

The Electoral Commission

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Dear Mr Hatton

ECCP 2019-28: Complaint regarding EU citizens registering to Vote in the 2019 European Parliamentary Election

Thank you for your letter dated 21 May, 2019, regarding how the Electoral Commission has handled the issue of EU27 citizens registering to vote in the 2019 European Parliamentary Elections.

Your letter contends that “the Electoral Commission’s conduct has created unnecessary confusion and placed barriers in the way of exercising voting rights for EU27 citizens in the UK”. These barriers include (1) reneging on a 2014 commitment to send out the UC1 form to registered EU citizens; (2) providing vague and confusing information, preventing EU citizens from successfully registering by the 7 May deadline, and (3) providing insufficient guidance and an inconsistent service to local authorities, which resulted in an inconsistent approach by local authorities.

You suggest that the Electoral Commission take urgent steps to allow EU citizens to sign a statement at the polling station that their vote will only be used in the UK. Current legislation – both EU and UK law – does not allow EU27 citizens to sign a statement at the polling station that their vote “will only be used in the UK”. Any changes to the registration process in the UK, including changing the deadline for registration, are a matter for the UK Government and Parliament. The Commission made the case for improving the process following the last EU elections in 2014; however, this work was not pursued following the EU Referendum as the UK Government was clear that the European Parliamentary elections in 2019 would not take place.

I address each of your numbered concerns below.

- 1) Reneging on a 2014 commitment to send out the UC1 form to registered EU27 citizens

This is not a commitment made by the Commission. It is the role of Electoral Returning Officers (EROs) to issue any forms to registered citizens, and we do not maintain the electoral registers which would be a requirement to do this. This year, we wrote to all electoral registration officers in early April – before the final confirmation from the UK

Government that these elections would go ahead – to remind them that registered EU citizens are required to complete and return a declaration form if they want to vote at the European Parliamentary elections in the UK. We advised EROs to identify such electors and send them a declaration form,

I have therefore concluded that this aspect of your complaint is without basis and is not upheld.

- 2) Providing vague and confusing information, preventing EU27 citizens from successfully registering by the 7 May deadline

From 18 April, the Commission ran a multi-media public awareness campaign across the UK to raise awareness of the need to register to vote amongst all eligible groups by the 7 May deadline. This included TV advertising in Great Britain, radio in Northern Ireland, and digital advertising across the UK. The campaign highlighted that EU27 citizens were required to complete and return a declaration form to their ERO by the registration deadline if they wanted to vote in the European Parliamentary election in the UK.

In addition to this public campaign and as noted above, the Commission also wrote to EROs on 4 April, and advised them to identify local government electors who are EU27 citizens and send them a declaration form. We also suggested that EROs could contact EU27 citizens by email if a valid email address was held. We encouraged EROs to consider steps they could take to raise awareness of the requirements on EU27 citizens.

I have considered whether the actions set out above could be considered to be 'vague and confusing.' I am satisfied that there was sufficient detail in our communication to allow EU27 citizens to take action in sufficient time. This aspect of your complaint is therefore not upheld.

- 3) Providing insufficient guidance and an inconsistent service to local authorities, which resulted in an inconsistent approach by local authorities.

We understand the frustration of some citizens of other EU Member States, resident in the UK, regarding the process of registering to vote in the UK in these elections. We are aware that the very short notice of the UK's participation in the polls impacted on the time available for awareness of this process amongst citizens, and for citizens to complete the process.

The guidance the Commission issued to EROs was developed in consultation with the Association of Electoral Administrators and the Society of Local Authority Chief Executives. The same guidance was sent to all EROs across the UK and we offer all EROs the same access to our guidance and support service.

We have no reason to believe that EROs were not clear on the registration process for EU27 citizens or that they should send forms to all registered citizens. Issuing guidance does not amount to a power of direction to EROs, who are independent statutory officers. It is therefore for each individual ERO to exercise their professional judgement on how to comply with the law, and have regard to our guidance, in practice.

We will, as normal, report on the conduct of the polls. You could help us with this statutory obligation by providing details of specific issues for our consideration. We will form our views in the process of preparing that report and will not pre-empt that consideration at this time.

I have considered this section of your letter and have concluded that there is no evidence available to me that the Commission's guidance has led to difference between the decisions of EROs that goes beyond reasonable exercise of their powers based on their

judgement and local circumstances. This aspect of your complaint is therefore not upheld.

If you are not satisfied with my decisions, you may ask for the complaint to be reviewed by the Chief Executive of the Commission in accordance with our complaints policy which is available on our website.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'K. Rix', written in a cursive style.

Kieran Rix
Director of Finance and Corporate Services
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