relatively little to say in relation to matters of election finance. To a large extent, this relative silence on the issue of finance derives from the difficulty of reaching international agreement about regulating campaign spending across democracies in which very different attitudes prevail towards the role of private and public financing of elections. However, it should be underlined that academic literature on elections has long highlighted the fundamental importance of financial regulations, or the lack of them, to any assessment of the extent to which elections are free and fair. As Birch (2005, p.6–7) argues, "if there is one way in which modern democratic politics can be said to be manifestly unfair, it is in the financial requirements of standing for office in many countries and the advantages afforded candidates and parties by campaign spending". These concerns form the basis for the discussion of election finance presented in chapter four, which highlights the crucial connections between the UK's 'first-past-the-post' electoral system, elections spending and turnout.

# Chapter Two: Making sense of electoral malpractice

“Both academics and politicians have taken the integrity of the electoral process for granted (...) there is no research on the extent of fraud and its causes, and without research, difficult although it would be, it is impossible to be definitive about the causes. The danger of electoral corruption and fraud is that it is presently hidden. The Birmingham election court exposed its presence in one major British city. It is possible it would be found elsewhere if the same degree of scrutiny were applied.”

Stewart (2006, p.667)

## Electoral law: the essentials

Electoral malpractice can, by definition, only be understood with reference to electoral law. It is, after all, on the basis of legislation, principally the Representation of the People Acts, that electoral offences are defined, investigated and prosecuted. However, even seasoned political observers are generally unfamiliar with the vicissitudes of UK electoral law. Indeed, while it is important not to underestimate the importance of the legislative changes introduced in 2000, it is equally crucial to appreciate the significance of the distinctly Victorian foundations of British electoral law and administration.

Virtually all of the key principles underpinning British electoral law today are provided by the Ballot Act of 1872 and the Corrupt Practices Act of 1854 (as consolidated by the Corrupt and Illegal Practices Act of 1883). This legislation was introduced as part of broader attempts to eradicate widespread practices of corruption and malpractice in nineteenth century parliamentary elections (O’Leary, 1962; Watt, 2006). The Ballot Act introduced the requirement for a secret ballot. Specifically, the Act required that each elector to receive a single, numbered, paper ballot, to be provided to them, and marked by the elector, in designated polling stations, before being placed in a secure box in the presence of a ‘presiding officer’. The Acts relating to corrupt practices outlawed a number of specific electoral practices – including bribery, treating and intimidation – and, from 1883, placed limits on the election expenditure of candidates. These Acts, as consolidated by RPA 1949 and 1983, remained the central planks of British electoral law for over 100 years and significant sections of them remain accurate descriptions of current electoral law (Watt, 2006).

While RPA 2000 and PPERA 2000 have provided the most significant changes to electoral processes in the UK since 1883, particularly because of the establishment of the Electoral Commission, most of the legal and institutional framework for elections was left largely intact. Despite the introduction of postal voting on demand, and provision for pilots of electronic voting, the principal electoral offences in the UK remain those defined in RPA 1983 – primarily: personation, undue influence, bribery, treating and multiple voting. As the terminology suggests, the defini-

tion of these offences first appeared in Victorian statutes. Likewise while provision was made for 'rolling registration' in RPA 2000 to augment the traditional annual canvass of households, no other significant changes were made to the locally-based system of registration or to the role of locally-appointed returning officers in overseeing elections. Meanwhile, candidates at general elections are still required to appoint agents, who are responsible for keeping accounts demonstrating that campaign expenditure is within legally defined limits. Likewise, the principal means of challenging an election result remains the long-established mechanism of the 'election petition'. Election petitions must be submitted by a candidate or elector within 21 days of the election date, should provide evidence of grounds for disputing the outcome and must be accompanied by a deposit of £2,500 (in the case of a local election) or £5,000 (in the case of a general election). All of these arrangements date back to the nineteenth century.

The role of the Electoral Commission, which began its work in November 2000, sits uneasily within a legal and administrative framework in which fundamental tensions are evident between distinctly Victorian legal foundations and more recent reforms intended to promote electoral modernisation. Established by PPERA, the Electoral Commission is an independent body charged with a multi-faceted remit, including (alongside other responsibilities): reviewing and advising on electoral law; reviewing and evaluating electoral pilot projects; implementing and monitoring regulations concerning party funding and election spending; and promoting public participation in the electoral process (Randall, 2005). In the period since 2000, the Electoral Commission has, therefore, established itself as a major presence in debates on electoral processes.

However, the Electoral Commission's capacity to lead on electoral matters has been questioned consistently in recent years, and it has appeared to lack the legal authority enjoyed by equivalent organisations overseas. In particular, the Commission has been frequently frustrated by governmental reluctance to accept its advice on electoral matters and, as a result, its relationship to government is arguably "pervaded by uncertainty and ambiguity about the status and authority of the Commission's advice" (Randall, 2005, p.406). The recent review of the role of the Electoral Commission carried out by the Committee on Standards in Public Life confirmed this interpretation. While recognising that the work of the Electoral Commission holds widespread respect, the Committee made 47 separate recommendations concerning its future role. These recommendations centred upon the Commission's remit being "amended and refocused so that it has two principal statutory duties: as a regulator of political party funding and campaign expenditure in the UK; and as regulator of electoral administration in Great Britain (...)" (Committee on Standards in Public Life, 2007).

## **Electoral Malpractice: a thing of the past?**

The changes introduced by RPA 2000 were underpinned by the crucial assumption that corruption and malpractice had been virtually eradicated from British elections. Long-term trends in electoral malpractice suggest that this view has apparently strong foundations. Until the 1880s, bribery and treating were commonplace in British parliamentary elections and elections were routinely subject to legal challenge via election petitions; a total of 142 election petitions were upheld on the grounds of corrupt practice in the period 1832 to 1885 (see appendix A). After the Corrupt and Illegal Practices Act of 1883, there was a dramatic fall in both the number of petitions submitted and the number that were successful (O'Leary, 1962; King, 1990). By 1948, the Carn Committee on electoral reform was able to report that few election petitions had been presented since the 1920s. In the period since 1945, just four petitions challenging parliamentary contests have attracted significant attention, none of which concerned corruption or mal-



practice (concerning contests in Mid-Ulster, 1955; North Kensington, 1960; Bristol South-East, 1961; Winchester, 1997). Indeed, it has widely held that “since 1923 there have been no successful petitions alleging corrupt practices in parliamentary elections” (Stewart, 2006, p.657). Election petitions relating to local elections since 1945 are likely to have been more common, although there is no robust data from which to assess their frequency or the extent to which they raised concerns about the integrity of elections.

The second clear historical trend in UK elections prior to the 1990s was that the vast bulk of accusations of electoral malpractice originated from Northern Ireland, although systematic – as opposed to anecdotal – evidence of such practices is hard to identify (Mitchell and Gillespie, 1999, p.71). The most frequently cited form of evidence – the submission of upwards of 900 tendered ballots in the Westminster election of 1983 – provides only a poor proxy measure of the extent of personation offences.<sup>1</sup> Nonetheless, given the widespread accusations of electoral fraud in Northern Ireland in previous years, it is significant that the number of tendered ballot papers issued in the province at the 2005 General Election was just 55, constituting one-twentieth of the figure 18 years previously. It is notable that the virtual disappearance of the accusations that once dogged elections in Northern Ireland has come in the wake of various measures designed to render the electoral process in the province more secure, including the introduction of individual registration, the maintenance of restrictions on postal ballots, and the requirement for voters to produce ID before obtaining a ballot paper. (The significance of these reforms is returned to in the conclusion to this report.)

The detailed statistics and wider empirical evidence relating to electoral malpractice in nineteenth century Britain are not replicated for the twentieth century. As a result, specific trends in electoral malpractice in the UK in the period prior to the reforms of 2000 are difficult to discern. Yet, the absence of evidence should not be taken as an indicator of the absence of such malpractice. As Stewart (2006) notes, the lack of research conducted on the topic pre-2000 reflected a widely held assumption that electoral fraud was absolutely negligible. There are, however, some grounds to dispute the validity of this conventional wisdom. In his pioneering account of corruption and misconduct in British politics, Alan Doig (1984, p.205) cites two cases of successful prosecutions against electoral agents for corrupt practices in 1974 and 1979. Peter Kilfoyle’s (2000) account of local Labour Party politics in Liverpool in the 1980s alludes to numerous incidents of potential malpractice, principally in relation to Militant supporters ‘packing the register’ in specific wards in order to influence candidate selection. More recently, Home Office records show that between 1994 and 1999 a total of 32 people were found guilty of offences under the Representation of the People Act 1983 (Hansard, 19 Apr 2004, Column 94W).

Supplementary information about these convictions for electoral offences in the 1990s, gleaned from parliamentary records and media reports, suggest that the offences typically involved fraudulent applications for proxy votes, with prosecution brought in places as diverse as Chorley, Sheffield, West Lancashire, St Ives, Enfield, Brighton and Cynon Valley (*Guardian*, 9 May 2001; Select Committee on Home Affairs – 4th Report, October 1998; *Independent*, 3rd May 1995; Hansard, 21 May 1997: Column 676). During the 1990s, widespread accusations of fraudulent use of proxy voting procedures were also made in Burnley, although no prosecutions were brought at that time. However, local media reports on accusations of electoral malpractice in Burnley during the 1990s underline how much was known at the time about the likely fraudulent use of proxy votes, not just locally, but also by the national Labour Party and the Home Office (see box 2.1).

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<sup>1</sup> A tendered ballot may be requested by a registered elector who, upon providing their name and address at a polling station, is informed that they have already been marked on the register as having voted. Tendered ballots are printed on a different colour paper and are not included in the count unless there is a successful legal challenge to the election result.

## BOX 2.1

### Allegations of electoral fraud in Burnley during the 1990s

Following the local elections of 1994 in Burnley, an election petition was submitted, challenging the result of the local elections in the Daneshouse ward, by the defeated Labour candidate and long-standing local councillor, Rafique Malik. The petition alleged that the winning candidate, Liberal Democrat Fazal Subhan, had benefited from fraudulent proxy votes in securing a narrow three vote victory in the contest. While the petition was allowed, resulting in an election court being scheduled, permission was subsequently given for the petition to be withdrawn, amid concerns about the potential cost of the hearing, which had been predicted to reach £250,000.

In April 1996, fresh allegations of abuse of proxy voting provisions emerged, this time directed against Rafique Malik. Following complaints from Liberal Democrat representatives, it was established by council officials that two applications for proxy votes submitted by the local Labour Party related to voters actually resident in Oldham. In the wake of the discovery, it was reported that Audrey Hannah, a member of the Burnley Labour Party, had written to Labour Head Office urging that, "If there is a possibility of party members being involved in potential election fraud then it should be investigated by the party".

However, despite investigations carried out by Lancashire Police, applications for proxy votes continued to increase, and accusations of fraud continued to surround ward elections in Daneshouse. From 1994 to 1996, proxy vote applications in Daneshouse were reported to have risen from 200 to 300. However, by the late 1990s, applications for proxy votes had exceeded 1,300, equivalent to 28 per cent of registered electors in the ward. The May 1999 elections in Daneshouse, contested between Mozaquir Ali for the Liberal Democrats and Saeed Akhtar Chaudhary for Labour, were dogged by allegations of fraud from both sides, with some 1,150 proxy votes submitted.

Burnley Borough Council and Lancashire Police have sought to respond to these allegations in a number of ways. Evidence regarding the abnormally high levels of proxy vote applications was referred to both George Howarth, MP, in his role as Chair of the Home Office Working Group on Electoral Reform, and Mike O'Brien, the Home Office Minister with responsibility for electoral matters. The case was also reported to Lancashire Police, resulting in a nine-month investigation, subsequently referred to the Crown Prosecution Service in January 2000. While no further action was taken in relation to the 1999 allegations, allegations of fraud associated with proxy and postal votes continued, most notably at the 2004 local elections, culminating in the conviction of Mozaquir Ali, and fellow councillor Manzur Hussain, in November 2006.

Sources: Lancashire Evening Telegraph: 4 April 1996, 16 April 1996, 11 December 1996, 31 May 1999, 24 January 2000 and 16 February 2007.

## How much electoral malpractice is there today?

Given the lack of research, it is very difficult to estimate current levels of electoral malpractice. There are no robust quantitative indicators of electoral fraud and malpractice, since no central body collects such information (Electoral Commission, 2007a, p.1). There are three sources of data currently available, however, which may provide some degree of indication of the number of proven instances of malpractice. These three sources, and the evidence that may be drawn from them, may be summarised as follows:

- 1. Crown Prosecution Service files:** The Electoral Commission's (2007a) analysis of relevant files held by Crown Prosecution Service (CPS) suggested that a total of 402 allegations of electoral offences (as defined by the Representation of the People Act, 1983) were made during the period 2000 to 2006. A total of 72 per cent of these allegations concerned aspects of electoral campaigning (principally, electoral expenses and election materials), while 23 per cent concerned alleged voting offences (such as personation, treating and undue influence). A further five per cent concerned aspects of electoral registration or electoral administration. Subsequent analysis by the Electoral Commission (2007b) revised the previous estimate of 402 cases, and instead referred to 383 'entries' on the CPS files. From these 'entries', the Electoral Commission (2007b) have identified 24 successful prosecutions for electoral offences under RPA from 2000–06 (see appendix C for further detail and analysis).
- 2. Official statistics on RPA offences:** Home Office data cited in Hansard (28 October 2005, Column 646W) provides broad confirmation of the number of prosecutions identified from the CPS files. These data suggest that, from 2000 to 2004, twelve persons were found guilty of electoral offences under the 1983 Representation of the People Act, representing a slight fall in the frequency of convictions compared to 1994–99 (see table B1 in appendix B for full details).
- 3. Official statistics on electoral petitions:** Data on election petitions cited in Hansard indicate that 50 election petitions were submitted from 1997 to 2007 inclusive (Hansard, 22 Mar 2007: Column 1105W and 1106W). There has been no rise in the number of petitions since 2000, and the vast bulk of petitions (84 per cent) concern local elections (see table B2 in appendix B). Only one of the eight petitions relating to general or European elections was subsequently allowed and upheld (although this was subsequently reversed on appeal). Of the cases concerning local elections, one third dealt with straightforward claims of votes being incorrectly counted in very tight contests. From the 20 cases where a result was overturned by the petition, 17 concerned the incorrect counting of votes or some form of administrative error that was deemed to have impacted upon the outcome.

It is important to note that both the CPS files and the Home Office data cited above refer specifically to cases tried under the Representation of the People Act (1983). However, there is a growing trend for convictions for electoral fraud to be brought under alternative legislation. In 2005, the Home Office was 'aware' of four persons having been found guilty of electoral offences under criminal law provisions against forgery and fraud during the period 2000 to 2004 (Hansard, 28 October 2005, Column 646W). Comparison of the published analysis of the CPS files against information collated from a range of legal, academic and media sources suggests a slight majority of cases are now tried under legislation other than the Representation of the People Act 1983. In total, there were a minimum of twelve further convictions for electoral offences from 1 January 2005 to 31 October 2007. Excluding the three cases currently in the courts, we can infer from the available evidence that there have been at least 42 convictions for electoral offences since 2000. In other words, the actual number of prosecutions for electoral offences since 2000 is likely to be at least double that recorded in official statistics.

What do these statistics actually tell us, other than the fact that current knowledge about levels of electoral fraud in the UK is seriously inadequate? There are three ways in which we might seek to interpret this data on electoral offences since 2000. The first interpretation, put forward by the Electoral Commission, is that proven cases of fraud and malpractice relate to a tiny proportion of the elections held since 2000. As the Electoral Commission points out in its analysis of the CPS files, the 402 allegations of electoral offences between 2000 and 2006 arose from 25,000 separate electoral contests in England and Wales, involving 109,500 candidates and 123.5 million ballot papers. Where there is no benchmark to establish an ‘acceptable level’ of fraud, it is clear that individuals convicted for electoral offences constitute no more than 0.1 per cent of candidates standing for office (derived from Electoral Commission, 2007a). A second, counter-interpretation, however, would be that the number of convictions reflects the difficulties of securing sufficient evidence to prosecute. As a result, several senior police officers have suggested that figures on current convictions clearly under-estimate the incidence of malpractice (Thames Valley Police, 2005; Metropolitan Police Authority, 2006). The third way of interpreting the available evidence is to focus not on the number of cases, but on what is revealed, in a more qualitative sense, by the events documented in these cases. In particular, the interpretation of the issues raised by the Birmingham election court of 2004 (see box 2.2) advanced by legal scholars and academics has been unanimous in arguing that it reveals significant, *generic*, weaknesses in the electoral system that have made it significantly more vulnerable to organised, large-scale fraud (Watt, 2006).

## BOX 2.2

### The Birmingham Election Petitions, 2004

The outcome of the local elections held in the Aston and Bordesley Green wards of Birmingham City Council on 10 June 2004 were both challenged via election petitions. These petitions were heard simultaneously between 21 February and 22 March 2005, by Richard Mawrey QC and resulted in both election results being voided. In his judgment, the commissioner found that at least 3,500 postal ballots submitted in the Bordesley Green and Aston wards were fraudulent. Mawrey reported that “the evidence of fraud was overwhelming”. Alongside a number of other irregularities, a large quantity of ballot papers relating to the Aston ward were found to have been taken to a warehouse, where they were completed by Labour Party representatives. A total of six Labour Party representatives were found to have been engaged in corrupt and illegal practices in the two wards, as defined by section 164 of RPA 1983. However, one of the six respondents, Muhammed Afzal, was subsequently cleared of any wrongdoing by the Court of Appeal in May 2005.

Despite being relatively recent, the Birmingham petitions have been the subject of greater academic and legal commentary than any case of electoral malpractice in the UK since 1900. The attention is clearly merited. The scale of fraud identified by the cases was without precedent in recent British political history, profound implications were raised regarding the security of postal voting, and significant concerns were raised about the capacity of the police to investigate allegations of electoral fraud. At the same time, the unambiguous wording of the judgment also ensured that the case received widespread media attention. Most famously, Mawrey argued that the case represented electoral fraud on a scale “that would

## BOX 2.2 continued

disgrace a banana republic”. However, the commissioner’s judgment was equally direct in identifying numerous, generic weaknesses in postal voting provisions and in the wider arrangements for investigating allegations of fraud. Among the many concerns identified by Mawrey, the following may be considered the most significant:

1. Procedures for registering voters for postal ballots were ‘seriously defective’ on grounds of the deadline six days before polling day being insufficient, the lack of guarantee that the application had been made by the voter in question, and the provision allowing the ballot to be sent to an address different to that of the registered elector.
2. Declarations of Identity provided no safeguard against fraud since there was no means of verifying either signatures or the name and address of the witness.
3. Allowing ballot papers to be dispatched and returned via the postal system, and the lack of any legislation preventing the handling of completed ballots by third parties, were seen as a direct invitation to fraudsters: “Short of writing ‘STEAL ME’ on the envelopes, it is hard to see what more could be done to ensure their coming into the wrong hands”.
4. There was no means of effectively detecting or preventing fraud since Returning Officers have no powers to investigating fraud and the Police with limited knowledge of electoral law had effectively been hoodwinked into initially ignoring malpractice: “The Police attitude was well summed up by the use of the codename for these complaints – *Operation Gripe*. In essence, the police did nothing to prevent the frauds which occurred”.
5. The mechanism of the election petition was seen to be “both inadequate and inappropriate as a method of controlling fraud” given its status as a private civil law action in which the litigant must bear the costs.
6. The Government’s insistence that robust safeguards were in place to prevent postal ballot fraud represented a state of denial: “The fact is that there are no systems to deal realistically with fraud and there never have been. Until there are, fraud will continue unabated”.

There can be little doubt that the evidence arising from the Birmingham case was the principal catalyst both for the changes to postal voting procedures introduced in the Electoral Administration Act of 2006 and to the development of a much stronger capacity to respond to electoral fraud allegations within police forces. However, many of the fundamental concerns expressed in Mawrey’s judgment have not yet been addressed and, following the May 2006 local elections in Birmingham, a further election petition was submitted making fresh allegations of corrupt and illegal practices in the Aston ward against Muhammed Afzal. Further evidence, unrelated to the 2006 election petition, arising from a BBC Newsnight investigation, concerning accusation of voters being paid cash for ballot papers and for impersonating other voters was broadcast on 31 October 2007. Responding to the report, Sir Alistair Graham, former Chair of the Committee on Standards in Public Life stated: “It beggars belief really that such serious allegations have come to light three years after the Judge talked about actions that ‘would disgrace a Banana republic’”.

## The political and social geography of electoral malpractice

The details of the convictions for electoral offences that have been identified through the research undertaken for this report are summarised in Appendix C. There would not appear to be any specific patterns to these convictions; they are not restricted to a single political party, to specific geographical areas or to particular migrant communities. Taking into account what is known about electoral misconduct since the 1990s, it is important to stress that representatives of at least six political parties have been convicted of electoral offences over the past 15 years, including Labour, the Conservatives, the Liberal Democrats, Plaid Cymru, the Democratic Unionist Party, and the British National Party. The convictions concern incidents spread across five English regions, plus Wales and Northern Ireland, although it is also apparent that the vast bulk of cases concern elections in England. While a number of high-profile cases, including two cases of large-scale fraud, have concerned local councillors representing areas with a high proportion of British Asian voters, the majority of individuals convicted of electoral offences remain white males.

However, there is no denying that numerous convictions for electoral fraud since 2000 have concerned postal and proxy ballot fraud in specific inner-urban wards, where a large concentration of voters originate from the Indian sub-continent. The convictions successfully brought in relation to local elections in Oldham (2000), Blackburn (2002), Burnley (2004) and Birmingham (2004) all concerned British Muslim communities and collectively account for 50 per cent of the convictions for electoral offences contained on the CPS files (see appendix C). Significantly, these convictions have emerged alongside anecdotal evidence of more widespread, and long-run, practices associated with Pakistani, Kashmeri and Bangladeshi traditions of *Biraderi* ('brotherhood') clans in influencing voting behaviour.

The *Biraderi* system is widely recognised to have provided significant forms of mutual support in those British Asian communities in which it has persisted, particularly for newly arrived migrants joining established communities in the UK (Gilchrist, 2004). However, the hierarchical and essentially patriarchal nature of *Biraderi* associations has drawn much criticism, particularly among second and third generation British Asians (Yaqoob, 2007a). Claims of specific forms of electoral malpractice associated with *Biraderi* are also relatively commonplace in a number of areas, although there has been no systematic research on these issues (Purdham, 2001). In particular, it is widely suggested that extended family and kinship networks, frequently with their origins in settlement patterns in Pakistan and Bangladesh, are mobilised to secure the support of up to several hundred electors, effectively constituting a 'block vote'. In areas such as the London Borough of Tower Hamlets, such practices are frequently referred to as 'village politics', in light of the direct lines of connection between aspects of local party politics and tribal elders in Bangladesh. Reference to such practices was recently made in a report to the Metropolitan Police Authority by the Assistant Commissioner for Specialist Operations of the Metropolitan Police:

*"Anecdotally, some community contacts have remarked on how such practices that are seen as acceptable outside the UK have been adopted in respect of UK elections – for example, the head of an extended family instructing family members to vote for a particular party or candidate. Postal voting increases the risk, as the safeguard of a truly secret ballot is removed."* (Metropolitan Police Authority, 2006, p.3)

The possible influence of *Biraderi* on electoral practices raises a number of complex issues, all of which would require detailed, and difficult, research. Without such research, almost all of the conclusions that may be reached are speculative and largely based on anecdotal evidence. Nonetheless, existing knowledge, in combination with available anecdotal evidence, does provide a fairly clear indication of identified patterns of electoral practice in some British Asian communities. While

British Muslims overwhelmingly voted Labour prior to 2003 (Purdham, 2001), the war in Iraq fundamentally altered this relationship (Stewart, 2006). As part of this highly specific instance of 'voter de-alignment', there is largely anecdotal evidence to suggest that identification with particular political parties tends to be much more fluid among many British Asian voters, activists and even politicians. In this context, it is evident that each of the principal political parties have at some stage sought to acquire a degree of political advantage in particular localities through the promise of a Muslim candidate claiming to be able to 'guarantee' a minimum number of votes arising from their support with a wider clan. In a BBC Radio 4 documentary on *Biraderi* broadcast in August 2003, Shaid Malik, since returned as Labour MP for Dewsbury, suggested that such practice had become commonplace: "Labour and other parties got used to dealing with clan people and there seems to be an unwitting collusion there between the parties and first generation British Pakistanis" (BBC News, 2003).

As a result, accusations of electoral malpractice associated with British Muslim candidates have been made against candidates from all three main parties. Speaking in the House of Commons in July 2007, Anne Cryer, Labour MP for Keighley, accused a Muslim Conservative Party candidate of using "the tactics of intimidation, treating and discriminatory propaganda to secure electoral victory in Keighley Central ward" (Hansard, 26 July 2007: Column 1126) adding: "I do not believe that the type of incidents witnessed in Keighley on 3 May are confined to Keighley. Similar allegations have arisen across the country." (Hansard, 26 July 2007: Column 1127). In some instances, the dramatic electoral success that may be achieved by parties aligning themselves with the *Biraderi* system has subsequently caused internal party conflicts. This tendency has been most apparent in Tower Hamlets, where George Galloway was elected to represent Bethnal Green and Bow for Respect in 2005 and where 12 Respect councillors were elected in 2006. In October 2007, four Respect councillors in Tower Hamlets resigned the party whip, with one councillor explaining her decision with guarded reference to her frustrations at the reassertion of *Biraderi* associations within the party: "I just had enough. I haven't resigned from the party but the way things are turning out in Tower Hamlets are not the reasons I joined Respect. It's become very village politics based" (BBC London, 2007).

In addition, it has been widely suggested that the *Biraderi* system disenfranchises voters, given the combination of a patriarchal clan system and widespread use of postal voting, in which ballot papers are completed within the family home or, in some cases, taken to a central facility (so called 'voting factories') for completion by party representatives. The Metropolitan Police have suggested that in communities where English is a second language the complexity of postal voting forms has made it easier for those seeking to manipulate the electoral process. In particular, the Metropolitan Police have suggested that there is evidence "within the Bengali community in Tower Hamlets" that electors have been persuaded to re-direct their postal ballots to another address or to hand them over to party representatives (Metropolitan Police Authority, 2006). Similar conclusions were reached by an under-cover investigation by *The Sunday Times* of Labour Party practices in the Gipton and Harehills ward of Leeds (*The Sunday Times*, 27 April, 2007). Aside from representing a likely breach of electoral law, the widely accepted existence of such practices highlighted a clear paradox regarding postal voting: "Although intended to encourage active citizenship on the part of immigrant and socially disadvantaged groups, it may have had the opposite effect" (Pinto-Duschinsky, 2007). The danger that many Muslim women are being disenfranchised is particularly serious and has been elaborated in detail by Salma Yaqoob, Respect councillor in Birmingham:

*“It is for the reasons that biraderi (extended clan) networks can exert undue influence that we have been campaigning vigorously in Birmingham against postal votes. Women in particular have been disenfranchised. Postal votes are filled out in the ‘privacy’ of one’s own home. But it is not private when family members, candidates or supporters, can influence subtly or otherwise – the way you complete your vote. Community leaders may claim to be able to yield significant voter blocs, but no one can interfere with the secrecy of the polling station. A secret ballot means that loyalties to family and friends can be maintained in public, but political arguments can still win out in the real privacy of the voting booth.” (Yaqoob, 2007b, pp.3–4)*

## **Summing up the evidence**

Many of the conclusions that can be drawn from the available evidence on electoral malpractice are necessarily tentative. However, there are at least four important conclusions that we may draw, even from such an inadequate evidence base.

1. Whilst electoral fraud is by no means widespread and, based on the available data, it would appear that the number of convictions for electoral offences has not increased significantly following reforms introduced in 2000, electoral fraud does occur in the UK. The documented existence of electoral malpractice during the 1990s serves to underline that the scope for large-scale fraud associated with postal voting could, and should, have been predicted, resulting in appropriate safeguards being built into the legislation.
2. Official statistics underestimate the extent of electoral malpractice because a growing number of prosecutions are being brought with reference to legislation other than RPA 1983. This trend not only underlines the inadequacy of the statistical data, but also of the manner in which electoral offences are defined in the Representation of the People Acts.
3. There are a small number of localities in which electoral malpractice appears to be more deeply embedded, with some evidence to suggest that these concentrations arise from the interaction between traditional *Biraderi* practices within British Asian communities and the strategies adopted by the main political parties. However, the clearest trend in patterns of electoral malpractice over the past two decades is that what was once seen as a specifically Northern Irish problem has since become a specifically English one.



# Chapter Three:

## The lessons and the legacies of electoral modernisation

“Corruption is (...) probable if elections are introduced in a situation in which society is organised hierarchically on the basis of some kind of ‘feudal’ leadership, or in groups (...) which cohere strongly for reasons which have nothing to do with national politics. The antidotes to corruption are strong and independent party organisations (...) and good electoral administration.”

MacKenzie (1958 p.171)

### Postal voting and the assessment of risk

The chief assumption underpinning electoral modernisation has been the government’s view that remote voting in UK elections, initially through postal ballots and ultimately via ‘multi-channel’ elections, will serve to reverse the recent decline in electoral participation. However, while the rationale for the introduction of postal voting on demand in 2000 was clear, it is important to note that there had been a number of reviews of provisions for remote and absentee voting prior to the Howarth Working Group of 1998/99. These reviews had been dominated by a concern to ensure the security of the ballot and the integrity of electoral procedures, rather than by a concern to promote electoral participation (Randall, 2005).

It is significant, given the evidence discussed in the previous chapter, that the limited extension of postal and proxy voting during the 1980s (see box 3.1) had already prompted concerns by the early 1990s about the possibility of greater levels of fraud, particularly in light of the cases of proxy vote abuse highlighted in chapter two. While the absolute number of cases of fraud associated with proxy voting was relatively small, a Home Office Working Party in 1994 considered that instances of electoral fraud underlined the need for caution in extending the availability of proxy or postal voting:

*“A move to absent voting on demand might increase the opportunity for fraudulent applications to be made without the knowledge of the elector. On balance, we consider that the risk of increased fraud outweighs the potential advantage for the electorate of making absent voting available to all.”* (Home Office Working Party, 1994, cited in *Guardian*, 9 May 2001)

## BOX 3.1

### Legislation enabling absentee and remote voting, 1918–2000

#### Representation of the People Acts 1918 and 1945

Both Acts made temporary provision for members of the armed services serving abroad to vote by post. The 1918 Act made permanent provision for members of the armed services to vote by proxy if overseas at the time of an election.

#### Representation of the People Act 1948

Granted serving members of the armed forces the permanent right to vote by post (within the UK) or by proxy if serving overseas/at sea at the time of election. Introduced provisions for postal and proxy voting for civilians unable to attend a polling station on grounds of health, disability or old age.

#### Representation of the People Act 1985

Enabled British citizens living overseas to apply to vote by proxy in the constituency in which they last lived, for a period of up to five years after leaving the UK. These provisions were estimated to have enfranchised an additional 0.5 million voters. The 1985 Act also enabled electors on holiday overseas or with other good reasons for being unable to attend a polling station to apply for either a proxy or postal ballot.

#### Representation of the People Act 1989

Extended the provisions for overseas voters, allowing them to cast ballots for up to 20 years after leaving the UK and permitting British citizens reaching voting age while living overseas to apply for proxy votes.

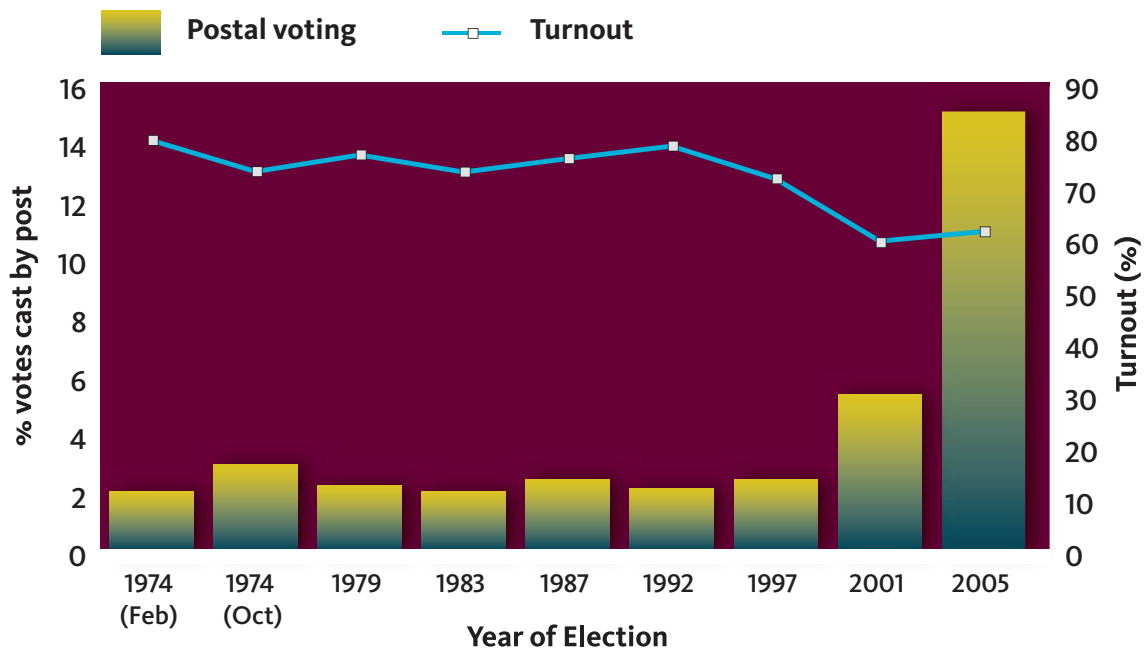
#### Representation of the People Act 2000

Introduced 'postal voting on demand', meaning that registered voters were no longer required to provide reasons for requesting a postal ballot.

Sources: White and Moulton, 2007; Watt, 2006.

The decision to extend postal voting was therefore a major departure, offering an interpretation of the risk of electoral malpractice starkly at odds with the conclusions of the 1994 review. The sixty eight page final report of the Working Party on Electoral Procedures contained a single reference to electoral fraud, simply stating that the group had been careful "to look critically at the possible implications for electoral fraud. Overall we are satisfied that none of the recommendations we set out below will lead to any significantly higher risk of abuse" (Home Office, 1999, p.48). Based on this confidence, which reflected cross-party consensus among members of the Working Party, the report recommended that postal votes should be permitted 'on demand' and a simplified procedure for applying for postal ballots be introduced. These recommendations, as implemented by RPA 2000, have allowed any registered voter to request a postal ballot at every UK election since 16 February 2001 (White *et al.*, 2005).

**Figure 3.1:** Percentage of vote cast by post and overall turnout at UK general elections, 1974–2005



Sources: The Independent Commission on Alternative Voting Methods (2002, p.19); Yonwin (2004); The Electoral Commission (2005).

### Does postal voting increase turnout?

The growth of postal voting enabled by the new provisions has been dramatic. As figure 3.1 above shows, postal ballots typically comprised two to three per cent of the votes cast at general elections between 1974 and 1997. Prompted by the sharp decline in turnout after 1997, the introduction of postal voting on demand has seen the proportion of ballots cast by post rise to five per cent in 2001 and 15 per cent in 2005. Soon after the passage of RPA 2000, further pressures to roll out postal voting emerged. Among its proponents, the case for postal voting was reinforced by the 59 per cent turnout in the 2001 General Election, representing the lowest level of electoral participation since 1918 (Randall, 2005). While turnout did not rise significantly in 2005, despite the sharp increase in the take-up of postal voting, some of those interviewed in the course of this research suggested that it is possible that postal voting on demand prevented turnout falling for a third general election in a row.

**Table 3.1: Change in turnout in Parliamentary constituencies with one-third or more of valid votes cast by post, 2005 General Election**

Rank	Constituency	% postal ballots 2005	% increase in postal votes 2001-2005	% change in turnout 2001-2005
1.	Newcastle upon Tyne North	56.0	+154.9	+8.5
2	<i>Stevenage</i>	53.5	+17.4	+2.8
3	<i>South Shields</i>	47.0	+1130.2	+3.2
4	Newcastle upon Tyne Central	46.8	+165.9	+11.5
5	Rushcliffe	46.5	+918.9	+6.0
6	Newcastle East and Wallsend	46.0	+131.6	+4.5
7	<i>Tyne Bridge</i>	42.9	+199.6	-14.0
8	<i>Jarrow</i>	42.3	+1136.3	+0.7
9	Telford	39.8	+949.6	+11.0
10	<i>Hackney South and Shoreditch</i>	37.1	+2983.2	+0.2
11	The Wrekin	36.9	+532.6	+6.2
12	Hackney North and Stoke Newington	35.3	+2014.9	+7.4
13	Rotherham	34.5	+355.3	+23.8
14	<i>Blackpool South</i>	33.3	+544.3	+0.2
15	<i>Don Valley</i>	33.0	+719.5	-0.5
<b>UK AVERAGE</b>		<b>15.0</b>	<b>+183.0</b>	<b>+3.2</b>

Source: Derived from the Electoral Commission (2005)

However, it is also clear that there have been enormous geographical variations in the take-up of postal voting, as well as in its impact on turnout. At the 2005 General Election, there were 38 constituencies where at least 25 per cent of votes were cast by post, including 15 where postal ballots comprised 33 per cent or more. As table 3.1 shows, among the 15 constituencies in which postal voting was most popular in 2005, the change in turnout varied between an increase of 23.8 per cent in Rotherham to a decrease of 14.0 per cent in Tyne Bridge. Moreover, in seven cases – highlighted in italics – the percentage increase in turnout was either at or below the national average, with turnout either falling or remaining essentially static in five cases – Jarrow, Hackney South and Shoreditch, Tyne Bridge and Don Valley – despite the widespread take-up of postal ballots in these constituencies. Reflecting on the relationship between the uptake of postal ballots and turnout across all constituencies in 2005, Curtice (2005, p.784) concludes that “the wider availability of postal voting had, at most, a small impact on turnout” adding that:

*“Lacking any stimulus to vote, many again stayed at home. Not even the prospect of being able to avoid the journey to the polling station enticed many voters to exercise their franchise. Turnout depends not on giving people a choice about how to vote but rather on what they are voting about.”* (Curtice, 2005, p.784)

**Table 3.2: Number of local electoral pilots and assessment of the impact of all-postal voting pilots, 2000–2004**

Year of elections	No. of authorities running pilots	No. of authorities running all-postal pilots	Key conclusions from evaluation reports
2000	32	6	Significant potential for increasing turnout demonstrated by all-postal ballots only (LGA, 2000)
2002	30	15	Postal voting pilots showed clearest, positive impact on turnout (The Electoral Commission, 2002)
2003	59	33	Clear evidence of postal ballots boosting turnout (The Electoral Commission, 2003)
2004	127	127	Turnout up in all regions, but additional increase of around 5 percentage points in all-postal areas (The Electoral Commission, 2004)

Similar issues arise from the evidence relating to the all-postal ballots piloted in local council elections after 2000. All-postal ballots pointed to strong initial evidence of postal voting raising turnout at the local elections held from 2000–2004, as summarised in Tables 3.2 and 3.3. However, while the introduction of postal voting did have an immediate, beneficial impact on turnout, it would also appear that the ‘turnout premium’ is likely to level off, and then decline, at subsequent elections. As table 3.3 shows, in areas where all-postal voting has been used on multiple occasions, turnout tends to plateau and then drop. There is also evidence to suggest that UK experience reflects a widely observed international tendency for postal voting to provide choice to middle-class voters who would probably have voted anyway (Karp and Banducci, 2000; Qvortup, 2005).

**Table 3.3: Turnout in local elections in areas with three or more all-postal pilots, 2000–2004**

	1998	1999	2000	2002	2003	2004
Gateshead	29.3	26.0	56.1*	57.3	54.7	47.7
Stevenage	25.5	29.9	43.6*	52.9	53.2	n.a.
Trafford	33.7	32.8	n.a.	49.0	52.4	45.0

Notes: \*average turnout in two wards piloting all-postal arrangements.

## The problems of electoral administration

While the impact of postal voting on turnout is questionable, its implications for electoral administration have been clear, particularly since 2004. Legislation making provision for all-postal ballots was delayed by challenges in the Lords during early 2004, due to growing concerns about the risk of fraud. As a result, the European Parliamentary and Local Elections (Pilots) Act 2004 finally received Royal Assent on 1 April 2004, just ten weeks before the date of the elections (10 June) (White and Moulton, 2007). While the all-postal pilots of 2004 did result in a number of allegations of fraud, they were also dogged by media reports suggesting serious administrative problems. However, despite widespread predictions of results being challenged in the courts, only five election petitions were submitted with reference to the 2004 elections. Of these five petitions, three were upheld and resulted in elections being declared void, all relating to local

elections. The first two of the three successful petitions, considered simultaneously by a single election court, concerned the Aston and Bordersley Green wards of Birmingham City Council, which received widespread media, academic and legal attention (see chapter two). However, the third voided election, which received very little publicity, was arguably more representative of the problems experienced in the all-postal pilots of 2004. This case, concerning the incorrect delivery of ballot papers for an election to the Derringham ward of Hull City Council reveals a great deal about the pressures placed on electoral administration by electoral modernisation (see box 3.2).

## BOX 3.2

### The City of Hull Election Petition, 2004

At the 2004 local elections, John Carnforth, the UKIP candidate, was declared the victorious candidate in the Derringham ward of Hull City Council by a margin of seven votes, following six recounts. The defeated, second-place candidate, John Considine, the sitting Independent Councillor (who had first been elected to Hull City Council as a Labour Councillor in 1983), challenged the result via an election petition. Considine alleged electoral irregularities on the part of returning officer, Jan Didrichsen, on a scale that could plausibly have affected the outcome of the election. The alleged irregularities were that numerous voters in Derringham had been sent ballot papers for the Marfleet ward, on the other side of the city, and that several registered electors in Derringham had received no ballot papers at all. In line with electoral law, Considine was required to raise a deposit of £2,500 in order for the case to be heard and was personally liable for any costs incurred should the election court rule against him.

The election court commenced at the High Court in London on 6 October 2004, reaching a verdict on 24 November 2004. The court voided the election, accepting that an unknown number of voters had received the incorrect ballot papers, as a result of ballot papers for Marfleet being inserted into envelopes addressed to electors in Derringham. While Hull City Council had made provisions for voters to obtain fresh ballot papers once the problem had come to light, the judge ruled that these actions provided insufficient grounds to allow the result to stand. At the same time, the court also absolved Hull City Council's returning officer and elections staff for responsibility, identifying the errors as having been made at the printers. Nonetheless, the court ruled that the returning officer, as the respondent to the petition, was liable for the costs incurred by both Considine and Carnforth. Furthermore, the court ordered that the election be re-run, as a by-election, within 35 working days, but offered no indication about who should bear responsibility for the costs incurred in re-running the elections (BBC News, 4 January 2005).

Fresh elections in the Derringham ward duly took place on 13 January 2005, with Michael Rouse-Deane winning the seat for the Liberal Democrats with a majority of 248 over John Considine. In October 2006, Rouse-Deane subsequently left the Liberal Democrats to serve the remainder of his term as an Independent. Meanwhile, a legal dispute between Hull City Council and the printing company concerned regarding the costs of the by-election was ongoing as of November 2007.

In the period since 2004, evidence of growing pressures being placed on the UK's highly localised arrangements for electoral administration by persistent legislative change has mushroomed. While local experience varies, there is also widespread evidence that electoral administration has long had to operate as a 'Cinderella service' within many local authorities, suffering from poor levels of resourcing and lack of dedicated personnel. The introduction of postal voting on demand and the imposition of all-postal pilots revealed significant questions about the capacity of electoral administration to respond to the new legislative requirements. The tendency for new regulations for postal voting to be introduced via very short timescales has posed particular challenges over the past five to seven years. These problems have, in turn, been exacerbated by even more serious concerns about the capacity of the printing industry to deliver large numbers of postal ballots, both at short notice and to the specifications required. A number of local authorities experienced significant problems ensuring that ballot papers were printed on time and that ballot papers were correctly printed and inserted into the correct envelopes. To cite one example, in Stockport, calls were made from opposition councillors for the returning officer to resign in advance of the 2004 all-postal ballots, after over 200,000 ballot papers by an alternative contractor had to be re-printed at short-notice due to serious errors made by the original printers (*Stockport Express*, 2 June 2004).

These pressures have evidently taken their toll on electoral administration as a profession. Indeed, it is almost certainly not an exaggeration to suggest that in many parts of the country, systems of electoral administration may be close to breaking point. One of the most concerning of the multitude of documents produced about election processes in recent years is the report of the Association of Electoral Administrators (AEA) on a survey of its members following the May 2007 elections. These elections were the first ones held following the introduction of procedures for collecting and checking personal identifiers for postal ballots as part of the Electoral Administration Act 2006. While supporting these measures, AEA had raised numerous concerns about specific aspects of the proposals, including the tight timescale for implementation, the serious resource implications raised, the lack of robust piloting, and the use of previously untested IT systems. The AEA's report argues that "the fears that were expressed (...) came to fruition" and provides detailed, anonymised reports from electoral administrators describing "actual and serious situations" (Association of Electoral Administrators, 2007, p.7). The report finds that a series of potentially major problems were only narrowly averted and raises serious concerns about the possibility of such problems being repeated at a general election:

*"The outcome of the May 2007 elections was, to the uninitiated, that they were conducted satisfactorily. Eligible voters were able to vote, candidates did get elected. However the real issue lies behind those outcomes (...) ROs in the main delivered because of the unstinting work, dedication and professionalism of their staff. Many were forced into practices alien to normal arrangements and probably feared the possibility of challenge or close scrutiny. Plans in many areas were seriously compromised by the failure of suppliers and, given that this was an election year with large parts of the country not being contested, the ramifications for a General Election are indeed extremely worrying."* (Association of Electoral Administrators, 2007, p.11)

Particular concerns about the state of electoral registers were raised by the Graham Committee's review of the work of the Electoral Commission. These issues have prompted the Electoral Commission to commission research into the accuracy and comprehensiveness of the electoral registers and led to work within the Commission to develop performance indicators for electoral administration. Issues concerning electoral registration cannot be divorced from the experience of postal voting. It is evident, for instance, that maximising electoral participation requires the electoral registers to be as *complete* as possible. Likewise, electoral integrity and the minimisation of the risk of electoral fraud hinges on electoral registers being as *accurate* as possible.

However, in comparison to previous decades, estimates concerning the coverage and accuracy of electoral registers have been found to be seriously wanting. A widely-cited estimate for under-registration is that 3.5 million electors (some 8 to 9 per cent of eligible voters) in England and Wales are not on the electoral register (The Electoral Commission, 2007d). However, it is evident from interviews with senior electoral administrators that this estimate carries little or no credence. It is also recognised that registration rates vary enormously between local authorities. Recent pilot research in Greater London commissioned by the Electoral Commission suggests that under-registration in individual London boroughs may range from 9 to 33 per cent (GfK NOP Research, 2007). Wider survey evidence suggests that there are similar variations in levels of registration nationally, partly reflecting contrasting practices of individual local authorities and a general lack of resources available for the task of electoral registration, particularly in the most deprived areas.

Measures of accuracy for the registers are even more difficult to derive. Rough estimates for the number of ineligible names on the register vary from 1 to 3.5 million, but the general picture was perhaps most accurately summarised by one interviewee for this research: “all we can really say is that nobody really knows”. In their report for the Electoral Commission, GfK NOP Research (2007) estimate that 2 to 3 per cent of entries on the register contain errors or missing information relating to either the survey respondent’s name or address, but offer no indication of the possible number of ineligible names on the register arising from instances where the elector is deceased, fictitious, or registered in more than one local authority. There is, however, evidence to suggest that local authorities that have sought to ‘clean up’ their registers have seen the number of entries reduced by up to 20 per cent (Hansard, 9 Mar 2004: Column 1418W). At the same time, several newspapers have sought to demonstrate the potential for registering fictitious voters – most famously the *Daily Mail* reported on 7th February 2004 that its staff had successfully registered the name Gus Troobev (an anagram of ‘bogus voter’) on 31 separate electoral registers during a single day.

## **Electronic voting and counting**

Since May 2002, a variety of electronic voting procedures have been piloted across a number of local authorities in English local council elections. In their more limited form, these pilots have involved making computer terminals available within polling stations. However, there have also been numerous pilots of ‘multi-channel’ electronic voting, enabling voters to cast ballots remotely via the internet, telephone or SMS, often with a facility for ‘advance voting’ before polling day. While evaluation reports suggest that such forms of electoral modernisation may have a modest impact in increasing turnout, it also apparent that electronic voting tends to be costly and that the principal benefit is the provision of greater choice, largely to those who would have voted anyway. Although there is no clear evidence of fraud associated with electronic voting, the possible risks associated with hacking and virus attacks have been widely documented (Fairweather and Rogerson, 2003).

Equally significant is the concern that electronic voting lacks the transparency of traditional voting procedures, particularly as there is no ‘paper trail’ that can be audited where disputes arise (Independent Commission on Alternative Voting Methods, 2002). Likewise, it is clear that the secrecy of the ballot cannot be guaranteed where remote electronic voting is permitted (Birch and Watt, 2004). Some of the most concerning anecdotal evidence to emerge is that in one local authority, party workers carrying out door-to-door canvassing assisted voters in casting their votes via SMS. Many ‘e-voting’ pilots have also experienced technical problems, resulting in some-



times lengthy periods during which specific e-voting channels became inoperable. As box 3.3 illustrates, using the case of Swindon, such problems have occurred even in local authorities with the most experience of running e-voting pilots. The recognition of the significance of these problems led the Electoral Commission (2007e) to recommend that a much stronger regulatory and policy framework should be put in place before further e-voting pilots are contemplated.

## BOX 3.3

### The experience of e-voting: Swindon Borough Council

The most systematic piloting of electronic voting in the UK since 2000 has taken place in Swindon in Wiltshire. Together with Sheffield City Council, Swindon Borough Council is one of only two local authorities to have run three separate pilots of electronic voting, at local elections held in 2002, 2003 and 2007. These pilots have tested a variety of forms of electronic voting, including remote voting via the Internet, telephones, and digital television, as well as the use of mobile electronic voting kiosks and laptops within polling stations. A central feature of the approach taken in Swindon has been the use of wider initiatives to raise awareness about local elections, particularly among 'hard to reach voters', and to promote the use of electronic and postal voting. For the 2006 and 2007 local elections, the council's electoral services division created a MyElection website, described as "an online election resource where voters were also able to find out information about candidates, polling station locations and other relevant election details".

The experience of e-voting in Swindon therefore has significant wider relevance, not least because the emphasis which Swindon has placed on e-voting has led to its provisions attracting considerable attention. Senior elections staff from the council made a presentation on e-voting to the San Diego Elections Task Force in October 2006. In March 2007, the council was awarded beacon authority status for its work in electoral services, with particular reference to its piloting of e-voting and wider promotion of e-democracy. The authority was also chosen as a key location for electoral observation conducted by the Open Rights Group (ORG) at the 2007 local elections in England.

The three e-voting pilots in Swindon were conducted alongside the availability of postal voting on demand and were characterised by an increasingly ambitious approach to the promotion of 'multi-channel voting'. In May 2002, facilities for advance electronic voting were made available over a five day period in the run up to election day, allowing registered voters to vote by telephone or the Internet. Fifteen per cent of all votes cast in the election were cast electronically, two-thirds of which were Internet votes. In May 2003, the pilot was extended to four electronic voting channels – Internet, telephone, digital television, kiosks – and the proportion of ballots cast electronically rose to 25 per cent, with two-thirds of e-voters again using the facility for internet voting.



## BOX 3.3 continued

The May 2007 pilot, described by the Borough's Director of Law and Democratic Services as "the most ambitious and complex e-voting pilot scheme ever undertaken in the UK", combined advance voting facilities with provisions for supervised electronic voting facilities on polling day. Voters could cast their votes in advance via remote internet or telephone or from five supervised locations, while 64 electronic voting stations were provided on polling day. The total proportion of votes cast via electronic channels remained static, at 24 per cent, with remote internet voting continuing to remain by far the most popular of the e-voting facilities.

The detailed evaluation reports of each pilot scheme produced by the Electoral Commission (2002b, 2003d, 2007f), together with the observation report produced by the Open Rights Group on the 2007 pilot, provide a sound evidence base for assessing the impact and operation of e-voting in Swindon. Four sets of key issues emerge from these reports which, taken together, highlight significant limitations with e-voting:

**Turnout:** Despite counter-claims made by Swindon Borough Council itself, the view expressed in Electoral Commission evaluation reports has consistently been that the e-voting pilots had little or no impact on turnout. While turnout across the Borough rose to 31.2 per cent in 2002, a rise of 3.5 percentage points compared to 2000, overall turnout fell again in 2003 to 29.9 per cent, despite the e-voting pilot that year. In 2007, overall turnout rose again slightly to 34.5 per cent. Although surveys revealed that e-voting proved popular among those making use of the facility, the council's particular focus on using e-voting to encourage young people to vote demonstrated very limited impact. Furthermore, survey evidence suggests that many e-voters would have voted anyway. A survey carried out by ICM Research for the Electoral Commission (2007f) found that 75 per cent of remote Internet voters, 82 per cent of telephone voters and 96 per cent of voters using e-voting facilities at polling stations would have voted without the facility in question.

**Security:** None of the three e-voting pilots produced any evidence of fraud or malpractice and the Electoral Commission's 2007 evaluation highlighted that 95 per cent of e-voters were confident that their vote was secure. However, both the Commission's report and the report produced by ORG highlight notable security weaknesses in the systems used. The ORG report highlighted that voting terminals were left unattended for periods at the Oasis leisure centre. The Electoral Commission highlighted several relatively minor security issues which were spotted in advance of polling day, with delays in suppliers implementing agreed changes causing delays in the launch of advance voting services. Both ORG and the Commission also identified security risks at the count including terminals used for decryption and vote-tallying being left unattended and cabling linking terminals being left exposed.

**Reliability:** While the 2002 and 2003 pilots ran without any significant technical hitches, the more ambitious 2007 pilots witnessed a failure of network connections at two polling stations (Covingham and the Lawns) and a loss of wireless connectivity affecting the laptops provided for voting at the Oasis leisure centre.

## BOX 3.3 continued

The ORG report also suggested that numerous laptops malfunctioned: “laptops at polling stations used for e-voting and live electronic registers proved unreliable, with the majority of polling stations observed experiencing problems” (ORG, p.2). In addition, ORG reported evidence of confusion among election staff about how to deal with voters while problems with network connectivity were experienced, given that electronic registers could not be marked at these times.

**Cost:** The Electoral Commission’s evaluations of the e-voting pilots consistently highlighted the high costs of the arrangements, which were met by central government. The Commission’s evaluation of the 2007 pilots estimated that the cost of providing e-voting facilities was £102 for each voter making use of the facility, compared to a cost of £2 per elector for conventional ballots.

In short, while remote internet voting has evident popularity with a specific minority of the electorate in Swindon, the impact on turnout has been negligible, notable problems associated with security and reliability have been highlighted, and the costs of providing e-voting have been demonstrated to be potentially excessive. These conclusions were, moreover, echoed by the Electoral Commission’s (2007e) assessment of experience across all the 2007 e-voting pilots.

A number of pilots have also been undertaken with electronic counting systems, designed to make the process of counting votes more efficient and more accurate. E-counting, which involves the use of special hardware to scan (unfolded) paper ballots, has had particular appeal where new electoral systems have been introduced, requiring the recording and counting of multiple preferences. From the very first large-scale pilot of e-counting, at the Greater London Authority and Mayoral elections of May 2000, potential problems with e-counting have been evident. Despite the concerns raised in London in 2000 and at subsequent counts in English local authority elections, e-counting was opted for at the Scottish elections of May 2007. As was highlighted in the introduction to this report, the failure of the e-counting system in Scotland resulted in a large number of counts being suspended which, in combination with a series of other failings, led to the commissioning of an independent report on the elections. In his report, published in October 2007, Ron Gould said that those involved in the elections had “almost without exception treated voters as an afterthought”. Recognition of the concerns associated with e-counting led the Electoral Commission (2007) to recommend suspension of such pilots in advance of the publication of the Gould report.

As box 3.4 highlights, the parallels between the London elections of 2000 and the Scottish elections of 2007 are more than striking – they are shocking. Virtually all of the problems identified in the GLA report of 2002 re-surfaced in the Gould report of 2007. Indeed, if the words ‘London’ and ‘Scotland’ and the dates ‘2000’ and ‘2007’ were switched in the respective documents, large parts of either report could be read as a description of the problems experienced in the other case. While the lessons learnt from the London elections of 2000 have ensured that similar problems were minimised in the 2004 elections for Mayor and GLA, it is deeply concerning that such a similar pattern of events could be repeated in another part of the UK seven years later. Weighing

## BOX 3.4

### The London Mayor and Greater London Assembly Elections, 2000

The combined elections for the Mayor of London and the Greater London Assembly (GLA) in May 2000 constituted the first large-scale pilot of electronic counting technologies in UK elections. Following a series of problems experienced at the count, it became evident that a very large proportion of ballot papers had been rejected. The GLA elections, which use the Alternative Member system, had produced rejection rates of 9.9 per cent on the constituency ballot and 5.4 per cent on the list ballot. Meanwhile, the results of the Mayoral election, which use the supplementary vote system, indicated that 2.3 per cent of first choice votes for Mayor, and 16.7 per cent of the second choice votes, had been rejected. However, further analysis indicated that the high proportion for rejected second preference votes on the Mayoral contest largely reflected individual electors' wishes not to cast a second preference vote (Electoral Reform Society, 2001).

A GLA inquiry established to examine the electoral process, particularly in light of the exceptionally high proportion of rejected votes, pointed to a number of wider shortcomings in the planning and management of the election process (GLA, 2002). In particular, it was found that the election had been dogged by problems arising from:

1. Insufficient time for planning and for electoral administrators to take on board the requirements of new legislation;
2. Additional pressures on electoral administrators arising from the management of postal voting, including concerns about the pressures placed on the postal service and the printing industry;
3. A lack of clarity about roles and responsibilities and resultant poor coordination among key individuals and agencies;
4. Concerns about ballot paper design and possible confusion among the electorate about the use of different electoral systems.

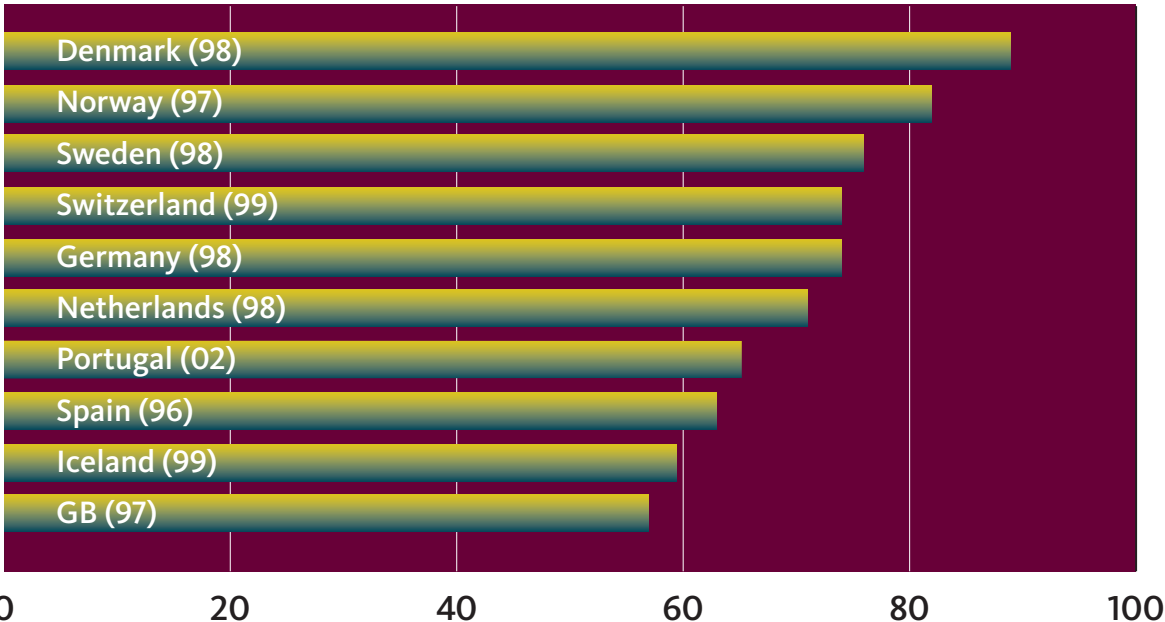
With specific reference to the count, the report noted that there had been major problems experienced with scanners rejecting large numbers of ballot papers or sorting them for manual adjudication. In a written submission to the investigative committee, one returning officer highlighted problems associated with the tendering process to choose suppliers, a lack of adequate trialling, the over-sensitivity of the scanners to smudges, creases and other marks on the paper ballots, and the overnight count leading to fatigue and further errors by elections staff.

up the relative benefits and risks emerging from the pilot project evaluations of e-voting and e-counting, the conclusions seem clear cut. While pilots of electronic voting have generally elicited high levels of satisfaction among survey respondents, such pilots have proved extremely expensive and there is no evidence to suggest that e-voting offers any significant scope for turnout to be increased by this means. At the same time, serious concerns persist about the security and transparency of e-voting systems and their vulnerability to organised fraud. Meanwhile, although e-counting is widely deemed necessary where proportional electoral systems are in use, experience to date has highlighted serious problems associated with the deployment of such technologies. Not only has e-counting frequently failed to improve on the estimated time required for a manual count, it has also highlighted the lack of transparency in such system, particularly in comparison with manual counting. In circumstances such as the Scottish elections of 2007, there is a very real danger that the use of such technologies may serve to undermine confidence in the electoral process.

### The elephant in the room: declining public confidence

The issue of public confidence in UK electoral processes merits urgent attention. Figure 3.2 presents data on levels of public confidence in elections for nine West European countries, including Great Britain, derived from surveys using identical questions following national elections held from the late 1990s onwards. While levels of public confidence in elections are high, by international standards, across Western Europe, the figure also points to some clear variation within Western Europe. The highest rates of public confidence are found in the Scandinavian countries, closely followed by Germany, the Netherlands and Switzerland. By contrast, lower rates of public confidence are recorded in the relatively ‘new’ democracies of Portugal and Spain, and also in Iceland. However, among the ten countries for which data is available, Great Britain has the lowest proportion of respondents declaring full confidence in electoral processes. Only 57 per cent of those surveyed in Britain had full confidence in the fairness of the election result, compared to 73 per cent on Germany and 88 per cent in Denmark.

**Figure 3.2:** Percentage of respondents expressing full confidence in election outcomes across nine West European countries, 1997–2002



Source: Birch, 2005

Birch (2005) finds that measures of public confidence in elections across 28 democracies have a strong positive correlation with both the use of proportional representation and with direct public financing of political parties. The absence of such measures in the UK therefore goes some way to explaining lower levels of public confidence, which it shares with other 'majoritarian' democracies such as Canada, New Zealand and the USA, where surveys suggest only 34–50 per cent of citizens have full confidence in electoral processes. Perhaps more surprisingly, Birch finds that the existence of independent institutions for electoral administration, such as electoral commissions, appears to have a negative impact on public confidence. While paradoxical, there may be a rational explanation for these observed correlations. Birch suggests that, in many countries, electoral commissions have struggled to assert independent authority from governing parties. Where disputes break out between governing parties and electoral commissions about the conduct of elections, public confidence may inevitably be undermined.

This observation is highly significant in the British case. Concern about public confidence in the electoral process was one of the key factors behind the reforms introduced by PPERA 2000, which established the Electoral Commission. However, since 2000, electoral politics in the UK has been plagued by precisely the dynamics which Birch suggests may lead to such well-intentioned reforms undermining public confidence. Over the past five years, the tense relationship between the Electoral Commission and the UK government could not have done more to undermine public confidence in the electoral process. Since 2003, the Electoral Commission has become increasingly concerned about issues of ballot security. In *Voting for Change* and *The Shape of Elections to Come*, both published in 2003, advocated more robust security measures for postal voting, for legislation defining new offences concerned with postal ballots, and for the introduction of individual registration. However the Commission's proposals fell on deaf ears, at least within government. Instead, the Department for Constitutional Affairs chose to ignore the Commission's advice by pushing ahead with proposals for all-postal pilots in four English regions at the combined European Parliament and local elections of June 2004. The subsequent fall out from the Birmingham election petitions of 2004, allied with the wider problems arising from the 2004 all-postal ballots, prompted the Electoral Commission to effectively reverse its position on postal voting in local elections. Having previously supported a move to all-postal ballots for local elections, providing further safeguards were provided, the Commission now argued in *Delivering Democracy* (2004):

*"All-postal voting should not be pursued for use at future statutory elections or referendums in the UK, and the option of sending ballot papers automatically to every registered elector should not be pursued."* (Electoral Commission, 2004)

The Electoral Commission has been left increasingly frustrated by the government's refusal to accept many of its key recommendations, almost all of which reflect conclusions also reached by the Association of Electoral Administrators, international election observers, and academic experts. That much of this standoff between government Ministers and the Electoral Commission has concerned the government's rejection of proposals for measures to enhance the security of the ballot, merely serves to underline the problem.

There are no comparative data from equivalent surveys since 2002 to assess whether there has been such a decline in overall public confidence in UK elections relative to other European countries. However, there is clear evidence to suggest that public confidence in UK elections has declined further over the past decade where postal voting has been widely used. In June 2004, 33 per cent of those surveyed thought that postal voting was fairly or very unsafe from fraud. Eleven months later, in the wake of the Blackburn and Birmingham judgments, 46 per cent

expressed such concerns, with virtually the same proportion (44 per cent) subsequently offering the same assessment in Spring 2006 (Electoral Commission, 2006). Moreover, while the 2004 survey data had suggested that 67 per cent of the public felt postal voting to be safe from fraud, this figure fell to 51 per cent among residents in the regions where all-postal voting was piloted and to 46 per cent for British Asian voters (Curtice *et al*, 2004). Among those that had voted in 2006, almost a quarter suggested that fraud was a problem, mainly citing media coverage to justify this claim (Electoral Commission, 2006).

The task of rebuilding public confidence in the electoral process is perhaps the most urgent concern that emerges from the analysis presented in this chapter. High-profile cases of fraud have highlighted vulnerabilities in the electoral system, which have been exposed further by investigative journalism. It is also likely that public confidence has been influenced by administrative shortcomings associated with postal voting, which have highlighted the under-resourcing of electoral administration, as well as the often unrealistic timescales within which complex legal and technical changes have had to be introduced into electoral processes. As several interviewees highlighted during the research for this report, there are few, if any, instances in living memory of the integrity of UK electoral administrators and returning officers being called into question. It would be a tragedy if this confidence in the integrity of our electoral administration were to be undermined by the sheer weight of pressures being imposed upon it.

There are, however, further factors influencing public confidence in elections. Most notably, Birch's (2005) comparative research suggests that the existence of limits on campaign spending correlates negatively with public confidence in the electoral process. To explain this apparent paradox, Birch highlights the tendency across many democracies for such regulations to be breached. As such, rules about the registering of donations or limits on campaign spending may serve principally to highlight examples of abuse, with the result that "blatant violation of these regulations by political parties and candidates may lead to a worsening in perceptions of electoral integrity on the part of the ordinary citizen" (Birch, 2005, pp.20–21). There are grounds to suggest, therefore, that recent revelations concerning Labour Party breaches of the rules concerning the registering of donations with the Electoral Commission are likely to have further undermined public confidence in the electoral process. Yet, as the following chapter will show, the problems associated with the role of money in shaping UK electoral outcomes run much deeper than failures to adhere to the rules governing the declaration of donations.





# Chapter Four:

## Cash for constituencies?

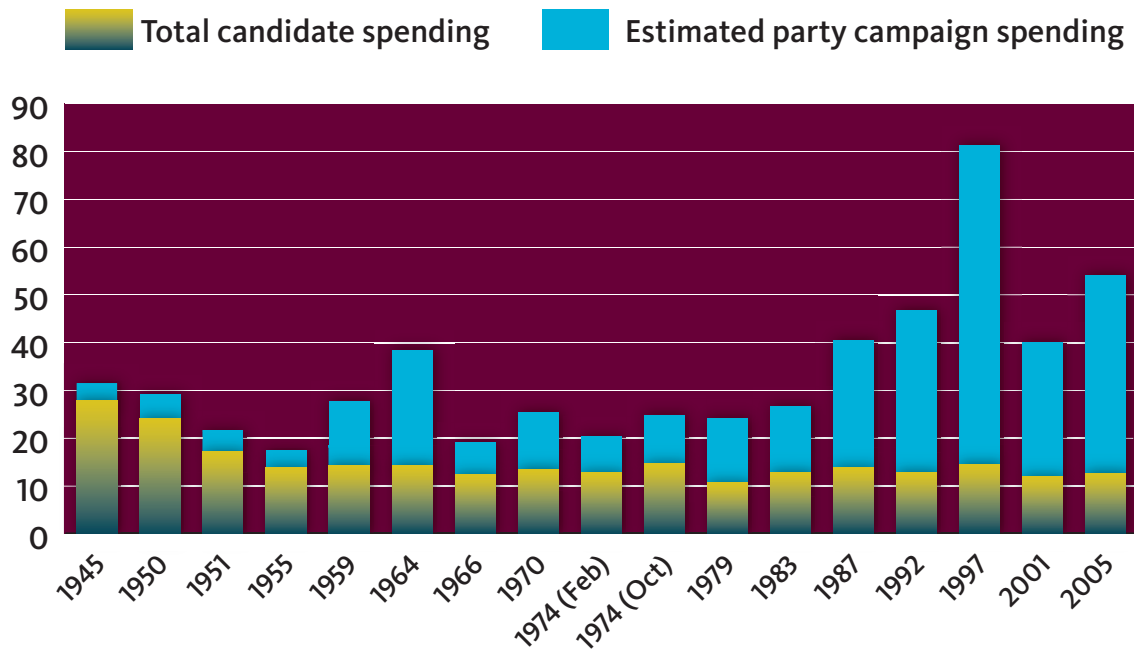
“On Friday, 6 May 2005, the day after the election (...) Stephen Gilbert worked out how the candidates we had supported financially compared with those who had not received our support. It soon became clear that we had been wasting neither our time nor our resources. Of the thirty-three candidates who had won seats from Labour or the Liberal Democrats, no fewer than twenty-five had received support from the fund that I had set up with Leonard Steinberg and the Midlands Industrial Council.”

Michael Ashcroft (2005, p. 295)

### The problem of election finance

There is widespread agreement that democratic elections require some form of control over financial expenditure designed to persuade voters to opt for a particular party or candidate. Indeed, much legislation internationally has taken its original inspiration from the UK, where limits on individual candidate expenditure were introduced as part of the Corrupt and Illegal Practice Act of 1883. However, as with other aspects of electoral law, this Victorian legacy was left largely untouched for more than 100 years. Candidate limits thus remained the principal means through which expenditure at British general elections was regulated until the passage of PPERA 2000, which introduced caps for national expenditure on election campaigns (Ewing, 2007). There are, moreover, remarkable parallels between contemporary debates and controversies surrounding party funding and the earlier periods of British political history. The original ‘cash for honours’ scandal centred on the activities of the Liberal Prime Minister, David Lloyd George, between 1916 and 1922, while some of the most expensive elections in British political history were conducted in the inter-war years, primarily as a result of lavish Conservative spending (Pinto-Duschinsky, 1981). In 1929, the Conservatives outspent Labour by a ratio of roughly 7:1, prompting the new Prime Minister, Ramsay MacDonald, to establish an Electoral Conference chaired by Lord Ullswater, with the aim of reaching agreement between the parties on limiting election spending (Linton, 1993). However, the most significant trends since 1945, and particularly since the clarification in the case of *Rex v Tronoh Mines* (1952) that spending limits applied only to expenditure supporting a named candidate, has been the growth in spending on national election campaigns.

**Figure 4.1:** Combined national party campaign spending and local candidate spending at UK General Elections, 1945–2005 (£ million, in 2005 prices)



Note: This figure is presented primarily to illustrate broad trends, particularly in relation to party spending. Political parties were not required to report on their levels of election spending prior to 2001. Data on party spending for the period 1945–1987 are derived from a common methodology (Pinto-Duschinsky 1981, 1985, 1989), although the author of these works notes particular difficulties estimating Conservative spending in 1945, 1950 and 1966. Since 2001, figures for party spending have been compiled by the Electoral Commission; changes in regulations since 2001 render strict comparison between 2001 and 2005 problematic. All spending has been converted to 2005 prices using the Retail Price Index.

Sources: Ewing (2007); Pinto-Duschinsky (1981, 1985, 1989); Linton (1993); Committee on Standards in Public Life (1998); Electoral Commission (2005)

Figure 4.1 presents the broad trends in party and candidate spending at general elections since 1945. While the data on which this figure is based are subject to a number of caveats, particularly in relation to estimates for party expenditure prior to 2001, a number of significant trends can be identified. First, combined expenditure by election candidates, when measured in real terms, fell sharply between 1945 and 1955 but thereafter stabilised, with only very minor fluctuations at £14 to 15 million (measured in 2005 prices). Second, the balance of election spending has shifted from expenditure incurred by candidates *locally* to expenditure incurred by parties *nationally*. In 1945, individual candidates accounted for around 90 per cent of total election spending, but by 1997, the candidate share of election spending had fallen to approximately 20 per cent. Third, the absence of any caps on centralised election expenditure before 2000 prompted national party spending to rise dramatically during the post-war period, peaking initially in 1964, and then again in 1997. National election spending rose sharply at each election after 1979, with the record level of expenditure in 1997 representing the culmination of a spending ‘arms race’ in British politics during the 1990s (Ewing, 2007, p.5). The sharp fall in 2001 was as much a reflection of the perilous financial state of the parties as it was a direct product of the imposition of expenditure caps, since all three main parties spent well within the imposed limits.

## Public spending and the benefits of incumbency

How, and to what extent, money influences electoral outcomes in the UK is difficult to assess, although there is general agreement about the range of ways in which such an influence may be felt. It is widely argued, for instance, that campaign promises, particularly those made by incumbents, may be considered as a form of ‘collective bribe’. Searle (1987) notes how the regulations contained in the 1883 Corrupt and Legal Practice Act, combined with the emergence of a stronger party system, prompted responsibility for election finance to transfer progressively to party headquarters. He argues this was “a development which arguably gave rise to *new* kinds of corruption, but which greatly reduced the level of traditional malpractice” (p.7). The sales of honours associated with David Lloyd George’s period as Prime Minister is perhaps the most obvious example of this trend. However, earlier than this, concerns emerged that targeted state expenditure was being used to sway voters. During the campaign for the Wicks Burghs by-election in 1913, the Scottish Liberal Whip, John Gullard, promised voters governmental funds for harbour redevelopment via the Development Commission if they returned the Liberal Candidate, John Munro. Subsequent controversy surrounding Munro’s unexpected election and the alleged ‘harbour bribe’ ultimately prompted Prime Minister Asquith to apologise for the “error of judgement”. The Wicks Burgh case has a direct parallel in more recent times. In 1966, facing a possible defeat at the Hull North by-election in 1966, which would have reduced the Labour government’s majority to one, the Minister for Transport, Barbara Castle, announced plans for a bridge across the Humber. Forty years on, in an article entitled ‘How I won Hull £345 million’, Richard Gott, a Guardian journalist who stood as an Independent candidate at the 1966 by-election, described Castle’s decision as “possibly the most expensive electoral bribe in history” (Guardian, 2006).

### BOX 4.1

#### The benefits of incumbency

For sitting MPs, the principal advantages of incumbency include:

- Free publicity gained via local media coverage of events and ongoing campaigns;
- Free access to the postal service when writing to constituents;
- A communications allowance to facilitate (non-partisan) contacts with constituents via newsletters, websites, newspaper advertising and other media.

For the party of government, the principal advantages of incumbency may include:

- Scope to set an election date based on opinion polls and the economic cycle;
- The option to book up key billboard sites prior to announcing the election date;
- The possibility to manage fiscal policy to maximise electoral advantage;
- Scope to manage party spending prior to announcing the date of the election in order to maximise scope to concentrate spending during the campaign period.

Source: Ewing, 2007; Johnston and Pattie, 2008

The view that governing parties seek to influence elections via targeted local expenditure has been argued to have application beyond these examples of ‘must win’ by-elections. John and Ward (2001) argue that the UK’s majoritarian model of democracy encourages central manipulation of public spending allocations for partisan advantage, and they provide evidence to suggest that Conservative governments targeted central grants to local authorities in marginal constituencies, particularly from the late 1980s, in a bid to secure subsequent electoral advantage. Whether or not we choose to regard such governmental expenditure as a form of ‘collective bribe’, it is widely accepted that incumbents, particularly those representing the governing party, generally start election campaigns with a significant advantage (see box 4.1). In recent years, these debates surrounding the potential advantages enjoyed by MPs from the governing party have become increasingly bound up with wider controversies surrounding party funding that have dominated the numerous reviews conducted since 1998 (see box 4.2). Inevitably, such disagreements centre on those ‘loopholes’ in the current legislation which may offer scope for individual parties to acquire a specific, partisan advantage. Currently, this dispute has drawn attention back to issues surrounding the advantages enjoyed by incumbents and whether sharply divergent levels of donations to local constituency parties undermine the notion of a “level playing field” (Ewing, 2007).

## BOX 4.2

### Key developments in the regulation of party finance and election campaign spending, 1998–2006

- 1998: The Neill Committee report on *The Funding of Political Parties in the United Kingdom* recommends the introduction of expenditure limits for national party campaigns at general elections.
- 2000: The Political Parties Elections and Referenda Act introduces expenditure limits and establishes the Electoral Commission.
- 2004: The Electoral Commission’s report on the funding of political parties recommends a reduction in national spending limits and a significant increase in candidate spending limits.
- 2006: In the immediate wake of controversies surrounding undisclosed loans taken out by the major parties in the run up to the 2005 General Election, the Prime Minister announces the Review of the Funding of Political Parties to be conducted by Sir Hayden Phillips (March). Soon after, the government moves an amendment to the Electoral Administration Bill introducing regulations to ensure loans to political parties are disclosed to the Electoral Commission (April).
- 2006: Publication of Constitutional Affairs Select Committee Report on Party Funding (December).
- 2007: The report of the Phillips review outlines proposals for tighter regulation of donations and ‘third party’ spending, reduced general election campaign expenditure and an enhanced role for the Electoral Commission. The report also advocates inter-party talks as the only means of taking forward this set of proposals (March).
- 2007: Breakdown of party talks chaired by Phillips, with parties unable to agree on principles for augmenting caps on single donations with caps on individual donor contributions (October).

Sources: Ewing, 2007; Gay *et al*, 2007.

## Why candidate spending still matters

While overall candidate spending at general elections has remained fairly stable for five decades, candidate expenditure associated with the main three parties has declined in real terms. In 2005, the average campaign expenditure of Conservative and Labour candidates had fallen to 78 per cent of the levels spent by their counterparts in 1970. Liberal Democrat candidates standing at the 2005 General Election spent, on average, 59 per cent of the amount spent by Liberal Party candidates in 1970. Taking a longer-term perspective, the average campaign expenditure of candidates from all three parties in 2005 was about a third of the level of spending at the 1945 election (see table 4.1). However, there is also a second significant trend: the geographical targeting of campaign spending. As table 4.2 shows, all three parties spend considerably more in seats they are defending at a general election and considerably less in seats in which they start as the third-placed party. The targeting of resources to defend seats is most obvious in the case of the Liberal Democrats. In the 52 seats they won at the 2001 General Election, average Liberal Democrat candidate spending in 2005 was 2.5 times the average for the party's 626 candidates as a whole. The converse tendency – for third-placed candidates to under-spend relative to their party average – is most evident in the case of the Labour Party. Among Labour candidates notionally starting from a third-place position, spending was just 45 per cent of the average for all Labour candidates (see table 4.2 for full details).

**Table 4.1: Average spending by the candidates of the three main parties at select general elections, 1970–2005, £s, measured in 2005 prices (1945 included for historical comparison)**

	1970 £	1979 £	1987 £	1992 £	2005 £	(1945) £
Conservative	9,830	7,419	8,291	8,096	7,699	(22,422)
Labour	8,577	6,427	7,349	7,056	6,690	(17,104)
'Liberal'*	6,909	3,432	6,406	4,393	4,055	(15,293)

\*Data refers to the Liberal Party in 1945, 1970 and 1979, to the SDP/Liberal Alliance in 1987, and to the Liberal Democrats in 1992 and 2005.

Sources: Pinto-Duschinsky, 1989, p.205; Linton, 1993, p.26; Johnston and Pattie, 2008, appendix 1.

**Table 4.2: Average spending by the candidates of the three main parties at the 2005 General Election, £s**

	Average (all seats) £	Average (1st place in 2001) £	Average (3rd place in 2001) £
Conservative	7,699	9,621	4,300
Labour	6,690	8,376	3,045
Liberal Democrat	4,055	10,705	2,777

Source: Derived from Johnston and Pattie, 2008, appendix 1.

This practice of political parties targeting their resources at marginal seats is by no means new: the practice has been highlighted in many of the Nuffield College studies of post-war British elections, including those relating to the 1950, 1970, February 1974, October 1974 and 1983 General Elections (c.f., Johnston, 1987). However, as Johnston notes, the view expressed consistently in these studies was that variations in local candidate spending had little impact on election outcomes; general elections were increasingly held to represent “a national battle rather than the sum of disparate local struggles” (Butler and Kavanagh, 1983, p.267, cited in Johnston 1987, p.35). Yet, if campaign spending has no discernible impact on election results, the targeting strategies adopted by the political parties at each general election for five decades would appear to be irrational. In fact, more systematic attempts to measure the impact of constituency spending suggest that the parties are behaving in an entirely rational manner. In a series of publications, Ron Johnston and Charles Pattie have challenged the ‘conventional wisdom’ of the Nuffield studies (Johnston, 1987; Johnston and Pattie, 1997, 2006, 2007, 2008). The key conclusions reached in Johnston and Pattie’s work are fourfold:

- Parties behave rationally in seeking to target money at the seats where it is likely to have greatest impact;
- Higher levels of expenditure improve a candidate’s electoral performance, taking into account other factors, although the impact is greatest where the candidate is the principal challenger to the incumbent;
- Levels of expenditure are best understood as the most viable proxy measure of the intensity of a party’s local campaign, while also bearing in mind that campaign activity and campaign funds are often indivisible;
- There is growing evidence that the capacity of a party to run a ‘long campaign’ (i.e., throughout and across parliamentary cycles), rather than just in the official six week campaign period, will further enhance the impact of local expenditure.

## Money and the marginals

Johnston and Pattie’s research also poses something of a conundrum for local parties. With party membership and activism falling dramatically, the scope for local parties to generate income for constituency campaigns – through membership dues and traditional forms of fund-raising – has diminished significantly. Meanwhile the prioritisation of national election campaigns has limited the extent to which national parties channel funds to local parties: most resources travel the opposite way, i.e., from local parties to national headquarters. Increasingly, local parties seeking to run an extensive campaign must rely on direct donations, just as the parties must do nationally in an election year. Consequently, large sums of money raised through donations are likely to be a significant factor influencing the performance of a party’s candidate in a general election (Johnston and Pattie, 2007). Using the Electoral Commission’s register of donations to political parties for the period February 2001 to December 2005, Johnston and Pattie (2007) isolate the donations made directly to local parties and identify striking variations in the practice of Labour and Conservative donors. Donations made to constituency Labour parties from 2001 to 2005, particularly donations from individual trade unions, were often directed at relatively safe seats in Labour’s ‘heartlands’ rather than at key marginal seats. By contrast, Conservative donors appeared to be “more strategic than their Labour counterparts”, with donations clearly focussed on marginal constituencies.

Table 4.3, derived from Johnston and Pattie's data, illustrates some of their key findings. The table summarises the donations made to constituency parties in England and Wales fighting marginal seats at the 2005 General Election, defined here as seats which each of the three main parties won or lost in 2001 by margins of up to 4 per cent. Defined in this way, each of the three parties contested 45 marginal seats in 2005. The table underlines the disproportionate capacity of local Conservative parties to attract funding through donations, relative to other local parties. From July 2001 to June 2005, the 45 Conservative parties in the most marginal seats received just over £1 million in donations: treble the sum of donations to the 45 Liberal Democrat marginals, and quadruple that reaching the 45 local Labour parties fighting marginal seats. The data in table 4.3 also underlines the extent to which donations to Conservative constituency parties rose in the period immediately before the 2005 General Election. From July 2001 to June 2004, just under half of the 45 local Conservative parties received donations, amounting to just over £250,000 in total. However, from July 2004 to June 2005 around nine-tenths of local Conservative parties in these marginals received donations, amounting to £784,390 in total (an average of £19,600 per constituency party). By contrast, there was no significant rise in either the number or the value of donations to Labour and Liberal Democrat marginals, where local parties received an average of £6,429 and £7,721 respectively.

**Table 4.3:** Cash donations to constituency parties in England and Wales fighting marginal seats at the 2005 General Election, during  
a) July 2001 – June 2004 and b) July 2004 – June 2005

	No. constituencies	Constituencies with donations (period a)	Sum value of donations (period a) £	Constituencies with donations (period b)	Sum value of donations (period b) £
<b>Conservative</b>	45	22	250,794	40	784,390
<b>Labour</b>	45	21	111,778	22	141,451
<b>Liberal Democrat</b>	45	17	176,267	22	169,869

Note: For the purposes of this table, a party is defined as fighting a marginal seat in 2005 where it won or lost that seat at the 2001 General Election by a margin of up to 4 per cent

Source: Derived from Johnston and Pattie, 2007, pp.376–7

These contrasts reflect both the greater level of total donations made to local Conservatives parties and the more strategic approach adopted by donors. Of the £3.3 million made available to Conservative constituency parties in England and Wales in the year up to the 2005 election, one quarter of the total went to the 45 tightest Conservative marginals (see table 4.4).

**Table 4.4:** Cash donations to constituency parties in England and Wales, July 2004 – June 2005, by marginality of seat at 2005 General Election

	Seats won/lost by 0-4% in 2001	Seats won/lost by 0-9% in 2001	All seats
<b>Conservative</b>	784,390 (24%)	1,545,490 (47%)	3,268,740 (100%)
<b>Labour</b>	141,451 (10%)	401,136 (28%)	1,450,037 (100%)
<b>Liberal Democrat</b>	169,869 (21%)	345,033 (42%)	813,096 (100%)

Source: Derived from Johnston and Pattie, 2007, pp.376–7

This targeting of donations has, moreover, been facilitated by the deliberate choices of a small number of donors. As table 4.5 shows, three donors accounted for 39 per cent of all donations made to local Conservative parties from July 2004 to June 2005. Collectively, Bearwood Corporate Services, the Midlands Industrial Council and Lord Leonard Steinberg made donations to around 100 local parties with a combined value of £1.28 million in the year before the 2005 General Election. The ongoing controversies surrounding the role of these donors have presented a major stumbling block for talks on the reform of party funding (Ewing, 2007; Johnston and Pattie, 2007). The significance of the donations relates specifically to their potential impact on electoral outcomes in the seats to which they have been directed. Analysis of the breakdown of donations to local parties in marginal seats in England in the year up to the 2005 General Election (see appendix D for full tables) reveals four very clear patterns across the 35 seats for which data were collected:

- Donations to local Conservative parties exceeded those to the party seeking to defend, or take, the seat from the Conservatives by a ratio of 3:1 in Conservative-Labour marginals, and 4:1 in Conservative-Liberal Democrat marginals.
- Sixteen candidates received substantial donations from Bearwood Corporate Services, a company owned and controlled by Michael Ashcroft. The ‘Ashcroft money’ alone was roughly equal to the sum of all Labour donations in the Conservative-Labour marginals and to all Liberal Democrat donations in the Conservative-Liberal Democrat marginals.
- While donors to all three parties made donations to multiple local parties in marginal constituencies, the size of Conservative donations were of a different order. In the 15 Conservative-Liberal Democrat contests, a total of £145,301 was contributed by Bearwood Corporate Services and the Midlands Industrial Council, whereas the sum contributed by Waging Peace to seven local Liberal Democrat parties was £9,750.
- The contribution of six major trade unions to local Labour parties failed to emulate the sums injected by three donors to Conservative marginals. Combined donations from Bearwood Corporate Services, the Midlands Industrial Council and Lord Steinberg to the top 20 Conservative-Labour marginals amounted to £247,939 (49.8 per cent of donations received by these parties). The total amount contributed directly by six unions to Labour campaigns in these seats was £53,265 (33 per cent of the donations received by Labour). The principal contribution from a single organisation to these Labour marginals came from GMB, with five donations equivalent to £31,775.

**Table 4.5: Principal donors to local Conservative parties, July 2004 – June 2005**

Name of donor	No. of local parties to which donations made	Sum value of donations made £
Bearwood Corporate Services	73	806,200
Midlands Industrial Council	26	376,040
Lord Steinberg	5	95,907
<b>TOTAL</b>	104	1,278,147

Source: Derived from Johnston and Pattie, 2007, pp.376–7



Michael Ashcroft's strategy of directing resources to local parties, developed in conjunction with other major donors, is outlined in his autobiography *Dirty Politics, Dirty Times* (Ashcroft, 2005). There is little doubt that the strategy works. By donating large sums to local parties up to a year in advance of the 2005 election campaign, Conservative candidates were able to engage in well-resourced 'long campaigns' in order to maximise electoral support. Despite an increase in their share of the vote of only 0.6% in 2005, and a modest 3 per cent swing from Labour to the Conservatives, the Conservatives gained 33 seats. One third of Conservative gains from Labour were achieved with local swings of 5 per cent or more. At the same time, an otherwise successful Liberal Democrat campaign was undermined by the failure of Liberal Democrat candidates to unseat sitting Conservatives in key marginals. The shoring up of Conservative campaigns through the injection of significant resources is the obvious explanation for the above-average performance of Conservative candidates in such marginal seats. As a result, the key question to be posed is not whether the 'Ashcroft strategy' works, but whether it raises issues about the coverage of PPERA 2000. Although the approach taken by the Conservatives in 2005 was fully within the law, it may be argued that it represents a challenge to the principles on which spending limits are based. As a result, growing calls have been made for new legislation to extend local spending limits across full cycles.

In his letter to the then Prime Minister, Tony Blair, which accompanied his report of recommendations on party funding reforms in March 2007, Sir Hayden Phillips stated, "There is, in my view, an overriding public interest in acting now to reform party funding. Achieving this will require tough decisions on all sides, particularly about donation limits and spending limits". However, the breakdown of subsequent party talks has largely arisen from the issues raised by the targeting of donations to support local party activity *between* general elections. Conservative Party candidates in marginal seats justify the strategies adopted by Michael Ashcroft and other major donors with reference to the advantages enjoyed by incumbents, particularly those representing the governing Labour Party. There is, however, strong evidence to suggest that many of the benefits of incumbency can be countered via effective local campaigns. Johnston and Pattie (2008) find that a challenger's spending during an election campaign has a far greater impact than that of the incumbent, providing challengers with a significant 'catch up' effect. To a large extent, moreover, these messages have been internalised by the political parties and have come to play an increasingly important part in their electoral strategies. The great tragedy is that such strategies, which tend to have a significant impact on voter turnout, are targeted at the tiny minority of voters who happen to live in marginal constituencies. Indeed, the implications arising from the targeting of donations and campaign spending, particularly in relation to the concerns about turnout, are among the most neglected areas of analysis in contemporary debate about UK elections.



# Conclusions...

## and lessons from Northern Ireland

The relative lack of research into electoral processes in the UK, particularly prior to 2000, is striking. In particular, it would appear that the previously widespread assumption that British elections were ‘free and fair’ has meant that there has effectively been no research on electoral malpractice in the UK (Stewart, 2006). Moreover, despite the enormous volume, and high quality, of research conducted and commissioned by the Electoral Commission since 2000, significant areas of the evidence base remains virtually non-existent. This dearth of research has constituted a major failing in the context of rapidly changing electoral policy in the UK. All too often, genuine concerns have been dismissed on the basis that there is ‘no evidence’ to underpin the claims being made or that the only evidence available is merely anecdotal. In actual fact, the evidence base is arguably too deficient to establish anything other than ‘working hypotheses’ about a number of key issues such as the state of the electoral registers or trends in electoral malpractice in the UK.

While there is no hard evidence suggesting a significant increase in electoral malpractice since 2000, the extension of postal voting has significantly enhanced the vulnerability of UK elections to *large-scale* fraud. It is equally clear that absentee voting of any form significantly increases the risk of fraud and the scale of fraud that it potentially possible. The Birmingham election court of 2005 demonstrates that the control of a major city council or the outcome of a parliamentary contest could be influenced by the scale of fraud that was rendered possible by postal voting. Electoral legislation has had to play ‘catch up’ with this reality in recent years, although there is widespread agreement that the provisions introduced by the Electoral Administration Act 2006 still fall short of what is required. As such, it is difficult to refute the view recently expressed by the former Chair of the Committee on Standards in Public Life that the government appears to be ‘in denial’ about the challenges to the integrity of UK elections.

Reforms introduced with the intention of raising turnout have, without doubt, dented public confidence in the electoral system, which was already low by European standards. Instead of engaging with such concerns, the government reiterated its determination in November 2007 to “further develop our electoral modernisation strategy”, using existing legislative provisions and further piloting of alternative electoral arrangements. It is the centrality of the concern to find a relatively ‘quick fix’ to the problem of declining turnouts, particularly among ministers, that has caused such a variety of genuine concerns, and valid evidence, to be overlooked. Randall (2005, p.409) has argued the consistent tendency to refute the validity of such concerns suggests that “group think was apparent in the way in which the reform of the system was proposed, accepted and adopted in the late 1990s”. Most significantly, the likelihood of such fraud occurring could have been predicted on the basis of evidence of growing proxy vote fraud during the 1990s.

At the same time, there is an urgent need for all those involved in UK elections to accept that the causes of low turnout are far more fundamental than the extent to which voting procedures are ‘modern’ or ‘convenient’, although the role of such factors should not be dismissed entirely. Ironically, however, some of the core reasons for declining turnout may well arise from the

patterns of party funding that have become clearer as a result of the requirements of PPERA 2000. In particular, emerging evidence points to the interplay between the 'First Past the Post' system of elections and the geographical contrasts in local campaign spending as a potentially significant factor in explaining low turnout in many constituencies. Appendix A to this report presents a brief case study of the 2005 General Election on Merseyside, which highlights the possible relationship between turnout and geographical variations in local campaign spending.

One of the most damaging legacies of these reforms has been their negative impact on electoral administration. As the Electoral Commission (2007c) state: "in many areas of the UK we have noted concerns that the current structure for the delivery of electoral administration is close to breaking point and we believe it is insufficiently robust and coordinated to meet the challenges of elections in the twenty-first century". However, the extent to which these issues have been considered seriously by ministers and civil servants is difficult to gauge. Certainly, it would appear that little account was apparently taken of the fragile state of electoral administration arrangements in the Prime Minister's initial plans to call a snap general election. The nature of the 'lucky escape' represented by the 'General Election that never was' is underpinned by the fact that the conclusions reached in this report reinforce the findings of a number of recent reviews and commentaries on British electoral procedures. As such, the recommendations of the Committee on Standards in Public Life's review of the work of the Electoral Commission, as well as the Commission's subsequent response to these recommendations, and to the Gould report on the Scottish elections in 2007, provide at least part of the route map towards future reform. The Electoral Commission has signalled its intention to lead a detailed review of the current legal and policy frameworks for elections in the UK. This is a welcome initiative and, outside of ministerial circles, there is widespread appetite for such a debate.

It would be presumptuous to seek to pre-empt the conclusions which may be reached by the Electoral Commission's review. However, in relation to legislative frameworks, the possibility cannot be dismissed that root and branch reform of British electoral law and administration is required, as opposed to further consolidation of legislation and administrative procedures originating in the nineteenth century. The nature of this task may be less onerous than it would seem. It has been widely noted in recent reviews of UK election procedures that many viable solutions to the problems that have emerged in recent years are already in place in one part of the UK. In parallel with the broader reviews of electoral processes in the UK carried out after Labour came to power in 1997, separate reviews were undertaken examining the issues arising from the experience of elections in Northern Ireland. These reviews included the report of the Northern Ireland Affairs Select Committee (1998) on Electoral Malpractice in Northern Ireland and the Northern Ireland Office's (1998) report Administering Elections in Northern Ireland. These inquiries were undertaken because of a widespread concern that, in contrast to the rest of the UK, electoral malpractice remained widespread in Northern Ireland, despite the measures introduced in the Elections (Northern Ireland) Act of 1985. Yet despite the widespread perception that electoral malpractice was taking place in specific parts of the province, concrete evidence of fraud proved elusive. As the Northern Ireland Select Committee's (1998) report noted:

*"There have been many allegations of voting fraud, in particular made by representatives of political parties, but the allegations have not always been precise. Much of the evidence of fraud is anecdotal and circumstantial. Gossip has not translated into hard evidence. In particular, there is a notable lack of concrete information on the prevalence of voting fraud. As a result, the extent of the problem is hard to define."* (Paragraph 46)

Despite the lack of clear evidence, the Northern Ireland Select Committee took the view that it was likely that electoral malpractice was a serious problem in Northern Ireland and required the introduction of urgent measures to minimise the scope for ‘vote stealing’. At the centre of this analysis was a concern about the extent of inaccuracies in the electoral register, particularly the ‘inflation’ of the register through multiple and false entries. The Select Committee recommended measures to improve the accuracy of electoral registers and tighter controls over absentee voting in Northern Ireland. As a result, the provisions in the Representation of the People Act 2000 for absentee voting (postal voting on demand) and for electoral pilots were not extended to Northern Ireland. Instead, the recommendations of the Select Committee were translated into the 2001 White Paper ‘Combating Electoral Fraud in Northern Ireland’ and ultimately formed the basis for the Electoral Fraud (Northern Ireland) Act 2002.

## BOX 5.1

### The Electoral Fraud (Northern Ireland) Act 2002

The Act introduced a range of measures intended to address inaccuracies in the electoral register for Northern Ireland and to reduce the opportunities for malpractice in elections. The key elements of the reforms introduced by the Act, as supplemented by provisions in the Northern Ireland (Miscellaneous Provisions) Act 2006, and developed through their implementation by the Electoral Office for Northern Ireland may be summarised as follows:

- **Individual registration:** the system of household registration has been replaced by one of individual registration. Under the new system, individual electors, rather than heads of household, are required to complete electoral registration forms.
- **Personal identifiers:** voter registration forms require electors to confirm their name and address and provide a signature and two personal identifiers (their date of birth and national insurance number). National insurance numbers are subsequently checked against records held by the Department for Work and Pensions.
- **Rolling registration:** the annual canvass of electors has been abolished in favour of a system of rolling registration.
- **Photographic ID:** all electors must produce one of four forms of valid, photographic identification when attending a polling station: a driving license, a passport, a senior-citizens bus pass, or an Electoral ID card. Electoral ID cards are available free on request to all registered voters.

Five years on from the new measures being introduced, there is ample evidence of their success. In particular:

- The problem of over-registration has been tackled, while ensuring that the coverage of the register is as comprehensive as possible. Registration rates fell from the ‘unrealistic’ level of 96.6 per cent in 2001 to 81.7 per cent in 2006, with subsequent registration campaigns restoring the level to 84.4 per cent by late 2007 (Bain, 2007, p.7);



## BOX 5.1 continued

- Surveys of Northern Irish voters indicate widespread support for the new measures. In 2003, 70 per cent of those surveyed felt the registration system would reduce fraud and 74 per cent felt it would make voting more secure (Millward Brown Ulster, 2003). Following the 2007 elections to the Northern Ireland Assembly, 80 per cent of those surveyed expressed satisfaction with the system of voter registration and 56 per cent agreed that they were serving to reduce the extent of electoral fraud (Ipsos Mori, 2007);
- There has been a marked decline in the disproportionately high number of tendered ballots issued in Northern Ireland, previously seen as potential evidence of widespread personation. At the 2005 General Election just 55 tendered ballots were issued in Northern Ireland (EONI, 2005), compared to over 900 at the 1983 General Election (Mitchell and Gillespie, p.71).

In light of this, and other, evidence, there is a growing support for extending some, or all, of the measures currently specific to Northern Ireland to the rest of the UK. The Electoral Commission (2007c) argues that the changes introduced by the 2002 Act “have improved public confidence on the integrity of electoral processes in Northern Ireland” (p.7) and advocated that “lessons from the experience in Northern Ireland (...) can be used to inform a realistic and robust plan for implementing individual registration in Great Britain” (p.8). The same conclusion is reached in the Council of Europe’s (2008) report, in which the rapporteurs “urge the British authorities to introduce a system of individual registration with appropriate personal identifiers” and “strongly recommend the British authorities to consider introducing in Great Britain the other security measures contained in the Electoral Fraud (Northern Ireland) Act of 2002” (p.19).

As box 5.1 summarises, over the past decade, electoral reforms introduced in Northern Ireland have provided for more accurate electoral registers, strengthened the role of electoral administration, sharply reduced accusations of malpractice, and raised public confidence in the electoral process. Introducing the second reading of The Electoral Fraud (Northern Ireland) Bill in the House of Commons on 10 July 2001, Desmond Browne MP, the Parliamentary Under-Secretary of State for Northern Ireland, justified the new measures in the following terms:

*“There has been growing concern about the perceived level of electoral malpractice in Northern Ireland. The Government have a commitment to protecting the right to free and fair elections. Of course, electoral fraud is a crime. Electoral abuse is an affront to democracy and we are determined to combat it wherever it occurs. If there is a high level of abuse, or even if people only fear that that is the case, the democratic process will be under threat. We do not want voters in Northern Ireland to become disillusioned with politics because they fear that elections are unfair.”* (Hansard, 10 July 2001, Column 688)

Seven years on, very few of those involved in administering elections in the UK would be likely to quibble if the very same words were used to justify significant change to electoral law in the rest of the country.

# Appendix A:

## The 2005 General Election on Merseyside

The possibility that low turnouts may be, at least in part, the product of low levels of campaigning in ‘safe’ seats is nowhere better illustrated than in Merseyside. In the drive to introduce regional all-postal voting pilots at the 2004 combined local and European elections, the 34 per cent turnout in Liverpool Riverside at the 2001 General Election attracted frequent comment (see table A1). Rather less has been made of the fact that Liverpool Riverside, which again recorded the lowest constituency turnout nationally in 2005 (42 per cent), borders four other constituencies where turnout was under 50 per cent in 2005: Liverpool Walton (45 per cent), Liverpool West Derby (47 per cent), Bootle (48 per cent) and, just across the Mersey, Birkenhead (49 per cent). Just as significantly, immediately beyond this tight cluster of parliamentary seats with low turnout, levels of electoral participation rise sharply, reaching 68 per cent in Wirral South and Wirral West, and 67 per cent in Crosby. As such, recent general elections across Merseyside’s 16 parliamentary constituencies reveal a growing bifurcation of parliamentary contests broadly typical of Metropolitan Britain as a whole. In one group, we find safe Labour seats, where overall turnout is generally low, while a second group of seats are more tightly contested and have significantly higher levels of turnout.

**Table A1: A tale of two constituencies: Liverpool Riverside and Wirral West**

	Liverpool Riverside	Wirral West
Adult residents (2001)	73,943	60,132
Distance from central Liverpool (km)	0	12
Residents aged 16-74 without qualifications (%)	32.7	24.3
Residents aged 16-74 economically inactive (%)	51.7	37.1
Registered voters (2005)	74,062	61,086
Turnout (2001) (%)	34	65
Turnout (2005) (%)	42	68
Name and party of MP	Louise Ellman, LAB	Stephen Hesford, LAB
MP's majority (%)	32.7	2.7

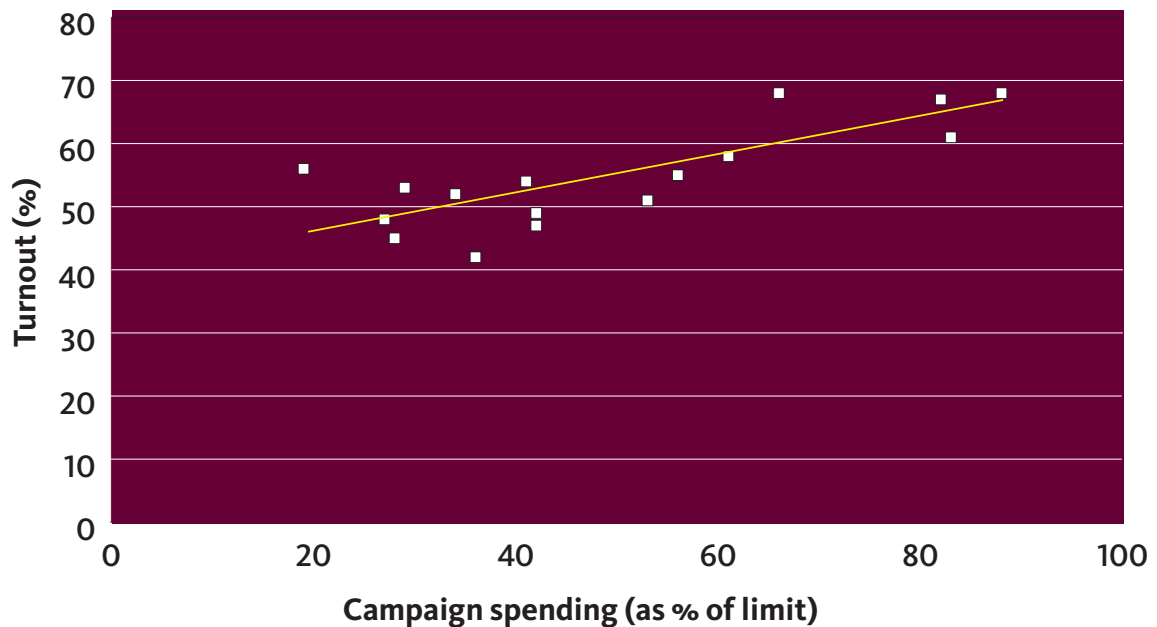
Sources: Neighbourhood Statistics (2007)

The Merseyside case underlines that these two contrasting types of parliamentary contest are generally underpinned by a distinct social geography. Low turnouts in safe Labour seats are typical for constituencies in metropolitan cores with high levels of social deprivation, while higher turnouts and greater party competition typify elections in the more affluent seats in the metropolitan periphery (see table A1 for a comparison of Liverpool Riverside and Wirral West).

Just as significantly, however, the Merseyside case also reveals closely related geographical variations in campaign spending and in the levels of donations to local parties. The lack of genuine party competition in safe seats results in low levels of campaign spending among all candidates. By contrast, where there is greater party competition, there are significantly higher levels of spending by candidates from all three main parties. Moreover, where seats are genuinely marginal, candidate spending tends to be highest, while local parties in target seats are also more likely to be able to attract large donations throughout the parliamentary cycle. This tendency, which has been discussed in depth in chapter three, is demonstrated clearly in a number of Merseyside constituencies, including Southport, Crosby, Wallasey and, most evidently, Wirral West – Wirral West being one of 14 local Conservative parties nationally to receive £40,000 or more in donations in the run up to the 2005 General Election.

Variations in local party donations and candidate spending cannot be divorced from variations in turnout – indeed they are likely to be closely related. Figure A1 plots the relationship between turnout and campaign spending for the 16 Merseyside seats in 2005 (campaign spending is measured as a percentage of the combined limit spent by candidates from the three main parties). This graph does not constitute a test of the correlation between turnout and campaign spending, particularly since other variables, including the socio-economic make-up of the constituency and the marginality of the seat, would need to be taken into account. However, the graph does suggest a close, basic relationship between the two datasets, particularly in seats where the three main candidates spend 50 per cent or more of their combined spending limits. Such a conclusion would, moreover, correspond closely with Johnston and Pattie’s (2008) findings that higher spending by candidates correspond closely to the additional votes they are able to obtain (see chapter four).

**Figure A1: Relationship between campaign spending and turnout in the 16 Merseyside constituencies, 2005 General Election**





Tables A2 and A3 (see page 71) present the data for candidate spending and turnout for Merseyside 16 parliamentary seats in more detail. In line with the distinction drawn between seats with high turnout and seats with low turnout, table A2 presents data for central Merseyside’s (‘core’) constituencies, while table A3 does the same for the outer Merseyside (‘peripheral’) constituencies. As table A2 shows, across the nine parliamentary seats in central Merseyside, all of which have high levels of socio-economic deprivation, turnout averaged a mere 49 per cent. Across these seats, all held comfortably by Labour in 2005, levels of campaign spending by Labour incumbents averaged only 50 per cent of the limit, although this was significantly higher than the average spending of Conservative and Liberal Democrat candidates (37 per cent and 22 per cent respectively). Table A3, by contrast, paints a quite different picture for the five outer Merseyside constituencies with the lowest level of socio-economic deprivation. In these five seats, turnout averaged 64 per cent, three percentage points above the national average. Moreover, the relatively close contests in these seats were also reflected in higher spending levels by candidates. Conservative and Labour candidates typically spent over 80 per cent of the permitted maximum, while Liberal Democrat campaigns averaged 52 per cent of the limit. It is notable that in only one of the nine central Merseyside seats did two of the three candidates from the principal parties spend in excess of 60 per cent of the spending limit. By contrast, all five of the outer Merseyside seats exhibited this ‘basic’ level of party competition. Significantly, the six constituencies in which at least two candidates spent at this level were also the six constituencies with the highest level of turnout across the county.

## BOX A1

### Wirral West

Previously seen as one of the safest Conservative seats in Northern England, Wirral West had been one of the more unlikely Labour victories in 1997, when Stephen Hesford took the seat by a majority of 2,738. Having become the first ever Labour MP for the area, Hesford successfully defended the seat in 2001, increasing his majority to 4,035. Significantly, the same pattern was repeated in three other previously ‘safe’ Merseyside seats lost by the Conservatives in 1997: Crosby, Wirral South and Southport (where the Liberal Democrats displaced the Conservatives). As a result, the Conservatives went into the General Election of 2005 without a single seat on Merseyside.

While Wirral West ranked as target seat number 72 for the Conservatives in 2005, requiring a swing of 6 per cent for it to be won back from Labour, it also constituted the principal Conservative-Labour battleground on Merseyside. It was in this context that the Conservative Association in Wirral West received just short of £40,000 in donations between August 2004 and June 2005 from Lord Leonard Steinberg (the founder of Stanley Leisure Limited, and a Merseyside resident since 1977). The scale of the investment in the local party in Wirral West and in the Conservative’s 2005 candidate, Esther McVey, was therefore indicative of Lord Steinberg’s concern to re-secure Conservative representation on Merseyside. During the same period, Lord Steinberg also donated £13,000 to an already well-resourced Conservative campaign in Southport, to support the campaign to reclaim that seat from the Liberal Democrats. →

## BOX A1 continued

The scale of Conservative spending in the run-up to the 2005 General Election prompted sufficient concern to enable the local Labour Party to secure a degree of financial support via trade unions. However, given Wirral West's obvious lack of claim to represent one of Labour's heartlands, these donations amounted to a mere £2,350 in the period from July 2004 to June 2005, a small fraction of the resources assembled by the Conservatives locally. While the candidates of all three main parties spent a large share of their permitted campaign budget in 2005, the character of the 'long campaign' prior to the start of the official election period was arguably more significant.

### Result 2005 General Election

Candidate	Party	Votes	% votes	% +/-
S. Hesford	Labour	17,543	42.5	-4.7
E. McVey	Conservative	16,446	39.9	+2.7
J. Clarke	Liberal Democrat	6,652	16.1	+0.5
J. Moore	UKIP	429	1.0	+1.0
R. Taylor	Alternative Party	163	0.4	+0.4

The focussed targeting of these seats by the Conservatives was a natural outcome of the strategy put forward by Michael Ashcroft. In the final event, the strategy was to prove far less effective on Merseyside, and in the rest of the North West, than it had in other parts of the country. Hesford retained the seat, albeit with a significantly reduced majority, and of the five seats in North West England targeted by Steinberg for financial support, only one, Lancaster and Wyre, returned a Conservative MP.

Furthermore, the tendency for political parties to seek to channel resources to potentially 'winnable' seats, highlighted in chapter three, has only served to exacerbate the contrasts between parliamentary contests on Merseyside. A total of £381,290 in registered donations was received by local units of the three main parties across Merseyside during the period 2001 to 2007. While local Conservative and Labour parties received broadly similar levels of donations when aggregated across the five constituent local authorities, the targeting of such donations within the conurbation was highly uneven. Two-thirds of the registered donations were received by local parties in Sefton and the Wirral, the local authority districts containing the four parliamentary seats with incumbents on majorities of less than 20 per cent. By contrast, registered donations to local parties in Liverpool, Knowsley and St Helens, which contain nine of the eleven Merseyside parliamentary seats with turnouts of 55 per cent and below, accounted for only a third of the total, with this comprising almost entirely donations to local Labour parties. As such, Labour donors conformed to type by directing funds towards 'strongholds' such as St Helens, whose two local Labour parties received half of all registered Labour donations across Merseyside as a whole. Conservative donors also conformed to type by being far more strategic. The full sum of £168,270 in Conservative donations went to local parties in Sefton and Wirral, of which more than half went to parties fighting the two Merseyside constituencies targeted by the Conservatives in 2005 (Southport and Wirral West). By contrast, not a single registered donation was recorded by local Conservative Associations across nine parliamentary constituencies in Liverpool, Knowsley and St Helens over the same period.

**Table A2:** Candidate spending and turnout in core Merseyside constituencies, 2005 General Election, ranked by turnout

Constituency	Candidate Spending as % of limit			Turnout (%)	Result
	Liberal Democrat	Labour	Conservative		
Liverpool Garston	62	84	21	55	LAB hold
Knowsley North & Sefton East	10	58	19	53	LAB hold
Knowsley South	28	22	52	52	LAB hold
Liverpool Wavertree	56	78	25	51	LAB hold
Birkenhead	8	70	48	49	LAB hold
Bootle	2	54	25	48	LAB hold
Liverpool West Derby	5	38	83	47	LAB hold
Liverpool Walton	13	43	28	45	LAB hold
Liverpool Riverside	12	61	35	42	LAB hold
<b>Average</b>	<b>22</b>	<b>56</b>	<b>37</b>	<b>49</b>	<b>---</b>

**Table A3** Candidate spending and turnout in outer Merseyside constituencies, 2005 General Election, ranked by turnout

Constituency	Candidate Spending as % of limit			Turnout (%)	Result
	Liberal Democrat	Labour	Conservative		
Wirral West	72	99	93	68	LAB hold
Wirral South	41	91	65	68	LAB hold
Crosby	41	91	91	67	LAB hold
Southport	93	41	87	61	LD hold
Wallasey	12	87	85	58	LAB hold
<b>Average</b>	<b>52</b>	<b>82</b>	<b>84</b>	<b>64</b>	<b>---</b>

Note: Although part of Merseyside, both St Helens North and St Helens South have not been included in either table. Both constituencies are geographically part of 'outer Merseyside' but are both safe Labour seats which share socio-economic characteristics associated with the conurbation's core. Patterns of candidate spending and turnout also correspond more closely to those in core Merseyside seats.

**Table A4:** Sums of registered donations (cash and non-cash) to local political parties, 2001–2007, by local authority areas in Merseyside

Local authority	No. seats	Principal parliamentary contests (majority < 20 %)	Total donations: Con £	Total donations: Lab £	Total donations: Lib Dem £	Total donations £
Knowsley	2	None	-	9,750	-	9,750
Liverpool	5	None	-	31,474	1,500	32,974
St. Helens	2	None	-	75,733	12,012	87,745
Sefton	3	Crosby (Lab-Con) Southport (LD-Con)	57,502	9,294	43,652	110,448
The Wirral	4	Wirral West (Lab-Con) Wirral South (Lab-Con)	110,768	24,499	5,106	140,373
<b>TOTALS</b>	<b>16</b>		<b>168,270</b>	<b>150,750</b>	<b>62,270</b>	<b>381,290</b>

# Appendix B:

## Historical evidence of electoral malpractice in the UK

Statistical data and research evidence relating to electoral malpractice in the UK are extremely sketchy. To a large degree, the extent of evidence available mirrors the degree to which electoral malpractice was perceived as a problem during different historical periods. The most detailed evidence available relates to the second half of the nineteenth century, when electoral malpractice was known to be widespread, and the first quarter of the twentieth century, when it was progressively eliminated. There is no data at all regarding the extent of electoral malpractice in the period from 1945–1990, with the absence of data largely reflecting an assumption that electoral malpractice had been eradicated. In recent years, concerns about the possibility of an increase in electoral malpractice associated with postal voting have led to limited data sets being compiled for the period since the mid-late 1990s. The key trends that may be discerned suggest that four distinct periods may be identified since 1832, with levels of electoral malpractice being strongly influenced by legislative change.

### 1832–1885

Prior to the Corrupt and Illegal Practices Act of 1883 bribery and treating were commonplace in British parliamentary elections, and elections were routinely subject to legal challenge via election petitions. From 1832–1885, a total of 224 election petitions were lodged, representing an average of 31 election petitions for each of the 13 parliamentary elections during this period (derived from O’Leary, 1962, appendix 1). According to King (1990, p.246), the most common allegations contained in petitions submitted from 1832–1885 concerned bribery (the subject of 130 petitions) and treating (89 petitions). The prevalence of such practices is underlined by the fact that 142 of the 224 petitions (63 per cent) submitted during this period were successful in relation to the allegations made (derived from O’Leary, 1962, appendix 1). The peak year for election petitions was 1865, when a total of 61 petitions were presented (O’Leary, 1962, p.234).

### 1885–1945

After the 1883 Act, election petitions arising from parliamentary elections were rapidly reduced and by the early 1900s were typically in single figure. However, there is evidence that bribery and treating continued, albeit on a reduced scale. Pelling (1967, p.429) suggests that between 1885 and 1910 there were at least eleven constituencies where a proportion of the votes ‘were bought’. In one such case, the 1905 election in the Borough of Worcester, evidence of treating prompted the establishment of a Royal Commission of Enquiry. In its report, the Commission identified “a class of voters, numbering approximately 500, and consisting mainly of the needy and loafing class, but including a considerable number of working men in regular employment, who are prepared to sell their votes for drink or money” (Cited in Pelling, 1967, pp.192–3). Despite such cases, however, there is a general consensus that after the mid 1880s “electoral bribery and intimidation were issues of diminishing significance” (Searle, 1987, p.7). As a result, no parliamentary election result was successfully challenged on grounds of corrupt practices after 1923 (Stewart, 2006, p.657).

Consequently, election courts became a rarely used procedure in UK electoral law, and the report of the Carn Committee on electoral reform (1948) noted that very few election petitions had been presented since the 1920s.

### 1945–1990

While there are no comprehensive records, it appears that very few election petitions were submitted in the period after 1945. Just four challenges to parliamentary contests heard by election courts attracted significant press attention at the time or are referred to in leading law textbooks. Of these four contests (Mid-Ulster, 1955; North Kensington, 1960; Bristol South-East, 1961; Winchester, 1997) none concerned corruption or malpractice. The most famous case related to the overturning of Tony Benn's election to Bristol South-East on the grounds that he was a member of the House of Lords. The remaining three cases all concerned alleged irregularities in electoral administration. While there are no records of allegations of malpractice in local elections, analysis of media reporting from 1945–1990 suggests that such allegations were exceptionally rare. During this period the only consistent allegations of electoral malpractice were associated with elections in Northern Ireland. Such claims principally concerned the practice of 'gerrymandering' electoral boundaries to the benefit of Unionist parties and the practice of personation alleged to be widespread in Republican areas. Accusations of personation were underlined by the exceptionally high number of tendered ballots submitted in Northern Irish elections during this period: 762 tendered ballots were submitted at the Northern Ireland Assembly elections of 1982, and 949 at the Westminster elections of 1983 (Mitchell and Gillespie, 1999, p.71).

### 1990–2007

The limited provision for proxy and postal voting introduced in 1985 and, more significantly, the introduction of postal voting on demand after 2000, have been associated with a resurgence of accusations of electoral malpractice in mainland Britain. This sharp increase in accusations of malpractice is most clearly reflected in a dramatic rise in media reports concerned with such allegations. However, data relating to prosecutions for electoral fraud and election results contested via election petitions show that both are typically in single figures annually (see tables B1 and B2). Prosecutions for electoral fraud and election petitions contesting electoral outcomes have almost exclusively concerned local elections. However, where malpractice has been demonstrated it has generally been associated with proxy and/or postal ballots, suggesting that it is almost certain that fraud has increased since remote voting was first introduced, and subsequently extended, from the mid-1980s onwards. Significantly, strongly convergent trends are evident in Northern Ireland, where allegations of electoral malpractice, as well as numbers of tendered ballots, have declined significantly since the early 1990s.

**Table B1:** Persons proceeded against at magistrates courts and found guilty at all courts of various fraud related offences under the Representation of the People Act 1983, England and Wales 1994 to 2003 (see notes: i, ii, iii)

	Persons proceeded against	Persons found Guilty
1994	1	2
1995	12	14
1996	0	0
1997	9	5
1998	7	6
1999	3	5
2000(iv)	2	1
2001	16	10
2002	1	1
2003	0	0
2004	3	3
2005	6	5
2006	2	1

- Notes: (i) Data are presented on the basis of the principal offence.  
(ii) Convictions do not necessarily occur in the same year that proceedings are initiated.  
(iii) Offences under RPA include tampering with nomination and ballot papers etc., making false declarations as to election expenses, bribery, treating, undue influence and personation offences.  
(iv) Excludes any cases in Staffordshire

Sources: 1994-2003 – Hansard, 28 Oct 2005 : Column 646W; 2004-2005 – Hansard 5 Mar 2007 : Column 1738W; 2006 – derived from Electoral Commission analysis of CPS files 2007.

**Table B2:** Election petitions submitted, 1997–2007 (England and Wales)

Year	Local	Parliamentary	European	Total
1997	1	3	---	4
1998	0	---	0	0
1999	8	---	---	8
2000	4	---	---	4
2001	2	1	---	3
2002	5	---	---	5
2003	8	---	---	8
2004	4	---	1	5
2005	1	3	---	4
2006	9	---	---	9
2007	8	---	---	8
<b>TOTALS</b>	<b>50</b>	<b>6</b>	<b>1</b>	<b>57</b>

Sources: 1997-2006: Hansard 22 Mar 2007: Column 1105W and 1106W; 2007: John Hemming MP, personal communication.





# Appendix C:

## Convictions for electoral offences and electoral misconduct, 2000–2007

**Table C1: Convictions for electoral offences and electoral misconduct, 2000-2007**

Year & type of election	Year of prosecution	Local authority or constituency	No. found guilty	Party affiliation	RPA offence (if known)	Details of offence	Outcome	Recorded in CPS files?	Other sources
2000 local	2000	Oldham (Coldhurst ward)	11 (all male)	LAB; LIB DEM	60 (1)	Personation	Community service, 60–180 hours each	Yes	2*5- (2007)
1998 local	2001	London Borough of Hackney	2 (both male)	CONS; LIB DEM	---	Registering electors falsely – two charges of forgery and conspiracy to defraud the returning officer.	2 x 3 year jail sentence	No	BBC News, 9th March 2001; Hansard, written answer, 28 Oct 2005 : Column 646W; CSPL (2007)
2001 general	2002	Burnley	1 (male)	BNP	65A	Forgery of nomination signatures (12 counts)	6 month jail sentence; 5 year ban on standing for office.	Yes	Smith (2004); CSPL (2007)
2000 local	2002	Havant Borough Council (Barncroft and Warren Park wards)	4 (all male)	3 LIB DEM; 1 LAB	10665A	8 counts of forgery – forged nomination papers, fraudulent applications for postal and proxy ballots, casting 22 forged proxy/postal votes	2 x 4 month jail sentence; 2 x £200 fines	Yes	Portsmouth News, 16th November 2002; CSPL (2007)
2002 local	Unknown	London Borough of Southwark (Faraday ward)	1	Unknown	---	Unknown	3 year conditional discharge	Yes	No other source identified.
2003 local	Unknown	Hinckley and Bosworth Borough Council (Barlestone, Nailstone & Osbaston wards)	1	Unknown	106; 110 (1) (a)	Unknown	£500 fine	Yes	No other source identified.
2003 local	2004 (April)	Guildford Borough Council (Merrow ward)	1 (male)	CONS	65 (1) (b)	Forging ballot papers	4 month jail sentence	Yes	Hansard, written answers, 4 Jul 2005 : Column 65W and 28 Oct 2005 : Column 646W; CSPL (2007)

**Table C1: Convictions for electoral offences and electoral misconduct, 2000-2007 continued**

Year & type of election	Year of prosecution	Local authority or constituency	No. found guilty	Party affiliation	RPA offence (if known)	Details of offence	Outcome	Recorded in CPS files?	Other sources
2003 local	Unknown	Canvey Island	3	Unknown	75; 106; 110	Unknown	Unknown	Yes	No other source
2003 local	2004 (Sept)	Bristol (Lawrence Hill ward)	1 (male)	LIB DEM	---	9 counts of forgery and 1 count of conspiracy to defraud	5 month jail sentence	No	BBC News, Bristol, 27th September 2004
2004 local	Unknown	Blackburn with Darwen Borough Council (Earcroft)	1	Unknown	65 (1) (a)	Unknown	60 hours community Service	Yes	No other source identified.
2002 local	2005 (8 April)	Blackburn with Darwen Borough Council (Bastwell ward)	1 (male)	LAB	---	Conspiracy to defraud the returning officer (233 fraudulent postal votes)	3 year, 7 month jail sentence	No	Hansard, written answers, 4 Jul 2005 : Column 65W and 28 Oct 2005 : Column 646W; Guardian 8 April 2005.
2004 local	2005	Birmingham (Aston and Bordesley Green wards)	6 (all male)	LAB	---	Election Court finds 6 men guilty of corrupt and illegal practices – stealing and forging postal ballots.	One man subsequently cleared by Court of Appeal	No	Stewart (2006); Watt (2006); CSPL (2007).
2004 local	2006	Halton Borough Council (Castlefields ward)	4 (3 male, 1 female)	1 Labour candidate and 3 family members	60 (not guilty)	Making false statements in relation to postal ballots (witness statements signed in absence of voter); Found not guilty of personation	Candidate fined £3,000; 3 family members fined £2,300 each	Yes	Hansard, 29 Jun 2006: Column 566W; BBC News, 15 May 2006; Runcorn World, 15 May 2006; CSPL (2007)
2004 local	2006 (19 October)	Burnley	2 (both male)	LIB DEM	---	Postal vote rigging (55 fraudulent proxy votes)	18 month jail sentences	No	Burnley Express, 20th October 2006 & 23rd November 2006; CSPL (2007)

**Table C1: Convictions for electoral offences and electoral misconduct, 2000-2007 continued**

Year & type of election	Year of prosecution	Local authority or constituency	No. found guilty	Party affiliation	RPA offence (if known)	Details of offence	Outcome	Recorded in CPS files?	Other sources
2005 local	2006 (27 September)	Coleraine Borough Council (Northern Ireland)	1 (male)	Democratic Unionist Party	---	4 counts of personation and 2 counts of fraud in relation to proxy votes	4 month jail sentence	No (files relate to England and Wales only)	White and Moulton, 2007; CSPL (2007); BBC Newsnight, 31 October 2007;
2005 local	2006 (15 September)	Birmingham (Aston)	1 (male)	N/a	61 (2) (a) (i)	Returning 2 postal ballots	£100 fine and £43 costs	Yes	Birmingham Post, 16th September
2006;	2007 (9 October)	Oldham	1 (male)	N/a	---	Personation	3 month jail sentence	No	White and Moulton, 2007; BBC Newsnight, 31 October 2007;
2007 local	2008	Slough (Central Ward)	1 (male)	CONS	159 (1) 164 (1)	Election court finds sitting councillor guilty of corrupt and illegal practices and 'general corruption', involving at least 100 fraudulent votes.	Election voided	No	The Times, 19 March 2008

Notes: The table lists 43 successful prosecutions for electoral offences in England and Wales during the period 2000-07, approximately twice the number reported in written answers in Hansard and recorded in the Electoral Commission's analysis of relevant CPS files. This discrepancy is largely due to a growing number of prosecutions being pursued under legislation other than the Representation of the People Acts. As of 15 December 2007, prosecutions were being pursued in the courts against at least 11 additional individuals.

Sources: The base data for this table was derived from The Committee on Standards in Public Life (2007) and The Electoral Commission (2007). Additional sources (as listed) were consulted for the purposes of verification and cross-referencing, and were used to provide additional information.

**Table C2: Significant cases of electoral fraud investigated by the police and currently in the courts**

Year and type of election	Local authority or constituency	No. of defendants	Party affiliation	Charge	Case Details	Sources
2004 (local)	Peterborough (Central, Park and Ravensthorpe wards)	3 (all male)	LAB	Conspiracy to defraud; forgery	Hearing began at King's Lynn Crown Court, 15th October 2007. Prosecution's case concluded on 20 December 2007. Trial continuing from 7th January 2008 with presentation of defence.	Guardian Unlimited, 16/08/06; Peterborough Evening Telegraph, 17/10/07, 13/11/07, and 21/12/07.
2005 (General)	Bradford West	7 (all male)	CONS	Conspiracy to defraud the returning officer	Defendants appeared before Circuit Judge at Bradford Magistrates' Court, 14/11/07. Case transferred to Bradford Crown Court. Representations heard and case adjourned on 28/11/07, with Judge's agreement for trial to take place in another City during 2008.	Bradford Telegraph and Argus, 14/11/07; Yorkshire Post, 15/11/07; Yorkshire Post, 29/11/2007.
2007 (local)	Birmingham (Aston ward)	1 (male)	LAB	Election petition. Petitioner, Saeed Aehmed (Lib Dem) claims he was falsely accused of being convicted of election fraud during campaign by his opponent.	Election court commenced 31/10/07 and subsequently adjourned 9/11/07. Case was resumed 4/12/07 and again adjourned until 2/1/07. Director of Public Prosecutions asked to investigate claims of witness intimidation on 12/11/07.	BBC Newsnight, 31/10/07; Birmingham Post, 8/11/07, 12/11/07, 11/12/07 and 3/1/08.

## Appendix D:

# Summary review of the Electoral Commission’s analysis of the CPS files relating to allegations of electoral malpractice, 2000–2006

During witness sessions for the Committee on Standards in Public Life’s (2006) inquiry into the work of the Electoral Commission reference was made to the Crown Prosecution holding files relating to over three hundred possible cases of electoral fraud since 2000. Subsequently, the Crown Prosecution Service provided the Electoral Commission with access to 390 files believed to contain information on allegations of electoral offences in England and Wales made during 2000-2006. These allegations relate to specific provisions in electoral law, principally the Representation of the People Act, 1983.

**Table D1:** Allegations of electoral malpractice reported to the Crown Prosecution Service, 2000–2006

Year	Electoral administration & registration	Election campaigning	Voting (e.g. personation, treating)	All allegations
2000	4	37	7	50
2001	2	56	10	66
2002	2	46	11	59
2003	4	70	16	90
2004	2	39	17	59
2005	4	32	24	59
2006	2	11	6	19
<b>TOTALS</b>	<b>20</b>	<b>291</b>	<b>91</b>	<b>402</b>

Source: Derived from Electoral Commission, 2007a, pp. 6–8.

The Electoral Commission’s analysis of the CPS files has been published in two brief reports, published in March 2007 and November 2007 respectively. In its initial analysis, which excluded files relating cases still under consideration in early 2007, the Electoral Commission estimated there to have been 402 allegations of electoral offences from 2000-2006 (see table D1). The Electoral Commission found that the vast majority of these allegations (72 per cent) were concerned with aspects of electoral campaigning, relating principally to electoral expenses and election materials. By contrast, only 23 per cent of allegations were found to concern offences such as personation, treating and undue influence, and just 5 per cent with aspects of electoral registration or electoral administration.

The Commission's subsequent analysis specified that 23 files could be excluded on grounds of being 'open', identified that eight files had been destroyed, five files were duplicates and 42 files related to offences not covered under the Representation of the People Acts. At the same time, it was established that while many files related to individuals, several files contained allegations against multiple persons. As a result, the Commission's database used as a basis for more detailed analysis comprises 383 separate entries.

From these 383 entries, 80 per cent concern local elections (including town and parish councils), 15 per cent concern parliamentary elections, with the remaining five per cent relating to elections to the European Parliament, the Welsh Assembly, and the Greater London Authority. In total, the 383 entries arise from in excess of 25,134 separate elections held in the UK from 2000-2006. The analysis also found that every police force in England and Wales, with the exception of the City of London police, had submitted evidence relating to allegations of electoral fraud to CPS during 2000-06. While the larger police forces serving the major metropolitan areas have submitted a disproportionate number of cases to CPS, the Electoral Commission suggests that there is no clear geographical pattern to accusations of electoral fraud. Furthermore, the Commission's analysis suggests that the incidence of cases is low across all police authority areas, once population variation is taken into account (see table D2). Thus, although 61 of the 383 entries (16 per cent) relate to cases investigated by the Metropolitan Police, this comprises just 0.8 entries per million inhabitants across Greater London. Adjusted for population in this way, the case files amount to between 0.1 and 2 cases per million of population in each police authority area.

**Table D2: Number of entries in the Electoral Commission database of allegations of electoral malpractice by Police Authority area, 2000–2006, ranked by entries per million of population (top 12 only)**

Rank	Police Authority area	Number of entries	Population per police authority	Entries per million of population served
1	Bedfordshire	12	576,218	2.1
2	Dorset	12	700,419	1.7
3	Merseyside	23	1,365,832	1.7
4	Essex	26	1,635,605	1.6
5	Lancashire	21	1,434,871	1.5
6	Leicestershire	11	945,480	1.2
7	Northumbria	16	1,396,374	1.1
8	West Midlands	25	2,579,153	1.0
9	Greater Manchester	22	2,539,043	0.9
10	Staffordshire	9	1,050,609	0.9
11	Thames Valley	18	2,120,859	0.8
12	Metropolitan	61	7,420,617	0.8

Source: Electoral Commission, 2007b, p.7

There can be little doubt that cases recorded on the CPS files suggest a relatively low incidence of fraud. However, it is less clear that the data derived from the CPS files suggest that there is no clear geographical pattern associated with accusations of fraud. It is certainly true that the geographical spread of electoral fraud cases investigated by the police in England and Wales is remarkable. Moreover, it is accurate to say that “no geographic area or type of area has a monopoly on allegations of electoral malpractice” (Electoral Commission, 2007a, p.2). At the same time, however, it is possible to identify from the Electoral Commission’s spreadsheet, four police authority areas – Greater London, Lancashire, the West Midlands and Greater Manchester – which account for a disproportionate number of the cases contained on the CPS files. As table D3 shows, these four police forces serve approximately 27 per cent of the population of England and Wales, but account for 34 per cent of the entries on the CPS files and a full 60 per cent of the subsequent convictions. Indeed, closer analysis suggests an even more localised concentration, particular if convictions are considered. Within these four Police Authority areas, there are – making up 2.7 per cent of the population of England and Wales, which account for ten per cent of the entries on the CPS files and 50 per cent of the convictions listed.

**Table D3: Geographical areas associated with highest levels of electoral fraud allegations and high proportions of convictions for electoral offences**

Area	Combined population	% of population of England and Wales	% of entries on CPS files	% of prosecutions on CPS files
Greater London, Lancashire, West Midlands, and Greater Manchester	14 million	26.9	34	60
Oldham, Birmingham, Burnley and Blackburn with Darwen	1.4 million	2.7	10	50

Source: Derived from the Electoral Commission, 2007b.





# Appendix E:

## Analysis of donations to marginal seats at the 2005 General Election

**Table E1: Donations received by local Conservative and Liberal Democrat parties in 15 key Conservative-Liberal Democrat contests in England, July 2004-June 2005**

Seat	Winner (2001)	Maj. (%)	Cons donation	Notable donors	LD donations	Notable donors	2005 Result	Swing
Cheadle	Liberal Democrats	0.08	£9,000	Association of Conservative Clubs: £5,000	£18,495	Mrs P Calton (sitting MP): £4,572 Mr C. Calton: £8,923	Liberal Democrat hold	4.2% Con-LD
Taunton	Conservative	0.40	£18,895	Bearwood Corporate Services: £7,193	£6,830	Taunton Lib Dem Council Group: £4,350	Liberal Democrat gain	0.7% Con-LD
Orpington	Conservative	0.50	£9,999	Bearwood Corporate Services: £9,999	£7,000	Orpington Liberal Club: £5,000	Conservative hold	4.2% LD to Con
Weston-super-Mare	Liberal Democrats	0.72	£24,500	Alice Findlay: £10,000 David H Sacof: £7,500	£2,000	Waging Peace: £2,000	Conservative gain	2.5 % LD-Con
Norfolk North	Liberal Democrats	0.86	£27,000	Bearwood Corporate Services: £18,000	£4,500	Mr B Lamb: £2,612 (including £1,612 non-cash – office space)	Liberal Democrat hold	8.5% Con-LD
Mid Dorset and North Poole	Liberal Democrats	0.88	£18,000	Bearwood Corporate Services: £5,000; United and Cecil Club: £3,000; Noreen V Southby (bequest): £10,000	£9,143	Mid Dorset & North Poole Lib Dem 200 Club: £5,600	Liberal Democrat hold	5.6% Con-LD
Guildford	Liberal Democrats	1.12	£5,922	2 personal donations of £2,000 and £3,922	£10,750	Waging Peace: £1,750; A. Michael Wheatley: £7,000	Conservative gain	0.9% LD-Con
Somerton and Frome	Liberal Democrats	1.27	£35,159	John H Burbidge: £19,500 (non-cash – printing and postage)	£8,625	Waging Peace: £1,000 Somerset County Lib Dem Group: £4,533	Liberal Democrat hold	0.2% Con-LD
Surrey South West	Conservative	1.70	£93,199	Houtcourses Ltd: £66,849 (non-cash – printing)	£8,490	Farnham Liberal Club: £5,000 (non-cash: office space)	Conservative hold	4.6% LD-Con
Devon West and Torridge	Liberal Democrat	2.10	£16,023	Bearwood Corporate Services: £12,863	£5,400	Waging Peace: £1,000	Conservative gain	3.9% LD-Con
Hereford	Liberal Democrat	2.20	£26,246	Neil L Grant: £20,000 Midlands Industrial Council: £2,246	£19,704	Hereford Liberal Club: £19,704	Liberal Democrat hold	0.1% LD-Con
Dorset West (O. Letwin)	Conservative	2.90	£33,000	Charlotte Townsend: £23,000	£5,500	Waging Peace: £1,500	Conservative hold	0.9% LD-Con
Haitempice and Howden	Conservative (D. Davis)	4.30	£78,000	Bearwood Corporate Services: £30,000 Midlands Industrial Council: £35,000	£1,500	Waging Peace: £1,500	Conservative hold	3.2% LD-Con
Maidenhead (T. May)	Conservative	7.60	£29,995	Bearwood Corporate Services: £25,000	£9,120	Waging Peace: £1,000	Conservative hold	3.0% LD-Con
Folkestone and Hyde (M. Howard)	Conservative	12.90	£51,020	28 individual donations of £1,500-£5,000 each	£-	---	Conservative hold	5.6% LD-Con
			<b>£475,958</b>		<b>£117,057</b>			

**Table E2: Donations received by local Conservative and Labour parties in 20 key Conservative-Labour contests in England. July 2004-June 2005**

Seat	Winner (2001)	Maj. (%)	Cons donation	Notable donors	Labour donations	Notable donors	2005 Result	Swing
South Dorset	Labour	0.3	£14,111	Bearwood Corporate Services: £14,111	£14,200	Weymouth Labour Club	Labour hold	1.7% Con-Lab
Braintree	Labour	0.7	£36,836	Bearwood Corporate Services: £16,509	£18,280	Braintree Labour Club: £15,600	Conservative gain	4.0% Lab-Con
Lancaster and Wyre	Labour	0.9	£17,345	Lord Steinberg: £12,345	£1,500	United Cooperative Ltd: £1,500	Conservative gain	4.5% Lab-Con
Kettering	Labour	1.2	£25,050	Midlands Industrial Council: £15,000	£16,475	GMB: £14,775 (including £7,940 non-cash donations)	Conservative gain	3.6% Lab-Con
Boston and Skegness	Conservative	1.3	£6,500	Gordon B. Hawkins; £5,000	---	---	Conservative hold	6.4% Lab-Con
Northampton South	Labour	1.7	£19,281	Midlands Industrial Council: £19,281	£2,750	Communication Workers Union: £1,500 Northamptonshire Labour Group: £1,250	Conservative gain	5.0% Lab-Con
Beverley and Holderness	Conservative	1.7	£17,950	J. Rix and Sons: £5,000 Michael N Oughtred: £4,950	£1,400	UNISON: £1,400	Conservative hold	1.7% Lab-Con
Bedfordshire South West	Conservative	1.8	£6,500	Oag Worldwide Ltd: £3,000	£2,500	Bedfordshire Friends of Labour: £2,500	Conservative hold	8.2% Lab-Con
Basingstoke	Conservative	1.8	£56,485	John Hungerford: £11,000 and 16 other donations	£1,100	Mr Christopher Connor: £1,100	Conservative hold	4.0% Lab-Con
Castle Point	Conservative	2.5	£6,000	Holding and Barnes PLC: £6,000	£9,000	Mr Barry Angel: £5,000 Castle Point Heating and Gas Co Ltd: £4,000	Conservative hold	7.7% Lab-Con
Welwyn Hatfield	Labour	2.8	£50,748	Bearwood Corporate Services: £15,000 Red Fig Ltd: £2,500 Grant Staples: £12,823 (non-cash – printing)	£8,500	Stefanos Stefanou: £8,500	Conservative gain	8.0% Lab-Con
Shipley	Labour	3.1	£19,649	Bearwood Corporate Services: £14,148	£4,000	GMB: £4,000 (non-cash – telephoning)	Conservative gain	2.0% Lab-Con
Bexleyheath and Crayford	Labour	3.6	£3,000		£6,000	GMB: £6,000 (includes £3,000 non-cash for telephoning)	Conservative gain	7.2% Lab-Con

**Table E2 continued**

Seat	Winner (2001)	Maj. (%)	Cons donation	Notable donors	Labour donations	Notable donors	2005 Result	Swing
Upminster	Conservative	3.7	(£19,023) **	(See details for Hornchurch)	(£5,950) **	(See details for Hornchurch)	Conservative hold	6.9% Lab - Con
Milton Keynes North	Labour	3.9	£31,282 *	Bearwood Corporate Services: £27,230	£13,250 ***	Milton Keynes Labour Group: £5,000 AMICUS: £4,000 Cooperative Party: £2,000	Conservative gain	3.6% Lab - Con
Hornchurch	Labour	4.2	£19,023	Bearwood Corporate Services: £19,023	£5,950	Elm Park Share and Loan Club: £1,500 TGWU: £1,400 Communication Workers Union: £1,250	Conservative gain	2.7% Lab - Con
Selby	Labour	4.3	£26,110	William F. Condon: £17,000	£10,500	GMB: £4000 (non-cash – telephoning)	Labour hold	1.7% Lab - Con
Hammersmith and Fulham	Labour	4.5	£51,023	Bearwood Corporate Services: £42,333	£30,674	Hammersmith and Fulham Labour Group: £25,674 AMICUS: £3,000	Conservative gain	7.3% Lab - Con
South Thanet	Labour	4.5	£44,320	Bearwood Corporate Services: £34,987 Red Fig Ltd: £4,000	£10,340	USDAM: £4,940; Mr S Ladyman, MP: £2,400 GMB: £3,000 (non-cash – telephoning)	Labour hold	1.5% Lab - Con
Wellingborough	Labour	4.6	£46,395	Bearwood Corporate Services: £9,895 Midlands Industrial Council: £27,100	£5,180	AMICUS: £4,000 Northamptonshire Labour Group: £1,180	Conservative gain	2.9% Lab - Con
			<b>£497,608</b>		<b>£161,599</b>			

\*To Milton Keynes Federation

\*\*To Hornchurch Conservative Association, as listed above

\*\*\* To Milton Keynes South West and North East Clp

# Appendix F:

## List of interviewees

- June Butler, Assistant Chief Electoral Officer, The Electoral Office for Northern Ireland;
- Peter Facey, Chief Executive, Unlock Democracy;
- Jason Kitcat, Open Rights Group;
- David Monks, Chief Executive, Huntingdon Borough Council and Society of Local Authority Chief Executives (SOLACE) – lead on electoral matters;
- Ken Ritchie, Chief Executive, Electoral Reform Society;
- Andrew Scallan, Director of Electoral Administration, Electoral Commission;
- David Shaw, Assistant Chief Constable, West Midlands Police and Association of Chief Police Officers (ACPO) – lead on electoral fraud;
- Kate Sullivan, Head of Electoral Administration, Electoral Commission;
- John Turner, Chief Executive, Association of Electoral Administrators.

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“...and by all lawful means to promote or endeavour to secure purity of election for Parliament, and for all municipal and other public bodies in the United Kingdom, and by all lawful means to influence public opinion in favour of all such legislative or social reforms as shall to the Company appear desirable.”

This was one of the objectives Joseph Rowntree set for himself, his fellow directors and successors in the founding document of the Joseph Rowntree Reform Trust Ltd in 1904. In this report Stuart Wilks-Heeg has demonstrated there are a number of reasons to call into question ‘the purity of elections’ in the UK today.



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