Community Policy Forum

FAIR VOTE

BRIEFING

PHOTOGRAPHIC VOTER ID IN UK ELECTIONS

FEBRUARY 2024

Fair Vote UK advocates for democratic reform, campaign transparency, and digital regulation while Community Policy Forum is an independent think-tank specialising in the structural inequalities facing Muslim communities in the UK.

Consequently, removing structural barriers and ensuring marginalised communities have equal access to political participation is of primary concern for both of our organisations. As such, this joint briefing aims to raise our concerns surrounding the use of compulsory photographic identification in Parliamentary elections, local elections in England, and Police and Crime Commissioner elections. These concerns centre upon the disproportionate barriers created for already marginalised communities that serve to further disenfranchise them from the political process and full democratic participation. It is notable that these concerns were raised repeatedly prior to the enactment of the Elections Act by ourselves, as well as a wide cross section of civil society, including the Joseph Rowntree Foundation, the Electoral Reform Society, Unlock Democracy, Open Britain, Demos, and the Runnymede Trust, to name but a few.

Proportional response.

The Government introduced photographic voter ID with the supposed intention of preventing electoral fraud. However, according to the Electoral Commission **data** for 2019, amongst more than 58 million votes cast, there was only one police caution and one conviction for using someone else's vote at a polling station. This has led the Commission to consistently **conclude** that "there is no evidence of large-scale electoral fraud." As such, the measures (which are **estimated** to cost £180,000,000 to implement) have been widely **described** as a "solution looking for a problem" and a **sledgehammer** that is "a dangerously crude way to crack a nut." Even former minister David Davis MP has **described** the measures as "nonsense" and argued that "Voter ID is an illiberal policy in pursuit of a non-existent problem".

This has led to a number of comparisons to similar measures in numerous US states that have been equated to voter suppression, especially considering that the measures will create barriers for groups that are less likely to vote Conservative. Indeed, at a conference just after the 2023 May local elections, a former government minister let slip that voter ID was an attempt to "**gerrymander**" elections for the Conservatives.

Current awareness.

In February 2023, almost a year after the Elections Act gained royal assent, the Electoral Commission's research into public attitudes **indicated** that 39% of people were unaware that voter ID is required. By March of the same year, research **demonstrated** that 27% of people were still unaware of the requirement for photographic ID for the local elections that were to be held just two months later. By the time of the local elections, only 85,000 people had **applied** for a free voter ID certificate, amounting to just 4% of the 2 million voters in the UK without access to a recognisable photo ID according to the Government's **estimate**.

Accepted forms of photographic identification.

In the initial legislation, the Government published a list of acceptable forms of identification. The list includes travel passes for older people (60+ Oyster Cards, Older Person's Bus Pass, etc), but inexplicably omits similar travel passes for the young (18+ Oyster Cards, National Railcards, 16-25 Railcards) as well as student identification cards. When the House of Lords voted in favour of adding more forms of identification for young people, the bill returned to the Commons and the amendment was removed by the Government. In a legal briefing, public-interest group Good Law Project **questioned** whether voter ID laws were deployed as "generational gerrymandering".

Impacts on marginalised communities.

Aside from the general pattern of older generations being more likely to vote Conservative, younger groups are shown to be already less likely to participate in election processes. **Research** from the Electoral Commission published in 2019 revealed that 94% of those over the age of 65 are registered to vote, compared to 66% of 18-19 year olds and 68% of 20-24 year olds. Therefore, a restricted list of accepted ID available to them creates additional barriers that exacerbate this underrepresentation within the democratic system. The additional barriers created for younger voters is acutely felt by Muslim communities. As **indicated** by the 2021 Census, Muslim communities have the youngest age demographic of all religious groups. Muslims have the youngest median age of 27 years – 13 years younger than the general population. Meanwhile, 84.5% were aged under 50 years, compared with 62.0% of the overall population. Consequently, Muslims being generally younger as a social group are disproportionately subject to a restricted list of acceptable forms of ID.

Beyond issues of age, Muslims and other marginalised groups are further disadvantaged by voter ID requirements in other diverse ways, especially when intersectional experiences such as wealth, disability, and race combine.

During the passage of the Elections Bill, the Joseph Rowntree Foundation **estimated** that the introduction of photographic ID would disenfranchise around 1.7 million low-income voters, who are "already less likely to vote and can feel disconnected and excluded from political processes". Indeed, **requiring** low income voters who may not own expensive photographic IDs such as passports to apply for a Voter Authority Certificate requires admin time, understanding, and resources (such as access to wifi) that creates additional barriers. As **noted** by the Joseph Rowntree Foundation, "it's not easy, or necessarily going to be a priority, to apply to your local authority for a free Voter Card if you're working in an insecure job with irregular, unpredictable and long hours, or juggling multiple jobs to make ends meet while also managing caring responsibilities and health needs. It's also much harder to apply for a free Voter Card if you don't have access to technology, or if previous interactions with your local council or job

centre have created a feeling of fear and mistrust of the system... 41% [of low-income adults without a recognisable photo ID] said they were unlikely to, or unsure if they would [apply for an ID card to vote]."

Similarly, barriers can be compounded by disability. With 22% of the population being disabled, existing concerns have been routinely raised about accessibility in terms of available equipment at polling stations and registering to vote. For example, in 2019 the High Court **ruled** that the tactile voting equipment used by blind people is unlawful as it doesn't enable them to vote independently and in secret. Disability Rights UK have further **highlighted** that technological barriers to registering to vote online are mirrored in the requirement to register for a Voter Authority Certificate online. This raises the argument that prioritising initiatives to remove existing barriers and increase voter participation is of greater urgency than enforcing voter ID requirements.

Voter ID measures also create structural barriers in terms of race. With Muslim and ethnically minoritised communities being overrepresented amongst low income communities, they face the barriers previously outlined above. However, the intersectional experiences of race can compound these challenges. According to the Electoral Commission's **research**, White populations have the highest rates of being registered to vote (84%), compared to only 76% of Black people, 75% of Asian people, and 69% of those from mixed heritage backgrounds. Meanwhile, ethnically minoritised groups are **shown** to be less satisfied with the system of registering to vote (63% compared to 80% of White respondents), to be less confident in knowing how to register to vote, and less likely to express to easily find information on how to register to vote. At the same time, research has **demonstrated** that such communities are less likely to possess forms of photographic ID such as passports or driving licences. For example, Government **estimates** indicate that 39% of Asian and 47% of Black people in England do not possess a full driving licence, compared to 24% of White people. Similarly, the 2011 census **reveals** that amongst those of Gypsy or Irish Traveller background, only 66% hold a passport." As such, voter ID requirements are going to hinder ethnically minoritised communities' abilities to fully participate in elections - participation that is already characterised by low levels of engagement. As **argued** by the Runnymede Foundation, the vast costs associated with implementing voter ID requirements would be better spent on initiatives to improve voter registration and turn out, as well as political literacy amongst marginalised groups.

It is also worth noting that little research has been done on how unconscious bias and other factors may infiltrate the process of polling staff matching photographic ID to voters. As **pointed out** by the Electoral Reform Society, "correctly matching people to their photos is quite a difficult task. Border Force staff are specially trained and do this job and do it every year, but poll workers will have to get it right on the day." They further **note** that studies have repeatedly demonstrated that when asked to determine whether two photos of similar-looking strangers are the same person, people will be wrong between 10-30% of the time. With fears

already surrounding polling stations being understaffed, a lack of training and support could lead to people being incorrectly turned away as subjective examinations of their identification leads to doubt of their identity. Considering that there is no right to **appeal** a Presiding Officer's decision, there is no safeguarding for when this system fails.

Particular concerns have also been raised around the impact on LGBTQ+ people, especially those transgender and non-binary people who may not look the same as their ID card picture. **Research** from Stonewall highlighted that LGBTQ+ people are three times more likely than the general population to lack voter ID. In addition, more than half of the transgender and non-binary respondents indicated that voter ID would make them less likely to vote, and 96% indicated they had faced barriers to obtaining photographic identification – largely due to privacy and safety concerns.

Ultimately, the first official test of the new voter identification regime came in the form of the UK's May 2023 local elections. These elections provided clear evidence of voter exclusion and targeted discrimination. The **Electoral Commission**, in its routine analysis of those elections, found that at least 14,000 voters were turned away in May as a result of voter ID, and that "some people, in relation to socio-demographic factors, were more likely to have problems in meeting the ID requirement." It's worth noting that the number turned away could realistically be far higher than 14,000; those rejected at polling places with greeters or who left when they saw "photo ID required" signs were not counted. The Electoral Commission data highlighted that disabled people, unemployed people, people from minority ethnic communities, and younger age groups were disproportionately impacted. Evidence submitted to the Electoral Commission by TransActual and the LGBT Foundation also confirmed that their LGBTQ+ users reported being dissuaded from voting by the ID requirements.

While the evidence is more **limited** than would be ideal – given large gaps in the monitoring requirements of local elections and the fact that local elections generally have a lower, more politically engaged, and whiter turn-out – there is already sufficient evidence to imply political discrimination has occurred on the basis of age, gender identity, disability status, employment status, and race.

Compliance with human rights and international law.

The UK is obliged under the **Human Rights Act 1998** (HRA) and numerous international treaties, such as the **International Covenant on Civil and Political Rights** (ICCPR), to protect and respect human rights.

Article 3 of the first protocol of the HRA protects the right to "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 is supplemented by Article 14 which protects

against "discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

Similarly, Article 25(b) of the ICCPR states that: "every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions… to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors." Meanwhile, like the HRA, the ICCPR includes protection against discrimination through Article 26: "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

While these voter ID requirements have so far only been active for low-turnout local elections, the May 2024 London Mayoral Race and the 2024 General Election will help to determine the full scale of discrimination and exclusion as a result of voter ID. However, in light of the current evidence of the discriminatory way in which voter ID creates systematic barriers and disproportionately disenfranchises marginalised communities from equal participation in elections, it is already clear that the measures jeopardise the UK's compliance with its domestic and international human rights obligations.

Recommendations.

- The requirements for photographic identification outlined in the Elections Act must be overturned.

- Initiatives to increase voter participation and literacy, especially amongst groups with traditionally low voter turnout, must be prioritised and allocated appropriate resources.

- A backstop should be introduced to temporarily expand the list of accepted forms of ID until appropriate efforts can be undertaken to increase awareness of voter ID requirements and the accessibility of Voter Authority Certificates has been addressed.

- Automatic voter registration for all those of eligible age should be introduced.

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