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The Past, Present and Future of Voter ID in Great Britain—Voter Turnout, Rejection and Confidence

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Abstract

This article examines the implementation of voter identification at polling stations for elections in Great Britain, in particular following the passage of the Elections Act 2022. For this purpose it groups the affected and most significant elections into four chronological studies. These are, first, the initial pilot schemes conducted in 2018 and 2019, second, the May 2023 local elections in England, third, the 10 parliamentary by-elections held in Great Britain between July 2023 and May 2024, and fourth, the July 2024 UK General Election which marked by far the biggest test of the new requirements. The article examines the historical context and key statutory provisions which introduced voter ID, before analysing the respective studies relying on official Electoral Commission and UK Parliament data, as well as data gathered by volunteer organisations and the author's own observations at polling stations. For this purpose, the case studies focus on the issues of voter turnout, rejection and confidence, as these are easily quantifiable measures which can assist with the legal analysis. As such, the article assesses the legality of voter identification laws in the UK, in particular from a human rights perspective, arguing that the implementation of voter ID has been problematic from the outset. Data produced after the elections raises further questions over the necessity and proportionality of the measures, suggesting that further reforms are needed if the policy is to remain in place.

Keywords Electoral Law · Voter Identification · Right to Vote · Elections Act 2022 · Democracy

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Introduction

Amongst other significant reforms, the Elections Act 2022 introduced compulsory voter identification requirements when voting in polling stations for certain types of elections in Great Britain.¹ This brought the nations of Great Britain in line with Northern Ireland which has required voter ID since 1985,² but nonetheless marked a significant departure from the past when voters in Great Britain needed only confirm their name and address. Though voter personation is a specific offence in the UK under the Representation of the People Act (RPA) 1983,³ the voting process at polling stations was essentially based on trust prior to the introduction of voter ID.

The reforms have been controversial since they were first put forward by the Conservative Party in 2017, to some extent mirroring fierce debates in the US context between Democrats and Republicans, due to the scarce evidence of voter impersonation, as well as the potential disenfranchisement of certain groups and the costs of implementation. The absence of a free and compulsory national identity card in the UK, coupled with a history of divided public support for such a policy (Santo 2016), may have also played a role in the relatively slow implementation of voter ID in the UK. The proposals for voter ID immediately faced political condemnation from certain opposition parties (Mason 2016), as well as criticism from charitable organisations (Mortimer 2017; Electoral Reform Society 2018), and eventually a former Electoral Commissioner (Howarth 2021). Some academics specifically questioned the necessity and proportionality of the measures from a human rights perspective (Stanford 2018a; Green 2021). That said, public opinion has steadily grown to support voter ID, with a 2021 poll finding that 52% of respondents supported the introduction of voter ID with 23% opposed (Redfield and Wilton 2021), whilst a poll prior to the May 2023 Local Elections, which marked the first major use of voter ID, revealed that 63% of respondents supported its introduction with 28% opposed (Smith 2023).

A general assessment of voter ID is beyond the scope of this article, as this contribution focuses solely on the implementation of voter ID in Great Britain, but an abundance of commentary already exists, principally in the field of political science. This is evident particularly in the US context where analysis has generally focused on voter turnout (Grimmer and Yoder 2022; Grimmer et al. 2018; Highton 2017), and the disproportionate impact on ethnic minorities (Kuk et al. 2020; Hajnal et al. 2018). That said, some have questioned the negative effect of voter ID on turnout of minorities (Cantoni and Pons 2021). Strict voter ID laws in some states have even been challenged at the highest level in the US Supreme Court.⁴ On the modes of voter ID used worldwide, Tom Barton (2022) recently presented one of the most comprehensive datasets, having collected data on 246 individual electoral jurisdictions in an attempt to show how voter ID laws are distributed. In that respect, the

¹ Elections Act 2022 Sect. 1 and Schedule 1.

² Representation of the People Act 1983 Schedule 1, rule 37.

³ Representation of the People Act 1983 Sect. 60.

⁴ See e.g. *Crawford v. Marion County* 553 US 181 (2008).

UK was undoubtedly a global outlier prior to the introduction of voter ID, as Barton's study found that 70.7% of jurisdictions require photo ID, whilst 12.9% require a form of non-photo ID.

Apart from its policy dimensions, UK electoral law has traditionally received little attention in academia and so this article seeks to generate greater interest in the field of human rights. That said, the controversial implementation of voter ID in Great Britain has attracted much interest in recent years (Morris and Wilks-Heeg 2024; Alonso-Curbelo 2023; Morón 2023; Barton 2022). This article attempts to analyse the implementation of voter ID in Great Britain by focusing on the recent elections where voter ID has been required. It does so by grouping these elections into four studies, first, because these took place chronologically, and second, because each study addresses a different and unique type of election which presents its own important distinctive features to consider. These are, first, the initial pilot schemes conducted in 2018 and 2019 which tested various forms of ID, second, the May 2023 local elections in England which marked the first major use of voter ID following the Elections Act 2022, third, the 10 parliamentary by-elections held in Great Britain between July 2023 and May 2024, which included the first use of voter ID outside of England, and fourth, the July 2024 UK General Election which marked by far the biggest test of the new requirements. To facilitate the analysis, data on voter turnout, rejection and confidence is focused on as these are easily quantifiable measures which can assist with the legal analysis conducted later in the article.

Following this introduction, section two outlines the article's materials and research methods, including the legislative framework of voter ID contained in the Elections Act 2022, as well as setting out how the reforms were implemented. The article then turns to the four case studies in section three. Section four then considers the legality of voter identification in the UK, particularly from a constitutional and human rights perspective, drawing upon the relevant case law. Section five then considers the future of voter ID and make a series of concluding recommendations, before section six concludes. Ultimately the article argues that assuming voter ID is here to stay, significant reforms should be made to mitigate the barriers to accessibility and voter engagement that currently exist.

The Elections Act 2022 and the Implementation of Voter ID

Legislating and Implementing the Act

The significant parliamentary majority won by the Conservative Party in the 2019 General Election presented the opportunity for the Party to deliver on its election manifesto pledge to introduce voter ID at polling stations nationally (Conservative and Unionist Party 2019, 48). After several name reformulations, proposals for the Elections Bill materialised in July 2021, eventually passed the year after as the Elections Act 2022.

The passing of the Elections Act which introduced compulsory voter identification provoked enormous political debate. Ana Alonso-Curbelo (2023) recently assessed the parliamentary debates during the legislative process of the Act to

understand how political elites framed these requirements to either justify or challenge the measures, finding that Conservative Party MPs stressed the necessity of the measures to strengthen public confidence in the electoral system, whereas Labour Party MPs warned against the disproportionate impact of the policy in terms of disenfranchisement. In other words, Alonso-Curbelo (2023, 70) identified two main frames which dominated the parliamentary debates: a ‘voter confidence’ frame pursued by representatives of the Conservative Party and a ‘voter suppression’ frame pursued by representatives of the Labour Party. For example, at the second reading stage in the House of Commons, the then Minister for the Constitution and Devolution, Chloe Smith, suggested that the Bill ‘keeps our elections secure, fair, transparent and up to date’ and that it will be ‘updating the security and integrity of the ballot’ by introducing new measures ‘that will stamp out the potential for voter fraud from our elections.’⁵ In contrast, the Labour MP Cat Smith pointed to studies in the USA showing that ‘voters from black and Hispanic backgrounds are disproportionately affected by requirements to show ID’ and suggested that ‘there are many similarities between the repressive voter suppression laws in some US states and this legislation’.⁶

The Elections Bill received royal assent on 28 April 2022, formally becoming the Elections Act 2022. Whilst Sect. 1 of the Act introduced the requirement for voter identification, the actual substance of the new law including amendments to existing legislation is contained in Schedule 1. Complicating matters somewhat, the Act introduces the requirement of voter identification at polling stations for some, but not all types of elections in Great Britain. The new requirements apply to general elections in all nations of Great Britain; as well as local elections and by-elections, Police and Crime Commissioner Elections, parliamentary by-elections and recall petitions in England; parliamentary by-elections and recall petitions in Scotland; and Police and Crime Commissioner Elections, parliamentary by-elections and recall petitions in Wales.⁷ Thus, voters in England will find themselves subject to voter ID requirements in many more elections than voters elsewhere in Great Britain, as local elections in Scotland and Wales, as well as Scottish Parliament and Senedd elections, remain the responsibility of their respective governments and legislatures which have chosen not to replicate the law that will apply in England to the same extent.

The vast array of changes to electoral law contained in the Elections Act did not enter into force instantaneously but, rather, individual sections and schedules were gradually given effect to over the following months by means of secondary legislation. Of those relevant to voter ID, the Elections Act 2022 (Commencement No. 2) Regulations 2022, issued on 23 August 2022, brought the first provisions of Schedule 1 into force as from 27 August 2022. This included the power to make changes to the RPA 1983 concerning the existing voting process. Next, after receiving approval from the House of Commons and House of Lords, the Voter Identification Regulations 2022 became an affirmed statutory instrument on 22 December

⁵ HC Deb 7 September 2021 Vol. 700 Col. 198.

⁶ HC Deb 7 September 2021 Vol. 700 Col. 214.

⁷ Elections Act 2022 Schedule 1.

2022. This brought into effect the exact requirements for photographic identification which includes specified types of passport, driving licences, local travel passes, proof of age identity cards, and other government issued documents which includes a free voter authority certificate.⁸ Finally, the Elections Act 2022 (Commencement No. 6 and Savings) Regulations 2022, issued on 22 December 2022, brought the remaining provisions of Schedule 1 into force as from 16 January 2023. This confirmed that voter ID would be required for the first time from 4 May 2023 for local elections in England, parliamentary by-elections and any election to the Northern Ireland Assembly, and from 5 October 2023 for general elections across all of Great Britain.⁹

Materials and Methods

The following sections examine each of these elections, beginning with the 2018 and 2019 pilot schemes, then turning to the major local elections held in May 2023, the 10 parliamentary by-elections to be held between July 2023 and May 2024, and finally the July 2024 UK General Election. Each study will present and assess the available data concerning voter turnout, rejection at polling stations due to inadequate identification, and public confidence in the voting process. These fundamental issues have been focused on because they are easily quantifiable and can be linked to the issues of necessity, proportionality and overall legality of the measures.

The following analysis relies on a number of sources. First and foremost, the article relies on data recorded and produced by the UK Parliament and the Electoral Commission following the respective elections. The Electoral Commission serves as the UK's elections watchdog and has a statutory role to issue reports on the administration of certain elections and referendums in the United Kingdom, including parliamentary general elections.¹⁰ The Commission is also obliged to report following pilot schemes in England and Wales,¹¹ as it did after the 2018 and 2019 pilot schemes (Electoral Commission 2018a; 2019a). Whilst there is no established legal requirement to report on the administration of local elections in England, it has often chosen to given their importance, with the local elections in May 2023 being one such example (Electoral Commission 2023a). Reports issued by the Electoral Commission pursuant to their statutory obligations are authoritative as the Commission has access to all data gathered by individual local councils, some of which is not publicly revealed.

Of lesser significance but still useful to inform analysis, this article also draws on the findings of charitable organisations such as Democracy Volunteers, a volunteer-based organisation which deploys dozens of observers to polling stations on election days, as well the author's own observations in polling stations pursuant to his appointment as an independent observer accredited by the Electoral Commission. In

⁸ Elections Act 2022 Schedule 1. See also Electoral Commission, Voter ID <https://www.electoralcommission.org.uk/i-am-a/voter/voter-id>.

⁹ Elections Act 2022 (Commencement No. 6 and Savings) Regulations 2022 Regulation 3.

¹⁰ Political Parties, Elections and Referendums Act 2000 Sect. 5.

¹¹ Representation of the People Act 2000 Sect. 10(6).

the 2018 pilot schemes the author observed voters casting their votes and the conduct of polling station staff in Watford and Woking. Similarly, during the May 2023 local elections, the author observed voters and staff in Ellesmere Port, Ormskirk, Liverpool and Birkenhead. Finally, during the July 2024 UK General Election, the author observed voters at numerous polling stations in the Wirral. In this context, the observational analysis involved distanced and non-interventionist observations of small samples of voters inside a variety of polling stations in these different areas. Whilst limited in its quality and inability to produce any definite or representative results, these observations were still useful to provide contextual examples of when voters objected to showing photo ID or lacked adequate ID altogether and were therefore unable to vote.

The Case Studies

Study 1: 2018 and 2019 Pilot Schemes

Paving the way for the eventual reforms manifested in the Elections Act 2022, a series of pilot schemes were held in 2018 and 2019 to test a variety of sources of identification.¹² These schemes were authorised by the Government pursuant to the Representation of the People Act 2000.¹³ The pilots drew much criticism and even faced a legal challenge as to whether they were lawful which will be considered later.

Five local authorities, all situated in England, took part in the first round of pilot schemes in the May 2018 local elections, namely Bromley, Gosport, Swindon, Watford and Woking (Electoral Commission 2018a). Voters in Watford and Swindon were required to produce their polling cards which contained a unique barcode, with the vast majority of voters using this to prove their identity, but photographic identification was also accepted. The requirements in Bromley, Gosport and Woking were more stringent and complex, as voters were required to produce a specific form of identification, with the majority of voters in these areas showing a driving licence. The choice of these five locations to trial voter ID for the first time faced criticism. In addition to the clear geographical limitation of the five participating areas, i.e. the fact that all five areas were located in the South of England and three had a close proximity to London, questions can also be asked about the diversity of the areas in other ways. For example, in respect of employment levels, considered to be a key indicator of voters having access to adequate identification, the five participating areas all had below-average unemployment rates compared to the national average of 4.2%, with Woking being the furthest afield at 2.4% (Palese and Terry 2018,

¹² Electoral Commission, 'Voter Identification Pilots' <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/voter-identification-pilots>.

¹³ Representation of the People Act 2000 Sect. 10.

Table 1 Voter ID pilot scheme (May 2018)

Area	Form of ID required	Turnout ^a	Voters initially turned away for lacking ID	Voters turned away who did not return	Voters unable to vote as a percentage of all polling stations voters
Bromley	Photo ID or 2 × non-Photo ID or Certificate of Identity	40%	569	154	0.2%
Gosport	Photo ID or 2 × non-Photo ID or Electoral Identity Letter	33%	120	54	0.4%
Swindon	Poll card, Photo ID or Attestation	40%	64	25	0.06%
Watford	Poll card or various ID	39.3%	194	42–66	0.2%
Woking	Photo ID or Local Elector Card	37.8%	89	51	0.3%

^aData on turnout taken from Dempsey (2018)

Table created by author based on data from Electoral Commission (2018a)

21).¹⁴ These concerns were addressed to some extent with the more extensive range of areas selected for the 2019 voter ID pilots.

The turnout in each of the five areas that participated in the 2018 voter ID pilots was only marginally different to the previous comparable elections in 2014, suggesting that voter identification did not have a significant impact (Electoral Commission 2018a). That said, turnout marginally decreased in Bromley, Gosport and Woking where strict and specific forms of identification were required. In contrast, however, turnout increased in Swindon and Watford where voters were allowed to simply produce their polling cards to prove their identity when compared to the previous election, with Swindon also allowing for attestation or ‘vouching’ where a voter with adequate identification can validate the identity of another who lacks it.

In terms of voters rejected for lacking adequate identification and therefore unable to vote, figures in the five participating areas ranged from 25 to 154 voters, representing 0.06% and 0.2% of all voters respectively in those areas (Table 1). The Electoral Commission concluded that 0.2% of all voters in the pilot scheme areas who were initially rejected did not return and therefore were unable to vote (Electoral Commission 2018b). Overall, in the first round of pilot schemes, at least 326 voters who requested a ballot paper were rejected and were unable to vote due to lacking adequate identification.

Another important issue to consider when evaluating the pilot schemes concerns the public confidence in the security of the voting system. The Electoral Commission found that people in the participating pilot scheme areas were significantly less likely than those in other areas undertaking elections to say that fraud took place. For example, the Commission found that just 9% of people in the five pilot areas saw electoral fraud as a problem in May 2018, compared to 19% in January 2018, with the opinions of voters in non-pilot areas remaining stable (Electoral Commission 2018a). Moreover, across the five pilot areas, voters’ strength of confidence increased between January and May 2018 with the proportion of people saying the voting process was very safe increasing from 43 to 57%. Perhaps most significantly, the Commission found that people who voted in the pilot areas, and therefore were required to show some form of identification, were more likely to say voting in a polling station was very safe from fraud and abuse than those who didn’t vote, at 64% compared to 43%.

The second round of pilot schemes held during the May 2019 local elections were more extensive with 10 local authorities taking part, again all in England, namely Braintree, Broxtowe, Craven, Derby, Mid Sussex, North Kesteven, North West Leicestershire, and Pendle, with Watford and Woking both participating for the second time (Electoral Commission 2019a). Voters in three areas were required to produce their polling cards, with the vast majority of voters using this to prove their identity, but photographic ID was also accepted. Voters in two areas were required to show photographic ID, and the remaining five areas operated a mixed model of identification, with the majority of voters in these areas showing a driving licence.

¹⁴ The figures were 4.1% in Swindon and Watford, 4% in Gosport, 3.8% in Bromley and 2.4% in Woking.

Table 2 Voter ID Pilot Scheme (May 2019)

Area	Form of ID required	Turnout ^a	Voters initially turned away for lacking ID	Voters turned away who did not return	Voters unable to vote as a percentage of all polling stations voters
Braintree	Mixed model	31%	203	73	0.3%
Broxtowe	Mixed model	40%	231	69	0.3%
Craven	Mixed model	37%	129	49	0.7%
Derby	Mixed model	36%	514	256	0.6%
Mid Sussex	Poll card	37%	15	8	0.03%
North Kesteven	Mixed model	31%	145	68	0.4%
North West Leicestershire	Poll card	31%	266	61	0.4%
Pendle	Photo ID	38%	284	101	0.7%
Watford	Poll card	33%	94–209	33–51	0.2%
Woking	Photo ID	36%	87	22	0.1%

^aData on turnout for individual areas is found elsewhere. See Electoral Commission (2019b)
Table created by author based on data from Electoral Commission (2019a)

The turnout in these areas is a little more complex to analyse given that the participating areas had previous comparable elections in different years. That said, the Electoral Commission revealed that for the pilot areas with comparable elections, turnout was down between 2 and 6 percentage points compared to the 2018 elections, with the turnout across all of England being down approximately 2% points compared to 2018 (Electoral Commission 2019a). Thus, turnout had decreased in the pilot scheme areas at a slightly higher rate than the average decline across all of England.

In terms of voters rejected for lacking identification, figures in the 10 participating areas ranged from 8 to 256 voters, representing 0.03% and 0.6% of all voters respectively in those areas (Table 2). Overall, the Electoral Commission concluded that for the photo and mixed ID pilot models, the average proportion not issued with a ballot paper was the same at 0.4%, whereas the poll card model saw a smaller proportion not being able to vote at 0.2% (Electoral Commission 2019a). Overall, in the second round of pilot schemes, at least 740 voters who requested a ballot paper were rejected and were unable to vote due to lacking adequate identification.

Returning to the issue of voter confidence, the Electoral Commission again found evidence that voter confidence and the perception of safety in voting increased in the pilot areas compared to non-pilot areas where opinions did not alter significantly (Electoral Commission 2019a). Between January and May 2019, the Commission reported an increase in the proportion of respondents in the pilot scheme areas who believed that electoral fraud is not a problem, increasing from 30 to 39%. Confidence appeared to increase most noticeably in the photo-only pilot areas, which represented the strictest form of identification being tested, with 32% of people saying fraud was not a problem compared to 13% previously. Ultimately, the Commission found that people who voted in pilot areas, and were therefore required to show identification of some kind, were more likely to say voting in a polling station was very safe from fraud than those who didn't vote, at 61% compared to 50%.

Ultimately, across the 15 areas involved in the two pilot studies, at least 1,066 voters who attended a polling station to vote were unable to do so because they lacked identification and did not return. These figures will of course be underestimating the true numbers given that many voters may have been turned away at polling stations prior to formally requesting a ballot paper, or may have decided simply not to attend in the first place. Given that turnout in these areas was low, ranging between 31 and 40% as is generally fairly typical in local elections, the actual number of rejected voters should have been a cause for concern despite the relatively low percentages of rejected voters. Moreover, the pilot schemes fell far short of being representative of all voters across the nations of Great Britain, given that all participating areas were situated in England (Stanford 2018b).

Given that the pilot schemes were designed to test a variety of identification methods prior to formal proposals being advanced, the results and particular impact of each form of ID should have influenced subsequent policy choices. For example, the pilots suggested that areas allowing for attestation and polling cards to be used to prove identity saw far fewer voters being rejected, whereas the areas with stricter identification requirements saw a greater number of voters being rejected. It is fair to say, however, that the 2018 and 2019 voter ID pilot schemes were not true trials of

a potential new election law but rather advance previews of a settled policy choice of the then governing Conservative Party (Green 2019). This policy choice was then finally legislated for in the form of the Elections Act 2022 with a rather narrow and strict range of photographic identification,¹⁵ to the exclusion of polling cards, non-photographic identification and attestation.

Study 2: May 2023 Local Elections

The new voter identification requirements were put to the test for the first time, more than one year after the Elections Act 2022 was passed, in the English local elections held on 4 May 2023. This involved 230 councils across the nation, comprised of 152 district councils, 32 metropolitan district councils, and 46 unitary authorities. Some organisations had warned about the rushed implementation of the policy, as well as the lack of adherence to the ‘Gould principle’ which provides that ‘electoral legislation cannot be applied to any election held within six months of the new provision coming into force’ (Electoral Commission 2007, 112). As set out earlier, some of the statutory instruments implementing voter ID were not enacted until December 2022 and January 2023, just four or five months before the local elections took place.

Turnout at these elections was recorded at 32.0%, which the Electoral Commission noted was slightly lower than at the last comparable set of elections in 2019 at 32.5% (Electoral Commission 2023a). Of the reasons why people did not vote, the Commission found that 3% of non-voters said they did not do so because they lacked ID, and 1% said it was because they did not agree with the requirement to show ID to vote at a polling station. As such, like the 2018 and 2019 pilot schemes, the number of voters being rejected at polling stations for lacking identification does not take into account voters who did not even attend a polling station to vote.

On the specific issue of voters being rejected at polling stations, observations and data recorded by the volunteer organisation Democracy Volunteers (2023)—which deployed more than 150 observers around the country—shows that 1.2% of all voters observed were turned away due to a lack of accepted identification, with the majority of these being from ethnic minorities.

The Electoral Commission finally published its authoritative report in September 2023.¹⁶ On the key issue of voters being turned away, the Commission found that at least 0.25% of people who tried to vote at a polling station were unable to because of their lack of adequate identification. The Commission estimated this to be equivalent to just under 14,000 people across the country. The areas where this appeared to be most problematic include Knowsley Metropolitan Borough Council, Crawley Borough Council, Manchester City Council, Walsall Metropolitan Borough Council, Preston City Council, and Sandwell Metropolitan Borough Council, all of which

¹⁵ Elections Act 2022 Schedule 1. See also Electoral Commission, Voter ID <https://www.electoralcommission.org.uk/i-am-a/voter/voter-id>.

¹⁶ Electoral Commission, ‘Report on the May 2023 Local Elections in England: 2023 Voter ID Data’ <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/elections-and-referendums/our-reports-and-data-past-elections-and-referendums/england-local-council-elections/report-may-2023-local-elections-england>.

Table 3 Local Elections (May 2023)—Areas with the most rejected voters

Area	Turnout ^a	Voters initially turned away for lacking ID	Voters turned away who did not return	Voters unable to vote as a percentage of all polling stations voters
Knowsley Metropolitan Borough Council	22.8%	332	174	1.05%
Crawley Borough Council	30.8%	325	123	0.97%
Manchester City Council	25.5%	1649	589	0.96%
Walsall Metropolitan Borough Council	24.6%	768	294	0.93%
Preston City Council	26.9%	419	162	0.92%
Sandwell Metropolitan Borough Council	22.9%	1135	340	0.91%
Slough Borough Council	31.9%	681	195	0.85%
Blackburn with Darwin Borough Council	27.4%	352	119	0.76%
Bradford Council	32.8%	1261	498	0.76%
Watford Borough Council	30.0%	316	104	0.71%

^aData on turnout for individual areas is found elsewhere. See Electoral Commission (2023c)

Table ordered by voters unable to vote as a percentage of all polling stations voters. Table created by author based on data from Electoral Commission (2023b)

saw at least 0.90% of voters who attempted to vote being unable to do so because of a lack of identification (Electoral Commission 2023b) Table(3).

Lastly, in terms of voter confidence, the Electoral Commission found that opinions of voters had only changed marginally compared to the previous comparable elections in 2022 (Electoral Commission 2023a). For example, after the 2023 local elections, the Commission found that 81% of people in England thought voting in general was safe from fraud and abuse, which an identical proportion reported after the 2022 local elections. Those less likely to feel that voting was safe from abuse included young people, people from ethnic minority backgrounds and those limited by a disability. On the question of whether electoral fraud was a problem, 16% of people in England thought it was, marking a slight decrease from 19% after the 2022 local elections. Lastly, just 4% of respondents thought voting was not secure, which was consistent with findings after the 2021 and 2022 local elections.

One particular point of contention in the build-up to and aftermath of these elections concerns the take up of a free form of voter identification established by the Voter Identification Regulations 2022, known as the Voter Authority Certificate (VAC). The establishment of the VAC, similar to the Electoral Identity Card used in Northern Ireland, was seen as a vital tool to ensure that voters who lacked photographic identification would not be disenfranchised and would not have to incur costs procuring expensive forms of identification such as a passport. By the deadline of 25 April 2023, nine days before the local elections took place, just 85,000 applications for a VAC had been made.¹⁷ This represented approximately 4.3% of the two million people estimated to not have recognisable photo ID (IFF Research 2021).

The process of applying for a VAC may have presented issues in itself. First, applicants must be registered to vote but this requires that the person has a fixed address, presenting challenges for homeless or frequently transient people. Applicants are then required to submit a recent digital photo and their national insurance number, which can only be obtained by an individual if they live and have the right to work in the UK, and are working, looking to work or have an offer of work. Moreover, if the person lacks a national insurance number, other documents can be used such as a birth certificate, bank statement and utility bill, but again most of these also require a fixed address.

Up to this point only local elections in England had been subject to the new voter identification requirements, first in the 2018 and 2019 pilot schemes and second in the May 2023 English local elections. It would not be until July 2023 when other types of elections would require voter identification for the first time with the stakes and risks being even higher in terms of voter turnout. In that respect our attention now turns to the 10 parliamentary by-elections that took place in the latter half of 2023 and early 2024.

¹⁷ Department for Levelling Up, Housing and Communities, Voter Authority Certificate: Performance Dashboard <https://voter-authority-certificate.service.gov.uk/performance>.

Study 3: July 2023—May 2024 Parliamentary By-Elections

Ten parliamentary by-elections requiring voters to provide identification took place between July 2023 and May 2024 when parliament was dissolved to allow for the July General Election. Three by-elections were held on 20 July 2023 in Uxbridge and South Ruislip, Selby and Ainsty, and Somerton and Frome, all of which are in England. Whilst these were not the first by-elections following the Elections Act 2022, they were the first to be held with the new voter identification law in effect for parliamentary by-elections. Later in 2023, a by-election was held on 5 October 2023 in Rutherglen and Hamilton West, marking the first time that voter ID was needed in Scotland, followed by two by-elections in England on 19 October 2023 in Mid Bedfordshire and Tamworth. The four remaining by-elections were held in Wellingborough, Kingswood, Rochdale and Blackpool South, but as data is not yet available for these, they will not be addressed in this section.

Similar to the previous studies, it is important to reflect on data concerning turnout and voters rejected due to the new voter identification requirements. Turnout at the three by-elections in July 2023 was broadly the same, ranging from 44.23% to 46.23% (Table 4). Given the infrequency and unique nature of by-elections it is not possible to compare turnout figures. Regardless, the turnout for these elections was more than ten percentage points higher than in the local elections explored in the first two studies where voter ID was required. In terms of voters rejected for lacking adequate identification and therefore unable to vote, figures in the three by-elections in July ranged from 22 to 83 voters, representing 0.09% and 0.37% of all voters respectively in those areas (Table 4).

Three months later, the by-election in Rutherglen and Hamilton West took place. Given the fact that this marked the first election held in Scotland where the new voter ID requirements were put to the test, and identification is not required for Scottish parliamentary or local elections, this presented a considerable risk. Turnout was recorded at 37.2%, which is evidently lower than the previous three by-elections in England, whereas 99 voters or 0.49% of voters were unable to vote due to inadequate identification which are higher numbers than the previous three by-elections in England (Table 4).

The last two parliamentary by-elections of 2023 took place on the same day in Mid Bedfordshire and Tamworth. In Mid Bedfordshire, turnout was recorded at 44.1%, with 62 voters or approximately 0.21% of voters unable to vote due to inadequate identification, whereas in Tamworth turnout was significantly lower at 36.0% with 16 voters or approximately 0.10% of voters unable to vote due to inadequate identification (Table 4).

The most significant test of voter identification, however, was the UK general election held on 4 July 2024. Given that turnout would be significantly higher for this election than the local elections and parliamentary by elections already discussed, and it would be the first time that many thousands of voters would have to present voter ID, the risk of more voters being rejected was obviously higher too.

Table 4 Parliamentary By-Elections (July 2023—May 2024)

Constituency	Turnout	Voters initially turned away for lacking ID	Voters turned away who did not return	Voters unable to vote as a percentage of all polling stations voters
Selby and Ainsty	44.77%	88	22	0.09%
Somerton and Frome	44.23%	189	59	0.21%
Uxbridge and South Ruislip	46.23%	256	83	0.37%
Rutherglen and Hamilton West	37.2%	298	99	0.49%
Mid Bedfordshire	44.1%	164	62	0.21%
Tamworth	36.0%	42	16	0.10%

Table created by author based on data from Electoral Commission (2023d)

Study 4: July 2024 General Election

On 22 May 2024, the then Prime Minister, Rishi Sunak, announced that a general election would take place on 4 July 2024. This marked the first UK general election that all voters across the United Kingdom, with a total electorate of 48.2 million, would have to produce voter ID (Cracknell and Baker 2024, 7).

Following the election, turnout was recorded at approximately 59.7%, which was down from 67.3% recorded in the 2019 General Election and the lowest since the 2001 General Election when turnout was recorded at 59.4% (Sturge 2024). Whilst it is tempting to attribute this decline to the implementation of voter ID to some extent, it is important to note that turnout at UK general elections has never fully returned to the levels seen between the 1922 and 1997 general elections when it would often be in the region of 65–80% (Sturge 2024). Moreover, turnout for the 2019 UK General Election was lower than the 2017 UK General Election, showing a trend of decline even before the implementation of voter ID in 2023. Ultimately, the factors that influence voter turnout are extremely complex and varied, making it more important to assess the amount of voters rejected.

In terms of voters being rejected (Table 5), the Electoral Commission concluded that approximately 50,000 voters were turned away at polling stations for lacking identification, 16,000 of whom did not return later, representing 0.08% of all polling station voters (Electoral Commission 2024). The Commission also noted that one in 1,200 voters who tried to vote at a polling station were not given a ballot paper due to the ID requirement, which compares to one in 400 at the May 2023 local elections, showing significant improvement. As with all studies in this article, however, these figures will almost certainly under-estimate the true number of voters lacking identification, given that polling station staff were situated outside some polling stations to advise voters and some voters will have been deterred from entering for a lack of photo ID.

In that respect, evidence from other sources indicates a much larger number of voters were unable to vote. Based on observations at 1,173 polling stations across the four nations of the UK, the volunteer organisation Democracy Volunteers (2024) estimated that more than 370,000 people may have been prevented from casting votes due to lacking adequate identification. Similarly, the group More in Common suggested that up to 400,000 voters may have been unable to vote on the day (Walker 2024).

More troubling, perhaps, are the reasons given by people for not voting at the General Election. Of the reasons why people did not vote, the Commission found that 4% of non-voters said they did not do so, without being prompted with reasons, because they lacked ID (Electoral Commission 2024). Moreover, when non-voters were specifically asked to choose from a list of reasons, 10% of people cited ID-related reasons.

Lastly, in terms of voter confidence, the Electoral Commission found that there were high levels of satisfaction with the voting process, with 90% of polling station voters very or fairly satisfied (Electoral Commission 2024). In terms of safety, 93% of all voters thought that voting in a polling station is safe compared to 77% of non-voters. Moreover, 89% of polling station voters felt that voting was safe from fraud.

Table 5 UK General Election (July 2024)—Areas with the most rejected voters

Constituency	Turnout ^a	Voters initially turned away for lacking ID	Voters turned away who did not return	Voters unable to vote as a percentage of all polling stations voters
Oldham East and Saddleworth	54.5%	312	122	0.44%
Birmingham Perry Barr	49.1%	353	133	0.41%
Bradford West	47.6%	264	100	0.39%
Liverpool Riverside	45.4%	227	99	0.37%
Bradford East	49.5%	243	81	0.32%
Bootle	53.2%	210	92	0.30%
Knowsley	50.1%	220	84	0.30%
Birmingham Yardley	49.4%	228	90	0.30%
Manchester Rusholme	40.0%	182	67	0.30%
Birmingham Hall Green and Moseley	54.1%	260	101	0.28%

^aData on turnout for individual areas is found elsewhere. See Cracknell and Baker (2024)

Table ordered by voters unable to vote as a percentage of all polling stations voters. Table created by author based on data from Electoral Commission (2024)

These figures are encouraging, though the Electoral Commission noted that these figures were broadly in line with previous comparable elections.¹⁸

Having identified key data and discussed the key findings of each case study from the perspective of voter turnout, rejection and confidence, we are now in a better position to analyse the legality of voter identification. The data explored in this section will help to shed some light on the direct consequences of voter identification laws in the UK in a number of ways, not least of all whether such laws might impair the essence and effectiveness of the right to vote, as well as the question of whether voter identification requirements are proportionate and pursue a legitimate aim.

The Legality of Voter ID in Great Britain

Before looking at the Elections Act 2022 and the current voter identification framework specifically, it is necessary to first consider the unique nature of the pilot schemes conducted in 2018 and 2019. Whilst the legality of these schemes hinged on the issue of statutory interpretation, rather than any substantial legal assessment of voter identification per se, it is useful to consider what legal principles were considered.

The Pilot Schemes

The pilot schemes in 2018 and 2019 were authorised by the Secretary of State acting pursuant to Sect. 10 of the Representation of the People (RPA) 2000. This provision allows the Secretary of State to make subordinate legislation, by means of a Ministerial Order, to authorise a pilot scheme following a proposal from a local authority and the Electoral Commission. Amongst other possible changes, the Act states that a pilot scheme can test ‘when, where and how voting’ can take place, with the latter phrase ‘*how* voting at the elections is to take place’ being pivotal to the legality of the pilot schemes. This particular issue attracted much criticism for the wide interpretation of the power and the likely detrimental impact on voter engagement and participation (Green 2019; Stanford 2018b).

The authorisation of one such pilot scheme in the 2019 local elections was subject to judicial review on this exact point, eventually reaching the Supreme Court,¹⁹ marking one of the very few examples of electoral law reaching the courts. As the various courts made clear, the case primarily concerned the question of whether the pilot schemes were legally authorised pursuant to Sect. 10 of the RPA, and whether the schemes were authorised for a lawful purpose which was consistent with the policy and objectives of the RPA. The wording and meaning of Sect. 10 was therefore crucial, dominating the judgments in each court.

Lord Stephens, speaking for the Supreme Court, found that the words ‘how voting...is to take place’ in Sect. 10 of the RPA 2000 were ‘sufficiently broad to

¹⁸ Data on electoral fraud for elections that took place in 2024 is due to be published by March 2025.

¹⁹ See *R (Coughlan) v. Minister for the Cabinet Office* [2019] EWHC 641 (Admin); [2020] EWCA Civ 723; [2022] UKSC 11.

encompass procedures for demonstrating an entitlement to vote, including by proving identity, as part of the voting process'.²⁰ Amongst other reasons, this was because Sect. 10(2) allows modifications in a pilot scheme 'differing in any respect' which was liberal permissive language, thus allowing a wide interpretation of 'how' voting can take place.²¹ For example, if a pilot scheme was implemented to test internet voting, it would require a voter identification requirement to be effective. As such, if Sect. 10 was wide enough to allow internet voting with voter identification as a prerequisite, then it would also be wide enough to allow identification in polling stations.²²

The reasoning in this judgment has been criticised, however, for the wide interpretation of Sect. 10 and for the Court's failure to adequately engage in the issue of fundamental rights. As Luciana Morón (2023) recently argued, the principle of legality requires that legislation worded in broad and general terms should be interpreted restrictively if fundamental rights are affected.²³ In this particular context Sect. 10 of the RPA 2000 is undoubtedly broad, as the Supreme Court acknowledged, meaning that the status of the right to vote in local elections was key. The Supreme Court, however, declined to tackle this question in depth and instead focused on the scope of Sect. 10 regardless of whether the right to vote in local elections was a fundamental right. The essence of that question, and the possible restrictions to the right to vote in the UK legal system, can now be addressed.

Compulsory Identification and the Right to Vote

Turning to the implementation of the Elections Act 2022, it is necessary to address the nature of constitutional rights and the right to vote more specifically. First, in terms of constitutional rights, the absence of a codified constitution and the issue of devolution in the United Kingdom complicates matters, meaning that the right to vote has gradually developed owing to decades of UK and devolved legislation (Johnston 2023), most of which is beyond the scope of this article.

With respect to UK parliamentary elections, however, the Representation of the People Act 1832, sometimes dubbed the Reform Act, is often pointed to as the origin of electoral modernisation, but this still determined that property ownership was essential for the right to vote. The secret ballot was introduced by the Ballot Act 1872, meaning that only the identity of a voter could be called into question rather than how they actually voted. The Representation of the People Act 1918 removed the property qualifications and introduced, for the first time, the right to vote for women over the age of 30. True gender equality finally came with the Representation of the People (Equal Franchise) Act 1928 which reduced the age for women to vote to the age of 21 in line with men. The minimum voting age was later reduced to 18 in the Representation of the People Act 1969.

²⁰ *R (Coughlan) v. Minister for the Cabinet Office* [2022] UKSC 11 para 41.

²¹ *Ibid.* para 42.

²² *Ibid.* paras 46–47.

²³ *R v. Secretary of State for the Home Department, ex p Simms* [2000] 2 AC 115.

The current requirements to vote in a UK parliamentary election, therefore, are that the individual must be registered in a parliamentary constituency, be at least 18 years old on polling day, be a British, qualifying Commonwealth citizen or a citizen of the Republic of Ireland, and not be subject to any legal incapacity to vote. The process of voting at polling stations imposes additional requirements outlined in the Representation of the People Act 1983 where a voter must confirm their name and address to receive a ballot paper,²⁴ and since the Elections Act 2022 the requirement for voters to produce identification in certain elections.

The human rights implications of voter identification laws in the UK are much more complex and have already been discussed in depth elsewhere (Morris and Wilks-Heeg 2024; Stanford 2018a). First and foremost, Article 3 of the First Protocol to the European Convention on Human Rights (ECHR) requires states to ‘hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature’. This applies to parliamentary elections which determine a state’s legislature, meaning that local elections are not subject to the same demands. As such, the remaining analysis and recommendations put forward at the end of this article are principally targeted at the conduct of UK parliamentary elections.

As the European Court of Human Rights (ECtHR) has confirmed, Article 3 of the First Protocol to the ECHR includes the implied right to vote, making its case law on this issue essential to consider.²⁵ For example, the ECtHR has noted that the right to vote is not a privilege,²⁶ and that the presumption in democratic states ‘must be in favour of inclusion’ and universal suffrage as the franchise in Europe has gradually expanded beyond the historical narrow circles defined by wealth and gender.²⁷

As with most human rights, the right to vote is not absolute, but rather it contains implied limitations.²⁸ On the one hand, states are granted wide discretion when managing electoral systems which reflects the cultural and political diversity prevalent in Europe.²⁹ On the other hand, however, the imposed conditions must not curtail rights in a way that impairs their very essence and effectiveness, and the conditions must be proportionate and pursue a legitimate aim.³⁰ Moreover, the Court has stressed that the free expression of the people must not be thwarted by the conditions imposed by a state, in the sense that the conditions ‘must reflect, or not run counter to, the concern to maintain the integrity and effectiveness’ of the election process.³¹

²⁴ Representation of the People Act 1983 Schedule 1.

²⁵ *Mathieu-Mohin v. Belgium* (1988) 10 EHRR 1 at [46]–[51]; *Sitaropoulos v. Greece* (2013) 56 EHRR 9 at [63]; *Scoppola v. Italy (No.3)* (2013) 56 EHRR 19 at [81]; *Hirst v. United Kingdom (No.2)* (2006) 42 EHRR 41 at [57].

²⁶ *Hirst* (2006) 42 E.H.R.R. 41 at [59].

²⁷ *Hirst* (2006) 42 E.H.R.R. 41 at [59].

²⁸ *Hirst* (2006) 42 E.H.R.R. 41 at [60]; *Sitaropoulos* (2013) 56 E.H.R.R. 9 at [64].

²⁹ *Mathieu-Mohin* (1988) 10 E.H.R.R. 1 at [52]; *Labita v. Italy* (2008) 46 E.H.R.R. 50 at [201]; *Hirst* (2006) 42 E.H.R.R. 41 at [60]–[61].

³⁰ *Mathieu-Mohin* (1988) 10 E.H.R.R. 1 at [52]; *Hirst* (2006) 42 E.H.R.R. 41 at [62]; *Sitaropoulos* (2013) 56 E.H.R.R. 9 at [64].

³¹ *Yumak* (2009) 48 E.H.R.R. 4 at [109]; *Hirst* (2006) 42 E.H.R.R. 41 at [62]; *Scoppola* (2013) 56 E.H.R.R. 19 at [84].

The Court has not yet dealt with the impact of voter identification on the right to vote specifically, but its case law concerning other matters is still useful for our purposes. Whilst the ECtHR has found a violation of the right to vote in some circumstances, such as a punitive ban imposed on an individual facing bankruptcy proceedings or a blanket ban placed on individuals under psychiatric protection,³² it has accepted that restrictions upon who can vote may be necessary. This includes, for example, imposing a minimum age in order to ensure the maturity of the electorate,³³ or restricting voter eligibility to individuals with continuous or close links to the country concerned.³⁴

It may also be pertinent to consider the prohibition of discrimination, provided by Article 14 of the ECHR. Whilst compulsory voter identification laws that impact all members of the electorate obviously do not demonstrate direct discrimination against any particular group, strict identification laws which impose considerable burdens upon some groups may inadvertently verge upon indirect discrimination. In that regard the ECtHR has made it clear that ‘a difference in treatment may take the form of disproportionately prejudicial effects of a general policy or measure which, though couched in neutral terms, discriminates against a group’.³⁵ Thus, if a neutral rule is more negative in its effects upon a protected group, as compulsory identification laws are often suggested to be, there may be a credible complaint of indirect discrimination.

‘Voter Confidence’ or ‘Voter Suppression’?

At the time of writing, no legal challenge addressing the substance or merits of voter identification have reached the UK courts. The *Coughlan* judicial review saga, discussed at length above, solely focused on the legality of the 2019 voter ID pilots and the courts were clear about the limited scope of the challenge. Thus, the outcomes of these judgments are of limited value.

In 2023, another judicial review challenge was prompted by the Good Law Project concerning the refusal of the Secretary of State for Levelling Up, Housing and Communities not to expand the list of acceptable identification in Schedule 1 of the RPA 1983.³⁶ On 8 May 2024, the High Court refused to grant permission for the challenge to proceed, finding that the grounds were unarguable and did not have a realistic prospect of success (Good Law Project 2024). This was because the claimant could not show that the Government had failed to comply with the public sector equality duty pursuant to the Equality Act 2010 in regard to disabled and younger

³² *Alajos Kiss v. Hungary* (2013) 56 E.H.R.R. 38; *Albanese v. Italy* (App. No.77924/01), judgment of 23 March 2006; *Aziz v. Cyprus* (2005) 41 E.H.R.R. 11.

³³ *Melnychenko v. Ukraine* (2006) 42 E.H.R.R. 39; *Luksch v. Germany* (App. No.35385/97), decision of 21 May 1997.

³⁴ *Py v. France* (2006) 42 E.H.R.R. 26; *Luksch* (App. No.35385/97), decision of 21 May 1997; *Hilbe v. Liechtenstein* (App. No.31981/96), decision of 7 September 1996.

³⁵ *Biao v. Denmark* (2017) 64 E.H.R.R. 1 at [103]; *D.H. v. Czech Republic* (2008) 47 E.H.R.R. 3 at [184]; *Adami v. Malta* (2007) 44 E.H.R.R. 3 at [80].

³⁶ *R (Alice) v Secretary of State for Levelling Up, Housing and Communities* (unreported).

people, and also that the claimant could not show that the Government had failed to comply with the *Tameside* duty to make reasonable enquiries to investigate and assess if additional forms of ID could better assist vulnerable voters.³⁷ As a result, there is little judicial precedent in the United Kingdom that we can look to.

Having considered the voter ID pilot schemes and voter identification more generally in the UK legal system, it is clear that few legal obstacles exist when it comes to establishing an electoral framework and determining the franchise, as this remains a deeply sensitive political matter unique to an individual state. That said, from a human rights perspective, the legality of any restriction or material change to the right to vote such as the introduction of voter identification would seem to hinge on the aims of the restrictions and the proportionality of the measures. At this point we can return to Ana Alonso-Curbelo's (2023) assessment of the parliamentary debates preceding the Elections Act 2022, in which she identified two contrasting frames of argument which we can use to conclude the analysis and ultimately determine the legality of the new voter identification framework in Great Britain.

First, on the question of whether voter identification was implemented in the Elections Act to enhance 'voter confidence', as per the then Government's line of argument, we need to determine whether voter identification pursues a legitimate aim. Second, on the question of whether voter identification is actually a method of 'voter suppression', as per the Opposition's line of argument, we can assess whether the current voter identification requirements are proportionate to the aim of increasing voter confidence.

Beginning with the question of whether the introduction of voter identification meets with the stated aim of improving voter confidence, it is important to first note that there is nothing unusual about requiring voters to show identification when casting their votes, and in fact not requiring identification previously placed Great Britain as a global outlier. As noted earlier, Tom Barton's (2022) recent assessment of voter identification requirements around the world evidences this fact, as just 15.3% of jurisdictions require voters to provide basic personal details with the vast majority requiring some form of identification.

Looking at the recent reforms, as section three illustrated, the introduction of voter identification has had a small but positive impact on how confident voters feel about the security of an election. This is no surprise given that the requirement to show strict forms of photo identification assures individual voters that their ballot paper cannot be issued to any other person. As Morris and Wilks-Heeg (2024, 268–269) conclude, 'there is some evidence from opinion polling that public confidence in elections will be enhanced by voter ID requirements and that the measure enjoys support among a clear majority of the electorate'. As such, the available evidence indicates that the introduction of voter identification can be justified as a voter confidence measure to some extent and improving voter confidence remains the strongest argument in favour of voter identification more generally.

Much more problematic is the second issue which concerns the proportionality of the voter identification requirements. In essence, proportionality means that the

³⁷ *Secretary of State for Education and Science v Tameside Metropolitan Borough Council* [1977] AC 1014.

least restrictive action should be taken to achieve a legitimate aim which, in this case, means the objective of improving voter confidence. Returning again to Barton's (2022) findings, whilst a majority of jurisdictions require a strict form of photographic identification, many of these states provide for a mandatory national identity card which the UK lacks.

The establishment of the VAC can be considered a compromise to some extent, though the extremely low uptake of the document and the evidence of thousands of voters being rejected for lacking identification indicates that the current framework remains unsatisfactory. The current range of identification is also more restrictive than envisaged when proposals were even put forward. In that respect, the Pickles Report (2016, 15) concluded that there was 'no need to be over elaborate; measures should enhance public confidence and be proportional. A driving licence, passport or utility bills would not seem unreasonable to establish identity'. The inclusion of the 60+ Oyster Card and the Older Person's Bus Pass on the list of acceptable ID, to the exclusion of the 18+ Oyster Card and the 16–25 Railcard attracted particular criticism, though the Government responded by claiming that this was due to the different application requirements and the policy decision to avoid digital forms of ID (Full Fact 2023). Ultimately, in light of the current and strict range of photographic identification, the poor uptake of the VAC, and evidence of thousands of voters being rejected at elections, there is a strong argument that the current voter ID requirements are disproportionate to the aim of improving voter confidence. This is particularly exposed when we compare the number of voters rejected for lacking adequate identification following the introduction of voter ID against the number of allegations of voter impersonation. At least 16,000 voters were unable to vote at the 2024 UK General Election alone due to lacking photo ID (Electoral Commission 2024), whilst only seven allegations of personation at polling stations were reported across the whole of 2022—the last year prior to the introduction of voter ID—and none of these allegations led to further action (Electoral Commission 2022).

With several elections now having been held in Great Britain with voter identification requirements either being tested, as was the case in the 2018 and 2019 pilot schemes, or fully implemented, as seen in the local elections, various parliamentary by-elections and now the first UK general election, we are now able to make certain recommendations.

Looking to the Future

Whilst abolishing the newly implemented voter ID requirements altogether would eradicate the risk of disenfranchisement for voters who lack adequate identification, such a move is politically unlikely and would run the risk of undermining voter confidence and security in the election process. This article therefore makes three principal, realistic, recommendations based on the key findings from the case studies, as set out in section three, which are considered in the context of basic human rights principles, as set out in section four. Whilst other recommendations concerning electoral law could be made, this section is solely concerned with voter identification and the need to strike a careful balance between security and accessibility. On the

one hand, preserving voter confidence and security in the election process is a legitimate aim to protect, but on the other hand, the least restrictive action to pursue that aim should be pursued, meaning that there is a need to reform the current framework to confront the concerns of disenfranchisement.

Extend the Range of Accepted Identification.

If we accept that maintaining some form of identification is necessary to preserve voter confidence in the process, we can look to alternative and achievable reforms. As the Electoral Commission has suggested (Electoral Commission 2023a, Recommendation 2; Electoral Commission 2024, Recommendation 2), the range of accepted identification should be reviewed to consider any additional documents that could be included to improve accessibility.

A logical starting point would be polling cards which are posted to registered voters in advance of the elections. As the 2018 voter ID pilots showed, accepting polling cards as identification may even be conducive to turnout and lead to fewer voters being rejected (Table 1). The 2019 voter ID pilots also appear to corroborate this latter point (Table 2). Polling cards can therefore have a dual purpose, first to serve as a reminder of the election and where to vote, and second, to act as the voter's form of identification. Others have made similar suggestions (James 2021, para 22; Unlock Democracy 2023).

Going further, as the current range of accepted identification includes specific forms for elderly citizens, the range should be expanded to include further forms of identification for younger citizens. For example, given the formal process involved, university identification cards issued to registered students could be considered. 18+ student Oyster photocard should also be considered, especially when 60+ Oyster photocard are currently permitted, as recommended by others (Democracy Volunteers 2023).

Whilst the previous Government initially appeared open to the idea of expanding the current range of identification (Pickard et al. 2023),³⁸ the official Government response in November 2023 to the Electoral Commission's report appears to have ended this prospect (Department for Levelling Up 2023). However, given the change of Government following the July 2024 General Election, these recommendations are now tangible and realistic. Pledging in their manifesto to "address the inconsistencies in voter ID rules that prevent legitimate voters from voting", this might at the very least lead to additional forms of identification being permissible such as HM Armed Forces Veteran Cards (Labour Party Manifesto 2024).

Allow for Vouching or Attestation

If a voter is unable to produce identification, alternative options should exist. For example, if a registered voter attends a polling station but lacks adequate identification, it should be possible for another voter with adequate identification to vouch or

³⁸ Hansard HL Deb, vol 821, col 328, 27 April 2022 per Lord True.

‘attest’ their identity. This was one of the accepted forms for voters in Swindon during the 2018 voter ID pilots, which was incidentally the participating area with the fewest number of rejected voters (Table 1). This alternative form of identification has also been suggested by others (James 2021 para 18), and the Electoral Commission itself (Electoral Commission 2023a, Recommendation 4; Electoral Commission 2024, Recommendation 3). However, like extending the range of identification, the then Government rejected this suggestion (Department for Levelling Up 2023), despite allowing for overseas voters to register to vote by attestation.³⁹

Allow for Provisional Voting

An admittedly more complex and demanding reform would be to allow for provisional voting, whereby a voter who lacks adequate ID is able to vote at a polling station provided that their ballot paper is temporarily held and put to the side until the voter is able to later return and prove their identity. This practice is common in several US states and in reality has little substantial difference to a voter who is initially rejected but returns later with adequate identification. As Toby James (2021 paras 19–21) has suggested, this could be linked to the urgent registration of a voter on the day of an election.

Conclusion

This article has examined the implementation of the new voter identification requirements for certain elections at polling stations contained in the Elections Act 2022. It has done so by conducting four case studies of when voter identification has been required. The implementation of voter ID has been controversial from the outset, with subsequent data painting a mixed picture of results.

Whilst the introduction of voter identification may have had a small but positive impact on voter confidence, making voter personation practically impossible, other data paints a more problematic story. First, in terms of voter turnout, where comparable elections can be considered, turnout has marginally decreased since the introduction of voter identification. Second, in terms of voters being rejected for inadequate identification, advocates of voter identification have seized upon the fact that generally less than 1% of voters of all voters have been affected. Nevertheless, this amounts to many thousands of voters in large-scale elections whilst also diminishing the fact that the impact on individual rights is what matters, not the relative number of voters negatively affected.

Having assessed the data and the legality of the measures, this article has concluded that the aims of improving voter confidence and the security of the electoral process are perfectly legitimate, but the current range of acceptable identification is disproportionate to these aims. Reforms are needed if the policy is to remain in place.

³⁹ Draft Representation of the People (Overseas Electors etc.) (Amendment) Regulations 2023.

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