



Office for Democratic Institutions and Human Rights

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

EARLY GENERAL ELECTION
12 December 2019

ODIHR NEEDS ASSESSMENT MISSION REPORT
13 - 15 November 2019



Warsaw
29 November 2019

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ODIHR Needs Assessment Mission Report

I. INTRODUCTION

Following an invitation from the United Kingdom Delegation to the OSCE to observe the 12 December 2019 early general elections and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 13 to 15 November 2019. The NAM included Ms. Ana Rusu ODIHR Senior Election Adviser, and Mr. Vladimir Misev, ODIHR Senior Adviser on New Voting Technologies.

The purpose of the mission was to assess the pre-election environment and preparations for the early general election. Based on this assessment, the NAM should recommend whether to deploy an ODIHR election-related activity for the forthcoming election, and if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions and the election administration, as well as with representatives of political parties, media, and civil society. A list of meetings is included as an annex to this report.

ODIHR would like to thank the Foreign and Commonwealth Office and the Cabinet Office for their assistance and co-operation in organizing the NAM. ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM and to share their views.

II. EXECUTIVE SUMMARY

On 29 October, the House of Commons passed the 2019 Early Parliamentary General Election Act which set the election for 12 December. The call for early general election comes after numerous unsuccessful attempts by the government to pass the European Union (EU) withdrawal legislation in the parliament which aims to determine the country's future relations with the EU. This is the second early general election the country will hold since 2017.

The election legislation provides a sound basis for democratic elections, although it is viewed by many ODIHR NAM interlocutors as complex and lacking conciseness and consistency. A number of initiatives have been undertaken to reform and modernize the electoral legislation, some of which address previous ODIHR recommendations. However, early elections have placed the planned reform on hold and the legislation remains largely unchanged. All ODIHR NAM interlocutors noted the need to reform the electoral legal framework.

The Parliamentary Voting System and Constituencies Act of 2011 requires a review of constituency boundaries every five years, reduces the total number of seats to 600, and prioritizes vote equality among constituencies, with a maximum deviation of five per cent from the electoral quota. However, the boundaries for the upcoming election will remain the same as in the last three general elections, due to other priorities of the legislature, and, according to the Government, the ongoing legal proceedings related to one of the reports from the boundary commissions which have impacted the implementation of the newly proposed constituencies. While ODIHR NAM interlocutors expressed full confidence in the independence of the review process by the Boundary Commissions, some interlocutors anticipated further delays in enacting the review at the next stages.

The administration of elections is decentralized with the Returning Officers (RO) at the constituency level bearing primary responsibility. At the national level, elections are overseen by the Electoral

Commission (EC) that provides guidance to election officials, political parties and voters and develops extensive guidance framework for these stakeholders. ODIHR NAM interlocutors expressed confidence in the professionalism and capability of the electoral administration at all levels, although noted that the electoral legislation, which is complicated and spread across numerous acts, short timeframes for preparations and what the ODIHR NAM interlocutors described as the ever growing complexity of a general election pose additional burden on election administration.

Citizens of the United Kingdom (UK) and the Republic of Ireland who are 18 years of age by election day and included in a voter list have the right to vote. In line with previous European Court of Human Rights (ECtHR) and ODIHR recommendations, the blanket removal of voting rights of prisoners was repealed. There is no central voter registry and voter lists are maintained by Electoral Registration Officers within local authorities. The 2013 Electoral Registration and Administration Act makes electoral registration an individual responsibility and registration is possible online. All ODIHR NAM interlocutors were of the opinion that the individual electoral registration removes additional layers in the administration of the voter lists, increases their accuracy and integrity.

An eligible voter can run as candidate, either independently or on behalf of a registered political party. Candidates must register with the respective RO, demonstrate a certain amount of voter-support and submit a deposit. Political parties have different policies to ensure balanced representation of women and men candidates, and the party that the ODIHR NAM met with noted the intention to reach 40 per cent of the under-represented gender on the lists.

Parties and prospective candidates may campaign at any point ahead of the election while the official period starts 25 working days before election day. The election contestants use different campaign tools, including campaigning in traditional media, door-to-door canvassing, distribution of leaflets and other printed material, and significant portion of the campaign takes place on the online media and social platforms. The main topics in the campaign are Brexit-related matters, as well as the national healthcare, housing, education, taxation and technological developments. Most of the ODIHR NAM interlocutors expressed confidence in the ability of parties and candidates to campaign freely.

The political finance system relies on a comprehensive regulatory framework. The funding of the political parties largely comes from private sources. There are no limits on the donations to political parties, candidates and third parties. During the election campaign, different rules apply to parties and candidates. Candidates are required to submit financial reports on campaign expenditure and donations to the respective Returning Officer while political parties submit financial reports to the EC. The EC is the oversight body in charge of monitoring political party and third-party compliance with finance regulations and is mandated with investigative and sanctioning powers.

The media landscape is pluralistic and characterized by a strong tradition of public service broadcasting led by the British Broadcasting Corporation (BBC), along with a number of commercial broadcasters and variety of print outlets. Broadcasters are legally obliged to ensure impartiality in their political and election coverage and their compliance is overseen by the Office for Communications (OFCOM). Paid political advertisements on television are prohibited. Overall, ODIHR NAM interlocutors expressed confidence in the regulatory framework for media coverage.

Election results can be challenged through a petition lodged before an election court. Complaints against electoral officials, their actions or inactions are brought directly to regular courts. Court fees are not negligible and are the responsibility of the complainant. Some ODIHR NAM interlocutors considered the current system for challenging elections as too burdensome, both in terms of its complexity and costs, which could discourage interested parties from putting forward complaints on merits.

ODIHR NAM interlocutors stressed the country's long-standing tradition of democratic elections and expressed confidence in the electoral process and the ability of the election administration to manage the election in a professional and transparent manner. At the same time, most of the ODIHR NAM interlocutors welcomed an international observation of the electoral process.

Due to the sequential early elections and significant workload related to the Brexit-related matters in the last three years, the reform of the election legislation is placed on hold, despite the repeated calls by different state and non-state institutions for urgent and comprehensive election reform. The conclusions from these initiatives, reiterated by most of the ODIHR NAM interlocutors, noted the need for modernization and simplification of the electoral legislation, a review of constituency boundaries, and improvements and clarification of the provisions related to the election campaign, including in online media and social platforms, party and campaign finance and the complaints and appeals process.

Taking into account the issues raised by the ODIHR NAM interlocutors, the ODIHR NAM recommends deploying an Election Assessment Mission for the 12 December early general election, subject to the availability of resources, to assess the legal framework, including regulation of the media, and to follow the work of the election administration, the election campaign, and campaign finance. ODIHR reiterates that a number of its previous recommendations are still valid and encourages the authorities to also consider the issues raised by interlocutors in discussions with the ODIHR NAM. ODIHR stands ready to offer its assistance upon request in a post-election follow-up process.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

The United Kingdom (UK) is a constitutional monarchy comprising England, Wales, Scotland, and Northern Ireland. The Queen is the head of state and has largely ceremonial functions.¹ The legislative authority is exercised through the bicameral parliament composed of an indirectly elected upper chamber (House of Lords) and a directly elected lower house (House of Commons).² Executive power is exercised by the UK government and by the devolved governments of Wales and Scotland, and the Executive of Northern Ireland. Traditionally, the government is headed by the prime minister who is the leader of the party or coalition with the largest number of seats in the House of Commons.

The last general election was held on 8 June 2017. The Conservative Party won 318 of 650 seats in the House of Commons and formed a minority government with the support of the Democratic Unionist Party (DUP) who won 10 seats.³ The Labour Party came second with 262 seats and formed the official opposition. Other parties represented in the previous parliament included the Scottish National Party (SNP) – 35 seats, Liberal Democrats – 12 seats, Sinn Féin – 7, Plaid Cymru – 4, Social Democratic and the Green Party – 1 each.⁴

¹ The Queen has authority to formally open and dissolve the Parliament, approve the nomination of the prime minister and the government, as well as to approve legislative bills for them to become law. Following a request by the prime minister, on 10 September 2019 the Queen prorogued the parliament. However, on 24 September the UK Supreme Court unanimously ruled that the prime minister request was unlawful and annulled the prorogation. On 24 September, the parliament continued its work.

² The House of Lords comprises some 800 members, of whom some 27 per cent are women. Most of members are appointed for life.

³ The parties signed a [Confidence and Supply Agreement](#) with aim to support the government in votes in the UK Parliament.

⁴ One member was elected as independent. Some 32 per cent of all members of the House of Commons are women. Over 47 per cent of the total number of members of parliament coming from the Labour party are women, while women are represented with 20 per cent among elected members of the Conservative party. In the last government seven women held cabinet positions out of the 23 cabinet posts (some 30 per cent).

According to the 2011 Fixed Term Parliament Act (FTPA), the next general election was planned for 2022. However, on 29 October, the House of Commons passed the 2019 Early Parliamentary General Election Act which by-passed the 2011 FTPA and set the election for 12 December.⁵ This is the second early election since the adoption of the FTPA and two-and-a-half years following the last early general election in June 2017.⁶ The December 2019 early general election comes after numerous unsuccessful attempts by the government to pass the European Union (EU) withdrawal legislation in the parliament which aims to determine the country's future relations with the EU.⁷

ODIHR has assessed four elections in the UK since 2005. During the June 2017 early general election, ODIHR deployed an Election Expert Team, which focused its assessment on the review the regulation and oversight of campaign finance and legal provisions pertaining to media coverage of the election.⁸

B. LEGAL FRAMEWORK

The legislation governing elections is voluminous and fragmented with over 50 pieces of primary and some 170 pieces of secondary legislation. The 1983 Representation of the People Act (RPA), last amended in 2010, serves as the primary legislation governing general elections along with other laws such as the 2000 Political Parties, Elections and Referendum Act (PPERA), the 2006 the Electoral Administration Act (EAA) and the 2009 Political Parties and Elections Act (PPEA). Secondary legislation includes statutory instruments, regulations and orders.⁹

A number of recommendations previously made by ODIHR including to consolidate and simplify relevant legislation, to clarify rights and responsibilities of election officials at the constituency level, and to introduce additional safeguards for voting have not been addressed. Several state or independent initiatives have been undertaken to enhance and modernize the legislation and recognize the need for urgent electoral reform.¹⁰ The Cabinet Office is responsible for developing election legislation policies by promulgating regulations related to the administration of elections, proposing changes to legislation, and for some aspects of election funding.

⁵ The act was adopted with 438 votes in favor. On 30 October the act passed the House of Lords and the following day it received Royal Assent. Previously in September and October 2019, [three proposed motions](#) for dissolving the parliament and holding early election have failed to achieve the required two-thirds majority under the FTPA.

⁶ The rationale for the call of the 2017 early general election centred on the need for government certainty and stability as the country proceeded with negotiations to withdraw from the European Union (EU) following a referendum on EU membership in 2016 (the Brexit referendum).

⁷ As a result of several unsuccessful attempts to pass the necessary legislation for leaving the EU, the former prime minister and leader of the Conservative party, Ms. Theresa May resigned on 24 July 2019. The same day Mr. Boris Johnson assumed the position of prime minister and one of the main priorities [was “to come out of the EU on 31 October.”](#) [The Queen’s Speech](#), prepared by the prime minister which sets the government policies and delivered at the parliament on 14 October 2019 stated: “My Government’s priority has always been to secure the United Kingdom’s departure from the European Union on 31 October.”

⁸ See [previous OSCE/ODIHR reports on the UK](#).

⁹ Successive elections and referenda have been addressed through supplemental and tailored legislation.

¹⁰ In 2012 the Law Commission of England and Wales (the Law Commission) along with the Law Commissions of Scotland and Northern Ireland commenced work on reforming the electoral legal framework, which aims to harmonize and simplify electoral legislation. The [2016 Interim Report by the Law Commissions of England and Wales, of Scotland and of Northern Ireland](#) provides for number of recommendations for further enhancement of the legal framework, among which the “the current laws governing elections should be rationalised into a single, consistent legislative framework governing all elections” and the “electoral laws should be consistent across elections, subject to differentiation due to the voting system or some other justifiable principle or policy.” The Law Commission aims to publish its [final report in early 2020](#). See also the [2016 Report of Sir Eric Pickles’ review into electoral fraud, Securing the ballot](#), which is the outcome of an independent review on electoral fraud in the UK; the Association of Election Administrators [It’s time for urgent and positive Government action report](#), and the Electoral Reform Society [reports](#).

The House of Commons' Public Administration and Constitutional Affairs Committee (PACAC) in its formal inquiry about the urgency of comprehensive reform recommended that the government should "prioritize non-controversial consolidation of electoral law that can command cross-party support" and "base this work on the final report of the Law Commission." Moreover, the PACAC concludes that "the electoral law poses serious risks and difficulties for electoral administrators" and that its "complexity can make it difficult for even professional party compliance teams to ensure the law is adhered to but this difficulty is doubtless even more pronounced for people who wish to stand as independent candidates."¹¹ The Electoral Commission (EC) also noted the challenges that the electoral legal framework poses on the election administration.¹²

In response to the public calls for reform and further protection of the electoral contestants, the government and the Electoral Commission issued guidance for candidates and campaigners.¹³ Nevertheless, according to the ODIHR NAM interlocutors, a comprehensive election reform process is put on hold due to the early elections and the Brexit-related matters.¹⁴ Almost all ODIHR NAM interlocutors noted that the legal framework is complex, lacks conciseness and consistency, but considered its content to provide a sound basis for democratic elections.

C. ELECTORAL SYSTEM

Elections of the 650 members of the House of Commons are conducted for a five-year term, under a first-past-the-post system in single member constituencies. The candidate who receives the most valid votes in a constituency is elected. Mandates are allocated to each of the four constituent nations as following: 533 seats in England, 59 in Scotland, 40 in Wales, and 18 in Northern Ireland. There are no special measures to improve women's participation in elections.¹⁵ Some ODIHR NAM interlocutors considered that the potential of the 2010 Equality Act to increase women's political participation could have been used better.

The Parliamentary Voting System and Constituencies Act of 2011 requires a review of constituency boundaries every five years, reduces the total number of seats to 600, and prioritizes vote equality among

¹¹ [The PACAC report](#) published on 31 October 2019, makes number of recommendations with aim to reduce fraud and improve confidence in elections, including to the election administration, postal voting and voter identification, campaign finance, the complaints and appeals process and intimidation of candidates and campaigners.

¹² The [report by the Electoral Commission on the 2017 general election](#) recommends: 1. Implementing the UK Law Commissions' proposals to simplify electoral law and Sir Eric Pickles' recommendations on electoral fraud. 2. Improving the rules for nominating candidates, appointing emergency proxies and making it easier for overseas voters to cast a vote. 3. Making electoral registration more joined-up with other public services to make it simpler for the public and more efficient, and reducing the risk of people voting in more than one constituency. [The Government response](#) to the Electoral Commission and the Association of Electoral Administrators report, overall recognizes the concerns raised by the electoral authorities, however specifically to the election legislation notes that "the Government's priority in this policy area is to address specific issues with targeted legislation, rather than seeking to wrap all electoral proposals up into one overarching bill that, by its nature, could not be dealt with quickly."

¹³ The Crown Prosecution Service, a governmental agency for conducting criminal prosecutions in England and Wales in March 2019 published [Information for Parliamentarians](#), intended to assist victims of intimidating behaviour. The Electoral Commission, in co-operation with the police and several other enforcement agencies in 2019 published [Joint Guidance for Candidates in Elections](#) to help candidates to respond to intimidatory behaviour.

¹⁴ In a [speech](#) to the Annual Elections Conference of the Society of Local Authority Chief Executives (SOLACE) the former Parliamentary Secretary and Minister for the Constitution stated: "As we prepare to leave the European Union, we must recognise that this is in the context of an unprecedented demand on parliamentary time and therefore, there will not be capacity for a discreet electoral bill to take forward those proposals requiring primary legislation in the near future."

¹⁵ The UN Committee on the Elimination of Discrimination against Women (CEDAW) in its [2019 Concluding observations on the eighth periodic report on United Kingdom of Great Britain and Northern Ireland](#) recommends to "take specific targeted measures, including temporary special measures, to improve the representation of women, including 'Black, Asian and Minority Ethnic' women and women with disabilities, in Parliament, the judiciary and decision-making positions in the foreign service and its diplomatic missions."

constituencies, with a maximum deviation of five per cent from the electoral quota. The review of constituency boundaries for parliamentary elections is mandated to the four permanent Boundary Commissions for England, Scotland, Wales, and Northern Ireland. The last periodic boundary review was finalised by the Boundary Commissions in 2018 and their recommendations were submitted to the Cabinet Office.¹⁶ The latter is currently working on a draft Order to be addressed to the Parliament for further discussion in both chambers.¹⁷ While ODIHR NAM interlocutors expressed full confidence in the independence of the review process by the Boundary Commissions, some interlocutors anticipated further delays in enacting the review at the next stages.

D. ELECTION ADMINISTRATION

The management of general election is the responsibility of Returning Officers (ROs) who are usually appointing Acting Returning Officers (AROs), who are normally senior officers of the local community.¹⁸ In a district constituency, the RO is the mayor or the local authority; in a county constituency, the RO is the Sheriff of the County. In areas where county and district constituency borders overlap, the RO is designated by the Secretary of State. The voting process at polling stations is managed by Presiding Officers, who are appointed and overseen by ROs.

ROs play a central role in ensuring that elections are administered effectively. Moreover, for elections, their duties are kept separately from the ones as local government officers and they are directly accountable to courts as independent statutory office holders. At an average, ROs change every 2 to 3 years, which represents a reasonable turnover that can be compensated through training, usually conducted with resources from local associations.

At the national level, elections are overseen by the EC, an independent body that also regulates political finance, registers political parties, promotes overall confidence in the democratic process and ensures integrity of elections. The EC gives guidance and support to ROs so that they can run the elections and to political parties and candidates on the rules that apply to them.¹⁹ In addition, the EC also runs awareness raising campaigns for voters in order to inform them about the deadlines for registering to vote, applying for postal and proxy votes. Materials are available in English and Welsh and also in easy-to-read formats.

The EC informed the ODIHR NAM that, in the last months, the institution was running contingency plans. For these elections, it worked on amendments to the 2017 early general elections guidance framework to take into consideration additional aspects such as very short deadlines, potential difficult weather conditions, natural hazards and tight budgets at the end of the year. In addition, the EC conducts national level co-ordination with ROs in order to mitigate potential risks related to electoral violations, intimidation of voters and public order issues on election day.

¹⁶ The [reports](#) of various boundary commissions show that currently in some constituencies the electorates fall below the electorate range of five per cent envisaged by the 2011 Act, while in other are above it. For example, according to the Boundary Commission of the current 533 constituencies in England, a total of 306 are more than five per cent below and 66 more than five percent above of the electoral range, or 70 per cent of the constituencies.

¹⁷ According to the Cabinet Office, an ongoing [judicial review](#) concerning the final report of the Boundary Commission for Northern Ireland prevents them to put forward the draft Order to the Parliament as primary legislation requires that boundary changes be made at the same time for all constituent nations.

¹⁸ In England and Wales, the responsibilities are with an ARO; in Northern Ireland, elections are administered by the Electoral Office for Northern Ireland headed by a Chief Electoral Officer, supported by assistant ROs; in Scotland, the election is administered by RO who is the local government RO.

¹⁹ Other institutions such as the National Cyber Security Centre and Crown Prosecution Services produce additional guidance for candidates and voters. See also [Guidance for political parties on cyber-attacks](#) and [Cyber security tips for individuals in politics](#).

Voters can cast their vote in person at a polling station, by post or using a proxy. If they are going on holiday or have a physical condition which prevents them from going to the polling station, voters can apply with their local council electoral services for a proxy vote, either for a specific election, permanently or long-term.²⁰ Overseas voters registered in Great Britain including the military can also opt for a postal voting. To use this voting method, the request must be sent to the electoral services of the local council of the last address at which registered in the UK.²¹ In a move to improve procedures for the postal voting, pre-stamped envelopes will be sent to voters, which may also lead to an increase in the number of overseas ballots. Envelopes should be sent back to ROs by the closure of the polling stations. A special delivery service will be contracted to ensure their transportation in these elections. Interlocutors informed the ODIHR NAM that postal voting is used by over 20 per cent of voters altogether in country and abroad. Some ODIHR NAM interlocutors emphasised the need for the authorities to look into alternative ways for ballot transmission, such as electronic ones.

Voter Identification Documents (ID) in elections remain a controversial issue among political parties. In order to engage in evidence-based policy making, both the EC and the Cabinet Office are conducting voter ID pilots. While pilot projects have provided important analysis, they do not allow for definitive conclusions to be made in this area.²²

In collaboration with the Cabinet Office, the EC drafted guidance for voters with disabilities aiming to ensure their full participation in the election.²³ These range from accessible polling locations, information to polling staff on how to provide voters with any necessary assistance, and the availability of tactile voting devices and large-print versions of the ballot.

ODIHR NAM interlocutors expressed confidence in the professionalism and capability of the electoral administration at all levels, although noted that the complicated and spread electoral legislation, short timeframes for preparations and what the ODIHR NAM interlocutors described as an ever-growing complexity of a general election pose additional burden on election administration. Some ODIHR NAM interlocutors anticipated instances of possible voter intimidation through the presence of groups of male individuals at polling stations, particularly in some minority communities.

E. VOTER REGISTRATION

Citizens of the UK and the Republic of Ireland who are 18 years of age by election day and included in a voter list have the right to vote. Commonwealth citizens who have an indefinite leave to remain in the UK are also eligible to register to vote. Such citizens and citizens of the Republic of Ireland may only vote if they reside on the territory of the UK. UK citizens living abroad who have registered to vote in the UK within the last 15 years are eligible to vote. Some ODIHR NAM interlocutors criticised the removal of voting rights of citizens living abroad for more than 15 years. The blanket removal of voting rights of prisoners serving a custodial sentence was repealed in 2018, thus making UK compliant with the judgements by the European Court of Human Rights (ECtHR) and previous ODIHR recommendations.²⁴

In order to be able to vote, voters must be on an electoral register maintained by Electoral Registration Officers (ERO) within local authorities. Voter lists are managed locally and there is no central voter

²⁰ The deadline to apply for a proxy vote in England, Scotland and Wales is 4 December and in Northern Ireland is 21 November.

²¹ Deadlines for postal voting are 26 November for England, Scotland and Wales and 21 November for Northern Ireland. Past this deadline, there are no other possibilities for the overseas voters to vote.

²² See the [2019 EC Voter ID Pilot Schemes](#) and the [2019 Cabinet Office Evaluation of Voter ID Pilots](#).

²³ In 2017 the EC published a [report about the experiences of people with disabilities](#) during the 2017 general election. See the [EC guidance material on voters with disabilities](#).

²⁴ See the 2018 [Resolution on the Execution of ECtHR judgment in the case of Hirst against the UK](#).

registry. A person can register at any time of the year and should have a fixed address. If the voter does not have a fixed address, it is still possible to register by completing a declaration that would allow the person to be registered at a place where the voter spends an important amount of their time. An individual electoral registration (IER) was introduced with the 2013 Electoral Registration and Administration Act replacing the system of household registration and making it possible to register online. All ODIHR NAM interlocutors were of the opinion that the IER removes additional layers in the administration of the voter lists, increases their accuracy and integrity.

F. CANDIDATE REGISTRATION

Once the election is called, prospective candidates themselves or someone on their behalf should declare their intention to run. Such declaration makes candidates spending limits applicable and entitles them to receive a free copy of the voter list. Political parties who wish to run must be registered with the EC. Separate registers are maintained by the EC for Great Britain and Northern Ireland and political parties can choose to appear only on one register or both.

An eligible voter can run as candidate, either independently or on behalf of a registered political party. Certain groups of persons are not allowed to stand including members of the police and armed forces, civil servants, judges and others. To become validly nominated, candidates shall submit their nomination papers with the RO by 16:00 on the 19th working day before the election. These shall include, among others, the support of at least 10 registered voters in the constituency, candidate's full address and name and a deposit of GBP 500 (some EUR 583).²⁵ As for every election, the EC updated and published a comprehensive document on General Guidance for candidates and agents. No issues were raised by ODIHR NAM interlocutors with regard to the candidate registration process.

Political parties have different policies to ensure balanced representation of women and men candidates, and the party that the ODIHR NAM met with noted the intention to reach 40 per cent of the under-represented gender on the lists.²⁶ The Brexit Party publicly announced that it would not put forward candidates in any seats won by the Conservative Party in 2017 but would contest all other seats.²⁷

G. CAMPAIGN

Parties and prospective candidates can campaign at any point ahead of the election while the official campaign period starts 25 working days before election day. Contestants may use public venues and air campaign broadcasts free of charge and receive discounts on distributing materials via post. Candidates are obliged to comply with planning rules to post large banners, to remove printed material within two weeks after the election day and to use imprints on all campaign materials. Candidates cannot campaign in the vicinity of the polling station during election day and are not allowed to publish exit polls before the close of polls.

In the ongoing campaign, contestants use different methods, such as campaigning in traditional and online media and social platforms, door-to-door canvassing and small voter gatherings, as well as via leaflets and other print material. The campaign focuses on Brexit-related matters, as well as the national healthcare, housing, education, taxation and technological developments. Most of the ODIHR NAM interlocutors expressed confidence in the ability of parties and candidates to campaign freely.

²⁵ Deposits are returned to candidates who obtain at least five per cent of valid votes. GBP 1 is some EUR 1.16.

²⁶ ODIHR NAM offered meetings to all parliamentary political parties, among others, but only the Conservative Party responded to the request.

²⁷ Soon after, a police inquiry was opened against Boris Johnson on allegations of electoral fraud claiming that he offered a place in the House of Lords to candidates from the Brexit Party.

Online Campaign

The campaign in the online media and on social networks is not regulated. Although social platforms and online media are seen as an instrument that enables citizens to communicate with candidates or elected representatives, a number of state-sponsored and private initiatives have been undertaken to define and tackle the problems arising from unregulated online campaigning.²⁸ Several ODIHR NAM interlocutors voiced concerns about potential foreign and domestic spread of fake online content and disinformation during the campaign period, which might affect the integrity and credibility of the election process.²⁹ According to the ODIHR NAM interlocutors, changes in the primary election legislation are required to introduce provisions to regulate online campaigning.³⁰

In the last several years, a considerable amount of campaign-related advertising is in the digital media and on social networks.³¹ According to the ODIHR NAM interlocutors, the EC is aware of the risks and challenges of the digital campaigning and issued recommendations to the governments and legislatures across the UK, social media companies and campaigners to increase transparency and improve voter confidence.³² Some social media companies have voluntarily introduced measures to improve transparency for voters by enabling voters to know the source of paid advertisements and to have an estimation of contestants' expenditure on this social platform.³³ Effectiveness of these measures remains to be seen.

H. CAMPAIGN FINANCE

The political finance system relies on an extensive regulatory framework comprising a number of laws (the RPA, the PPERA, the EEA, the PPEA) as well as the 2014 Transparency of Lobbying, Non-Party

²⁸ For example, in July 2017, the Committee of Standards in Public Life, issued a [report on Intimidation in Public Life](#), including review on the intimidation of parliamentary candidates during the 2017 general election. The report concluded that although the intimidation that candidates receive is not new, the scale of its spread in the context of social media has amplified it. The report notes that the “social media companies are not held legally liable for any illegal content” and that the Committee is “deeply concerned about the lack of progress the companies are making in protecting users online.” In August 2019, the Information Commissioner’s Office, launched consultation on the [draft framework Code of Practice for the use of personal data in political campaigning](#) which aims to serve as guidance as well as having the potential to become a statutory code of practice if the relevant legislation is introduced. According to the drafters the Code seeks to provide practical guidance and useful examples on ways campaigners could comply with their obligations whilst carrying out common political campaigning activities.” The existing regulation related to data protection places obligations on campaigners when dealing with private data, [in line with the domestic and the EU legislation](#).

²⁹ In February, the House of Commons Digital, Culture, Media and Sport Committee published [report on Disinformation and ‘fake news’](#) in which made number of recommendations to the government to regulate the campaign in the social media and to establish independent regulator. The report also calls upon tech companies to “to act against agreed harmful and illegal content on their platform and such companies should have relevant systems in place to highlight and remove types of harm.” In April 2019, the government published an [Online Harms White Paper](#), in which recognize the problem of “illegal and unacceptable content and activity is widespread online” and the “danger that hostile actors use online disinformation to undermine our democratic values and principles.” The Paper “sets out a programme of action to tackle content or activity that harms individual users, either by undermining national security, or by undermining our shared rights, responsibilities and opportunities to foster integration” and “will propose regulatory framework that will set clear standards to help companies ensure safety of users while protecting freedom of expression.”

³⁰ In the White Paper the government states that it “will bring forward legislation when parliamentary time allows.”

³¹ According to the EC, the proportion of money spent on digital advertising has steadily increased, from 0.3 per cent in 2011 to 42.8 per cent in 2017.

³² The recommendations include imprints on digital campaign material, increasing maximum fines, and giving the EC greater powers to compel information from third parties.

³³ For example, Facebook introduced [‘Ad Library’](#) which offers a searchable collection of currently running advertisements. Twitter recently [announced](#) that it would be banning political advertising globally. Most recently, Google [introduced measures](#) to increase transparency and to bar political advertisers from targeting voters by limiting election advertisement audience being targeted based on the general categories: age, gender, and general location.

Campaigners and Trade Union Administration Act. Regulations for political parties and third parties are primarily established by the PPERA and for candidates by the RPA.

Political parties are largely funded by private sources, whereas state subsidies are modest. Direct public funding is provided mostly to opposition parties.³⁴ In addition, electoral contestants are entitled to indirect public funding in the form of discounted postal services, free use of public venues for campaign events, and free airtime on television. There are no limits on donations to political parties, candidates and third parties. ODIHR has previously recommended to consider limiting the amount that a single donor can donate in order to restrain parties' overreliance on large scale donations originating from a few sources.³⁵

Candidate expenditure is limited to 8,700 GBP plus 6 to 9 pence per elector in the borough or county constituency, respectively. Parties may spend GBP 30,000 multiplied by the number of constituencies contested (approximately GBP 19.5 million in total) or fixed amounts of up to GBP 810,000 in England, 120,000 in Scotland, 60,000 in Wales. Third parties are required to register with the EC if they intend to spend above a certain threshold.³⁶ For parties and third parties, the spending period is calculated starting a year before election day. ODIHR previously recommended establishing a single formula for calculation of expenditure limits for political parties with a view to ensure equality and consistency of financial rules. Some ODIHR NAM interlocutors raised concerns about the potential blurring of campaign expenditure between parties and their candidates.³⁷

The EC oversees party and third-party financial issues.³⁸ Parties are required to submit quarterly reports on income received as well as annual accounts. During the campaign period, income reports must be submitted weekly. Itemized and audited expense reports must be submitted within three months after the election by parties and third parties. According to the RPA, every candidate must have a financial agent and is required to submit financial reports to the respective RO within 35 days of the declaration of election results. The EC is not authorized to oversee candidate spending and donations, and any potential violations would be forwarded to local law enforcement for investigation. ODIHR previously

³⁴ Funding to opposition parties amounts to GBP 16,938 (1 EUR is approximately GBP 0.9) for every seat, plus GBP 33 for every 200 votes gained by the party. Policy Development Grants, some GBP 2 million, are also allocated to parties with at least two sitting MPs or one sitting MP and more than 150,000 votes in the last general election.

³⁵ According to the [EC website](#), during the first week of the election campaign, some GBP 6.5 million were donated to the political parties, with the largest donation amounting to GBP 1.5 million to the Conservative party, which received 87 per cent of the all donations. A public controversy around the source of the donation coming from the wife of former Russian minister to the Conservative party (GBP 200,000) occurred with some of the [media](#) linking it to the issue of stalling the publication of the [report on alleged interference](#) prepared by the Parliament's Intelligence Security Committee. The report, named Russia, examines potential foreign activity, including allegations of espionage, subversion and interference in elections and includes evidence from UK intelligence agencies concerning foreign attempts to influence the outcome of the 2016 EU referendum and 2017 general election. The report was finalized by the committee and was expected to be published in the beginning of November, however it was not granted approval for publication until after the election day. According to the official opposition, the decision not to publish the report is politically motivated.

³⁶ 'Third parties' are individuals or organizations that campaign in the run-up to the elections but are not standing as political parties or candidates. They may campaign for or against one or more parties or candidates or on policies or issues closely associated with a party or category of candidates. Third parties may spend a maximum of GBP 450,000 UK-wide, GBP 9,750 for or against a party in a single constituency, and up to GBP 700 for or against a candidate. The threshold for registering is GBP 20,000 in England or 10,000 in Scotland, Wales and Northern Ireland.

³⁷ Several ODIHR NAM interlocutors expressed concerns over the implications from the [recent Supreme Court judgment](#) on 'notional spending' (goods or services transferred to the candidate, or provided to the candidate for their use or benefit for free or at a discount) and about the extent to which candidates or agents are liable for the actions or spending of their parties or supporters. According to the judgment, 'notional spending' must be included in the candidates reports. According to [the PACAC report](#), "the uncertainty about some aspects of Electoral Law leaves even the most professional agents in fear of falling foul of the law through no fault of their own." In response, the EC published [guidance for candidates and agents on reporting on 'notional spending'](#).

³⁸ The [EC provides wide range of material and guidance](#) on party and campaign finance.

recommended to mandate the EC with investigative and sanctioning powers for offences relating to candidates' spending and donations.

I. MEDIA

The media landscape is diverse and pluralistic. The country has a strong tradition of public service broadcasting led by the British Broadcasting Corporation (BBC), along with several other commercial broadcasters and a variety of print outlets.³⁹ Broadcasters are legally obliged to ensure impartiality in their political and election coverage. Newspapers and magazines are less regulated and widely considered partisan.⁴⁰

Broadcast media are regulated by the 2003 Communications Act which sets obligations on standards and content. The Office of Communications (Ofcom) oversees compliance of broadcasters and develops secondary regulations.⁴¹ The Broadcasting Code specifies general obligations of due impartiality and due accuracy and specifies requirements during an election. Ofcom also publishes guidance on "Evidence of past electoral support and evidence of current support ahead of elections", and other recommendations, which would give broadcasters more flexibility while still requiring them to report with 'due accuracy', present with 'due impartiality', to give 'due weight' to the coverage of major parties and appropriate coverage to other parties and candidates. Complaints against media broadcasters are heard by Ofcom within maximum 15 days by a five-member committee. Exception to this rule are complaints against BBC that are initially heard by a three-layer internal system with a possibility to appeal the decision to Ofcom. Decisions of those bodies can be further challenged before a high court.

Parties contesting the election are offered a number of broadcasts on television and radio, depending on their 'due weight' as defined by the broadcaster based on the Ofcom guidance. Paid political advertising on television and radio is not allowed. Debates among party leaders are taking place and broadcasters are free to decide their format in line with the Broadcasting Code.⁴² Most of the ODIHR NAM interlocutors expressed confidence in the regulatory framework for media coverage of the election and noted the professional manner in which Ofcom conducts its activities.

J. COMPLAINTS AND APPEALS

Election results can be challenged through an election petition brought by an unsuccessful candidate, one or more voters before an election court. Such a challenge can be made within 21 days of the submission of the results protocol. Longer timeframes to submit a petition are envisaged if the petition challenges the outcome of an election on the grounds of corrupt or illegal practices, or in relation to election expenses. Complaints against electoral officials, their actions or inactions are brought directly to regular courts. Each petition costs GBP 400.

³⁹ The [Royal Charter](#) constitutes the legal basis that sets out the public purposes of the BBC, guarantees its independence and outlines the structure of the broadcaster. An accompanying [Agreement](#) with the Secretary of State for Culture, Media and Sport provides details on the topics outlined in the Charter and covers the BBC's funding and its regulatory duties.

⁴⁰ The majority of print media are overseen by the Independent Press Standards Organisation (IPSO). The IPSO ensures that print media follow the Editors' Code of Practice and may investigate complaints on any breaches and can impose sanctions for serious violations.

⁴¹ These include: the Ofcom Broadcasting Code, Rules on Party Political and Referendum Broadcasts and other guidance and instructions. On 4 November, Ofcom published a [note to broadcasters on election programming](#).

⁴² On 11 and 13 November the Liberal Democrats and the SNP, respectively, submitted complaints to the High Court in London against the ITV decision not to include their party leaders from the election debates. In [its judgment on 18 November](#), the court rejected both complaints stating that the broadcasting company was not exercising "a public function" and therefore it was not liable to judicial review, and directed the parties to complain to Ofcom. According to NAM interlocutors, Ofcom is mandated to deal with complaints on post-broadcasted matters.

Some ODIHR NAM interlocutors regretted the fact that some electoral offences such as intimidation of candidates and campaigners during an election are not regulated, thus posing challenges to the integrity of the democracy. The PACAC report highlighted the need to review the current election petition mechanism to transform it into a centralized complaint mechanism able to deal with any other election-related grievances than the validity of an election.⁴³ Several ODIHR NAM interlocutors considered the current system for challenging elections as too burdensome, both in terms of its complexity and costs, thus discouraging interested parties to put forward complaints on merits.

K. ELECTION OBSERVERS

The legislation provides for individuals and legal entities to be accredited as election observers who have right to follow the issuance and receipt of postal ballots, voting and counting procedures. The law, however, does not explicitly provide for observation of procedures beyond election day, such as voter registration, candidate nomination and registration and other work of election officials prior to election day. ODIHR has previously recommended to expand provisions to allow for observation of all stages of the electoral process.⁴⁴

IV. CONCLUSIONS AND RECOMMENDATIONS

ODIHR NAM interlocutors stressed the country's long-standing tradition of democratic elections and expressed confidence in the electoral process and the ability of the election administration to manage the election in a professional and transparent manner. At the same time, most of the ODIHR NAM interlocutors welcomed an international observation of the electoral process.

Due to the sequential early elections and significant workload related to the Brexit-related matters in the last three years, the reform of the election legislation is placed on hold, despite the repeated calls by different state and non-state institutions for urgent and comprehensive election reform. The conclusions from these initiatives, reiterated by the most of the ODIHR NAM interlocutors noted the need for modernization and simplification of the electoral legislation, a review of constituency boundaries, and improvements and clarification of the provisions related to the election campaign, including in online media and social platforms, party and campaign finance and the complaints and appeals process.

Taking into account the issues raised by the ODIHR NAM interlocutors, the ODIHR NAM recommends deploying an Election Assessment Mission for the 12 December early general election, subject to the availability of resources, to assess the legal framework, including regulation of the media, and to follow the work of the election administration, the election campaign, and campaign finance. ODIHR reiterates that a number of its previous recommendations are still valid and encourages the authorities to also consider the issues raised by interlocutors in discussions with the ODIHR NAM. ODIHR stands ready to offer its assistance upon request in a post-election follow-up process.

⁴³ See the [PACAC 2019 report on Electoral Law: The Urgent Need for Review](#).

⁴⁴ In October 2018, ODIHR provided written comments to the Consultation Paper by the Electoral Commission on the review of the scheme for accrediting electoral observers in the United Kingdom. In its response, ODIHR concluded that "Overall the scheme provides solid basis for effective and credible observation and it is in line with the internationally agreed standards for election observation endorsed in the United Nations Declaration of Principles for International Election Observation and the Code of Conduct for International Election Observers." However, the response reiterated the recommendation for unimpeded access for election observers to all stages of the election process which were not adopted in the revised version of the scheme for accrediting observers.

ANNEX: LIST OF MEETINGS

Foreign and Commonwealth Office

Justin Bedford, Head of UN Political and OSCE Team
Richard Wood, Deputy Head of UN Political and OSCE Team
Patrick Levermore, OSCE Policy Officer
Victoria Herbert, Human Rights Policy Officer

Cabinet Office

Paul Docker, Head of Electoral Administration and Electoral Funding
Liz Owen, Deputy Director, Modern Electoral Registration Division
Penny Charlish-Jackson, Head, Digital and Democratic Engagement, Modern Electoral Registration Division
Sarah Ling, Head of Business Change and Implementation
Rose Ashley and Elizabeth Parckar, Joint Heads of Registration and Franchise
Mark Hughes, Head of Electoral Projects.

Boundary Commission for England

Tony Bellringer, Acting Secretary to the Commission

Electoral Commission

Ailsa Irvine, Director of Electoral Administration and Guidance
Louise Edwards, Director of Regulation
Tom Hawthorn, Head of Policy

Association of Electoral Administrators

Peter Stanyon, Chief Executive

Law Commission of England and Wales

Henni Ouahes, Head of Public Law and the Law in Wales
Sarah Smith, Lawyer

House of Commons Public Administration and Constitutional Affairs Committee (PACAC)

Patrick Thomas, Committee Specialist (Constitution)

Conservative Party⁴⁵

Alan Mabbutt, Director General and Registered Treasurer
Heather Harper, Chairman, Conservatives Abroad

Electoral Reform Society

Jess Garland, Director of Policy and Research

Office for Communications (OFCOM)

Adam Baxter, Principal, Standards and Audience Protection
Stephen Taylor, Senior Standards Executive, Standards and Audience Protection

British Broadcasting Corporation (BBC)

Ric Bailey, Chief Political Adviser

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The ODIHR NAM offered meetings to all parliamentary political parties, among others.