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Data Sharing Review
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Data Sharing Review

Thank you for the opportunity to meet with you and Martyn Taylor last week. As discussed, this letter sets out the Commission's views on several issues related to the consultation exercise on the use of data sharing in the public sector.

The Electoral Commission is an independent body set up by the UK Parliament under the Political Parties, Elections and Referendums Act 2000 (PPERA). Our aim is integrity and public confidence in the UK's democratic process. We regulate party and election finance and set standards for well-run elections.

The Commission's main interest in the areas under review relates to the maintenance of accurate and secure electoral registers. The Commission does not compile the registers, but we have a standard-setting and advisory role in relation to Electoral Registration Officers throughout the UK. We issue a large amount of advice on electoral registration; and enquiries related to data sharing are becoming increasingly complex and, in some cases, contentious. We also hold copies of the register for the purpose of our regulatory functions.

In Great Britain the electoral register will include details of an individual's full name, address, postcode and electoral register number. Access to the electoral register is strictly controlled through electoral law – most specifically the various Representation of the People Regulations. These regulations set out the circumstances under which the register can be disclosed, and impose criminal offences for any unauthorised disclosure.

The Regulations allow copies of the register to be provided for electoral purposes. Copies can also be provided for credit reference and law enforcement purpose. The full register, in accordance with basic electoral principles, is available for public inspection although it cannot be searched or copied electronically. The edited register is available for public sale.

One of the Commission's principal objectives is to promote confidence in the integrity of the registration system. To that end we aim to ensure that the electoral register is, and is seen to be, securely compiled and maintained and used only for electoral purposes. We have held the consistent view since the 2002 *Robertson* judgment that the electoral register should not be used for non-electoral purposes such as credit reference checks or law enforcement. Therefore, whilst we appreciate the principles underpinning the consultation exercise on data sharing, we believe that in case of the electoral register it is not appropriate to widen the existing data sharing provisions any further. Indeed our view is that the current data sharing provisions should be limited.

The interrelationship between the legislation governing access to the register and the data protection principles is complex and leaves room for some ambiguity. In addition, Electoral Registration Officers are not always well placed to make the decisions required of them in relation to release of electoral registration data. The dispersed nature of electoral registration means that such ambiguity can and will lead to inconsistent application of the law and therefore different treatment of some electors' information compared to others.

A recent issue has arisen in England in relation to the Audit Commission's powers to use electoral registration data for the National Fraud Initiative. This is an on-going matter that illustrates the difficulties faced at the intersection of electoral and data protection law. Although my staff have been liaising with members of the Information Commissioner's staff over this issue, if the review team would find it of interest my staff can provide a summary of the issues in this matter for your consideration.

Regarding access to other data sources for electoral registration purposes, the Commission is supportive of the need for Electoral Registration Officers to access other information to enable them to compile accurate and complete electoral registers. Electoral Registration Officers enjoy a broad power to require any person to provide information for registration purposes as well as specific powers to access information held by the local authority that appointed them. The Electoral Administration Act 2006 also imposed an obligation on Electoral Registration Officers to take all necessary steps to maintain the register, including inspecting any records they are permitted access to by law. In many cases Electoral Registration Officers are reluctant to use their powers,

sometimes due to a misunderstanding or apprehension of data protection law. The provision of clear guidance would assist and encourage Electoral Registration Officers in their duties, and the Commission is committed to working with the Information Commissioner's office on such guidance.

Finally, the Commission shares a wider public sector concern as to the physical security of electoral register information held by Electoral Registration Officers and those, like the Commission, who are entitled to receive it. Any further guidance on this issue would be welcomed, and the Commission would wish to commend it to Electoral Registration Officers. Such guidance could usefully cover related information held on various electronic systems, such as those used to check postal voters' identifiers at election time.

Chief Executive