

Bold ideas for electoral reform

Spotlight asked electoral experts what they want to see in the upcoming Elections Bill. Here Professor Alistair Clark outlines measures to protect the Electoral Commission's independence.

Protecting the independence of the Electoral Commission

Three relatively simple steps can ensure the Electoral Commission is fully independent and impartial, argues Professor Alistair Clark.

These are concerning times for independent regulators in the UK. Previous governments have sought to impose '[strategy and priority documents](#)' on various regulators. The current government announced [a new approach](#) towards regulatory agencies aimed at saving money, promoting growth and ultimately [restoring ministerial control](#).

Worryingly, these approaches seeped into political regulation under the last government. The provision in the Elections Act 2022 for a Strategy and Policy document to set priorities for the Electoral Commission is a case in point.

The independence of the Electoral Commission is crucial. It regulates electoral competition and party funding in the UK, in its efforts to deliver well-run and transparent elections. It must be seen to be impartial and independent in its judgement. An independent commission needs to be able to act effectively and have appropriate powers to deal with attempts to manipulate electoral processes unfairly. So important is the Electoral Commission's role in protecting the electoral system against interference, it is now seen as part of the UK's [critical national infrastructure](#).

The power to make a Strategy and Policy Statement puts this independence at risk. Any Strategy and Policy statement setting priorities for

the Electoral Commission reflects party priorities. Despite [widespread criticism](#), the previous government pressed ahead with its inclusion in the Elections Act 2022. The Statement continues to set priorities for the Electoral Commission.

There are three relatively simple steps through which the Electoral Commission might be protected.

1. Repealing the power to make a Statement

The first step is that the government should repeal the Strategy and Policy Statement part of the Elections Act 2022 (Part 3, sections 16 and 17).

2. Legislate to require any change in the Electoral Commission's independence to require a super majority of two-thirds to become law.

This would require a change in election law-making practice, which has normally required simple majorities. Yet, precedent exists. The Scottish and Welsh parliaments were given electoral powers in the Scotland Act 2016 and Wales Act 2017. Both require a two-thirds super majority to pass electoral reforms, something insisted on by the then UK government.

If this is a good principle for the devolved institutions, there is no reason why it should not be for Westminster. The Fixed Term Parliaments Act 2011 also required a two-thirds majority for an early general election to be called (Section 2).

General elections in 2017 and 2019 were called on that basis, demonstrating that consensus can be achieved in electoral matters.

3. Adding lay members to the Speaker's Committee

In addition to its broader oversight role, the Speaker's Committee on the Electoral Commission is tasked with reviewing EC compliance with the Strategy and Policy Statement. The Elections Act 2022 also amended the Speaker's Committee's composition to permit ministerial attendance at Speaker's Committee's meetings. Ministerial attendance at such an important committee should have no place in parliamentary accountability to begin with, not least when the independence of the regulator is at stake.

While political parties and government are well represented on the Speaker's Committee, the voters' voice is notably absent. This is a major oversight. Voters are major stakeholders in the Commission's work. To address this, my third [recommendation](#) is that the Speaker's Committee on the Electoral Commission is complemented by the addition of three to five Lay Members, with voting rights, to represent the views of voters in electoral processes and in oversight of the Electoral Commission.

Following good regulatory practice, the inclusion of Lay Members has become accepted practice in ensuring the independence of parliamentary standards regulation in the House of Commons. The Speaker's Committee for the Independent Parliamentary Standards Authority ([SCIPSA](#)), has three Lay Members, while the House of

Commons [Committee on Standards](#) has seven Lay Members. Lay Members on both committees now have full voting rights. Crucially, this has helped counter the suggestion that parliamentarians are 'marking their own homework' on these committees.

Combined, these three steps would go a long way to protecting the independence of the Electoral Commission, while ensuring that voters' voices can be clearly heard in the accountability process.

About the author

Alistair Clark is professor of Political Science at Newcastle University. He is a leading international expert on electoral integrity and the regulation of political behaviour. His other research interests revolve around parliamentary standards and party and electoral politics in the UK. He engages regularly with policymakers in these fields, including internationally, and contributes to parliamentary inquiries in the UK, Scottish and Welsh parliaments. He has previously served as advisor to parliamentary committees, and contributed to CSPL's 2021 Regulating Election Finance report.



The ideas presented in this series do not necessarily reflect the views of Spotlight on Corruption. We are sharing them with the aim of contributing bold ideas and fostering constructive debate about how best to ensure a new Elections Bill will effectively prevent foreign interference and undue influence, and empower the Electoral Commission and law enforcement to hold political parties to account. You can find out more about [our work on political finance](#) on our website.