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ESL DIVISION
22 JULY 1992

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cc PS/Secretary of State
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PS/Mr Mates (L&B) - B
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ELECTORAL ABUSE IN NORTHERN IRELAND

This submission considers possible ways of combatting electoral abuse in Northern Ireland, particularly in the light of experience at the recent general election. We have noted in particular the SDLP concerns about voting fraud by Sinn Fein in West Belfast.

Background

2. Various forms of electoral abuse, particularly personation, have a long history in Northern Ireland. Such malpractice has always been more common than in the rest of the United Kingdom. In the past it has generally been accepted that electoral abuse was not confined to one side or the other and that both sides benefitted, or suffered, more or less equally. However, the decision by Sinn Fein in 1981 to abandon 'abstentionism' and take part in elections seems to have been followed in some areas by systematic personation on an unprecedented scale.

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Personation: 'Specified Documents'

3. In order to combat personation a system of 'specified documents' at elections in Northern Ireland was introduced by the Elections (Northern Ireland) Act 1985. Under the Act and subordinate legislation, voters at any election in Northern Ireland must produce one of a list of specified documents to the presiding officer or poll clerk at the polling station before they can be issued with a ballot paper. The list was extended in 1986 and again in 1991. The current list of documents, together with further background information, is set out at Annex A.

4. The weak link in the specified documents system is the medical card, which is susceptible to forgery. There are four options (considered at Annex B) which might represent a solution to the problem. None of the four options is free from difficulties. We have concluded that any form of identity card to replace some or all of the other forms of specified document (Options I - III at Annex B) is either impracticable or would represent a disproportionate response to the current problem. To issue 1.5m new medical cards (Option IV) in time for the May District Council elections would cost in the region of £1m but, more importantly, given the inadequacy of the DHSS data base, there would be a strong likelihood that a substantive number of cards would go astray. The reissue of the cards over a number of years might nevertheless pay dividends and the cost per annum over 4 years may be more acceptable. (NB: Costings are inevitably very speculative.) We therefore recommend that the current list of specified documents should remain unchanged for the moment, but that we explore further with the DHSS the re-issue of the medical card, in a non-forgable form, with the aim that it could become the sole form of acceptable medical card. We would also aim to ensure that medical cards were issued in such a way that paramilitaries could not gain access to useful numbers of cards.

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Absent Voting

5. Whatever the flaws of the specified documents system, it is widely recognised to have reduced significantly the incidence of personation. It is likely that abuse of the absent voting system leads to a much greater number of fraudulent votes, particularly through fraudulent applications for a postal vote. The level of postal voting tends to be higher in Northern Ireland than in the rest of the UK.

6. A summary of the current absent voting provisions is set out at Annex C. The provisions are the same as apply in Great Britain, except that in certain cases the attestation requirements are in most cases stricter in Northern Ireland (eg in Great Britain applications in respect of a particular election received before the thirteenth day before polling day are not required to be attested). Further background information on fraudulent absent voting is set out at Annex D.

7. There is only limited scope for preventing fraudulent applications without restricting voting rights. We could, for example, abolish or restrict absent voting at a particular election (thereby reverting to something like the position which obtained before the introduction of the Representation of the People Act 1985), but only at the cost of disfranchising people such as those who are away on holiday on polling day. Ministers have previously taken the view that it would be politically unacceptable to introduce measures which would distance the electoral system in Northern Ireland from that in the rest of the United Kingdom to the point of affecting eligibility to vote. The UUP in particular have set great store on "parity" between Northern Ireland and Great Britain in electoral matters.

8. Ministers may nevertheless feel that the apparent level of abuse of the absent voting provisions cannot be ignored. The Home

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Office are currently engaged in a review of electoral procedures, including the absent voting system, in the light of the experience of the general election. I recommend that, following on from that review (to which we, the CEO and the Northern Ireland political parties have been invited to contribute), we should undertake an internal review of our own of absent voting in Northern Ireland, in consultation with the CEO.

Intimidation

9. There have been allegations of intimidation of voters at polling stations. This is particularly prevalent in West Belfast, where it seems to be organised by Sinn Fein. Most obvious are the gangs who congregate outside polling stations or in narrow streets leading to polling stations. This should not necessarily intimidate voters but it is made more insidious by Sinn Fein's claim that by checking the voter's electoral number as written on the ballot paper counterfoil it is possible to discover how someone has voted. This is, in theory, true but in practice the ballot paper counterfoils are sealed up after the poll and are not open to inspection. A counterfoil can only be reunited with a ballot paper on the order of the House of Commons or a court in a case in which a vote is invalid because of personation or for some other reason. We were unaware until recently that this claim was being made and will investigate with the CEO what can be done to reassure voters at the next elections.

10. The CEO is able to deal with any problems which might arise inside a polling station. As to the presence of intimidatory crowds outside polling stations, there seems little that can be done other than to increase the security force presence, which would have resource and other implications. The Representation of the People Act 1983 provides for an offence of 'undue influence', but there is nothing in electoral law to prevent peaceful groups gathering

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providing they remain outside the polling station. There are practical and legal difficulties with 'moving on' people who are not doing anything wrong, however intimidating their appearance. It should also be borne in mind that a heavy security force presence in places such as West Belfast might not necessarily be perceived as providing reassurance to voters and could itself be seen as intimidatory to voters from the nationalist community. This is not, strictly speaking, an electoral matter and SPOB will liaise with the RUC when further elections are imminent to secure the best possible prevention of intimidation in a way that will minimise public order problems.

Conclusion

11. Malpractice of one form or another has long been a feature of the electoral system in Northern Ireland. Parliamentary elections, which tend to produce large majorities, are relatively immune compared with District Council elections where, partly as a result of the STV system, majorities can be very small (the same would apply to Northern Ireland Assembly elections). But fraud on a wide scale is detrimental to the integrity of the electoral process, irrespective of the extent to which it affects particular results. However, it would require the introduction of an identity card, electoral or otherwise, bearing the elector's photograph and the abolition or severe restriction of absent voting substantially to eradicate fraud. It seems to us that such draconian measures are not yet called for. Nevertheless, we believe that we should look to re-issuing the medical card over the most practicable timescale (with DHSS help) and look further at the possibility of restricting postal or proxy votes. In both areas, limited steps may reduce at least some fraud. Once these exercises are complete Ministers should be prepared to discuss the conclusions with the parties.

12. Ministers are asked to agree that:

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- (i) no immediate change should be made to the current list of specified documents;
- (ii) the NIO should explore further with DHSS the possibility of a gradual reissue of medical cards over the next few years in such a way that cards are not issued wrongly and personation is minimised in future (at some point the specified documents list would be modified so as to ensure that only the new version would be valid);
- (iii) an internal review of absent voting in Northern Ireland should be undertaken following on from the current Home Office post general election review of electoral law;
- (iv) SPOB should liaise with the RUC about intimidatory practices near polling stations, immediately before the next elections;
- (v) the Chief Electoral Officer should at an appropriate time remind the public about the confidentiality of the ballot;
- (vi) in the light of these reviews Mr Hanley should meet the political parties to discuss the conclusions.

(SIGNED): D A Hill

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22 JULY 1992

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SPECIFIED DOCUMENTS

The system of 'specified documents' was introduced by the Elections (Northern Ireland) Act 1985. Under the Act, voters must produce one of a list of documents to the presiding officer or poll clerk before being issued with a ballot paper.

2. The current list is as follows:

- a driving licence (including a NI provisional licence)
- a UK or Irish passport
- a DHSS (NI) benefit book
- a Central Services Agency medical card
- a British seaman's card
- an official marriage certificate (only if the voter is a woman married within the previous two years)
- a new style National Insurance number card

3. The NI provisional driving licence and the British seaman's card were added to the list in 1986. The National Insurance number card was added in 1991. The new style plastic card replaced an older manilla NI number card in January 1984 and has since been issued automatically to people reaching the age of 16. Most Northern Ireland voters under the age of 24 will therefore have one. Some older voters will also have them, eg people who have lost their old cards and have been reissued with a new one.

4. The criteria which have been used in drawing up and adding to the list are that the documents on it should be kept to an acceptable minimum, that they should provide prima facie (if not conclusive) proof of identity, that they should not be readily

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susceptible to forgery or other abuse, and that every elector should be able to obtain at least one of them relatively easily and free of charge.

5. Evidence suggests that the system has had a good deal of success in preventing or at least discouraging personation. It is thought that up to 20% of Sinn Fein's votes in Belfast West came from personation when Gerry Adams won that seat at the 1983 general election. The introduction of the specified document system made an impact when it was first put into practice at the 1985 District Council elections. At the 1987 general election, the number of people who found on arrival at the polling station that someone else had already voted in their name was much lower than in 1983 (this is the only objective measure of the level of personation, although it will of course substantially understate its incidence).

6. The weak link in the specified documents system is the medical card. This is the only document on the list which is available free of charge to everyone in Northern Ireland and as such has been important to ensure that no-one should be disfranchised. It is, however, relatively easy to produce a passable forgery of the card using ordinary printing equipment. At the 1987 general election the Chief Electoral Officer (CEO) believed that in West Belfast there were around 5-600 successful instances of personation using forged medical cards. The CEO believes that the level of personation in 1992 was around the same, and that Sinn Fein were careful to steal votes that would not be claimed. Twelve forgeries were identified during the poll and two arrests were made for personation in West Belfast. A number of (good) forgeries of the medical card have come to light at each of the two most recent general elections. Sinn Fein appear to be the main if not the only culprits. The CEO issues instructions to his polling station staff on ways in which forgeries can be detected, but specified documents can only be retained for a very short period for inspection (say 30 seconds at the most) and the questions which can be put to at the

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polling station are strictly limited. The CEO believes that the effectiveness of his checks is declining, as they become well known.

7. Parliamentary elections are relatively immune to successful personation with medical cards; most MPs have substantial majorities which would not be overturned by the number of votes which could realistically be gained by successful personation with medical cards (West Belfast is the most obvious exception). The same is not true of District Council elections where majorities for seats can be very small (the common outcome of STV elections) and majorities within councils are small. A targeted campaign of personation with forged medical cards might pay dividends for Sinn Fein. Similarly at the margins Sinn Fein might attempt to improve their position in any Northern Ireland Assembly elections by targetting their use of forged medical cards. The possibility of weighted majority voting makes this threat more significant. Against this it should be borne in mind that there is also fraud in the absent voting system where Sinn Fein are not well organised. Nor has the volume of abuse since 1983 yet called into question the validity of the electoral process.

EC Considerations

8. The whole question of the specified documents system will have to be reconsidered when voting rights at local government and European Parliamentary elections are extended to all resident citizens of EC member states. This proposal, which has a long history, is contained in the Chapter on Citizenship in the Maastricht Treaty. Under the Treaty voting rights for EC citizens should be in force in 1994 in respect of European Parliamentary elections and in 1995 in respect of local government elections, although given the present uncertainty about the Treaty this timetable may no longer be feasible. The number of EC citizens (other than Irish citizens) is likely to be small. It is not clear whether it will be safe to rely on there being a specified document

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such as the medical card or whether all EC passports and identity cards will need to become specified documents. This would distort the list considerably.

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ANNEX B

SPECIFIED DOCUMENTS: OPTIONS FOR CHANGE

This Annex considers a number of options for changing the list of specified documents in order to overcome the problem of the medical card.

I. Introduce a full identity card scheme

2. Some Unionists have suggested that a full personal identity card system should be introduced and that the official identity card would then become the only acceptable document for electoral purposes. This is the practice in some other EC member states.

3. The question of identity cards of course goes very much wider than the electoral context. Their introduction has been considered on a number of occasions, primarily in the security context. Although some Unionists are known to be in favour, it is likely that others would object on civil liberties grounds, particularly if identity cards were introduced in Northern Ireland but not in the rest of the UK. The nationalist community is also likely to object.

4. In order for a personal identity card system to be effective as a security measure, it would probably have to be mandatory to carry the card at all times. This would entail sanctions for non-compliance. The security forces have expressed the view that the problems of enforcement in the event of large-scale civil disobedience would far outweigh any advantage from the point of view of security.

5. From the point of view of producing and issuing cards, a full identity card scheme would probably be considerably more manageable

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in administrative terms than a purely electoral card (see option II below). If the advantages and disadvantages of a full identity card scheme were evenly balanced, then the electoral benefits might tip the scales in favour of introduction. At present this is not the case.

6. The introduction of an identity card scheme throughout the UK would render the above considerations irrelevant, but there is no prospect of such a scheme being introduced in the foreseeable future. The introduction of a voluntary identity card scheme in the UK (as has been mooted on occasion) would enable the medical card to be replaced by the new identity card in the list of specified documents, but it would not enable the replacement of the entire list (since the identity card would thereby in effect become compulsory for voters in Northern Ireland).

II. Introduce an electoral identity card scheme

7. Some Unionist politicians have suggested that an identity card specifically (and only) for use at polling stations might be issued to all eligible electors. The suggestion is attractive in principle but would have serious practical drawbacks. The idea was considered in the period leading up to the introduction of the Bill which became the Elections (Northern Ireland) Act 1985 (and has been considered on more than one occasion since then) but was rejected because of the practical and political difficulties involved.

8. It would be difficult to convince opponents of such a scheme that the card would be used for electoral purposes only. There is little doubt that it would be seen by many people as a de facto identity card scheme or at least as the precursor to a full scheme. It could also be argued that to incur the trouble and expense of issuing an identity card solely for one particular purpose would be a waste of resources: why not go the whole way? Since the vast majority of the adult population is eligible to vote, the

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introduction of an electoral identity card scheme would not cost appreciably less than the introduction of a full identity card scheme and would have some of the same drawbacks.

9. An electoral identity card could not be issued simply on the basis of the electoral register, since at any time the register itself contains errors and omissions (eg people who have died or changed address since the register was compiled). To ensure that electoral identity cards went to the right people, there would have to be a procedure over and above the compilation of the register, which would be highly expensive to administer.

10. In order to be effective in preventing personation, an electoral identity card would almost certainly have to incorporate a photograph of the elector. This would create difficulties of its own. Electors would have to attend an issuing centre to have their cards and photographs certified, or else have to send certificates to an issuing centre as when obtaining a passport or driving licence. If electors were required to attend in person, then there would have to be at least one issuing centre in each of the twenty six district council areas, since it would probably be politically unacceptable for electors to have to travel any distance (or incur any expense) in order to secure the right to vote.

11. As to who would administer such a scheme, the CEO is the only realistic candidate. The costs of an electoral identity card scheme would lie principally in staffing and administration, rather than the cost of the cards themselves (which, depending on their nature, would probably be in the region of 15-20p each). The CEO would require a significant increase in resources to be in a position to implement the introduction of electoral identity cards.

12. The basis on which the Electoral (Northern Ireland) Act 1985 was drafted was that the specified documents would be documents

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which electors needed for other purposes. There is less danger of such documents being misplaced. To create a document which was intended solely for use at elections would be to stretch the Act beyond its intended scope and so would require primary legislation. It would also run the risk of disfranchising those electors who lose or mislay their electoral cards, since there would be no alternative document for them to use. Our view is that the scheme would be too costly and too controversial to meet present difficulties.

III. Remove the medical card from the list of specified documents or replace it by some other document

13. Since the medical card is the only document on the list of specified documents which is available free of charge to everyone in Northern Ireland, it could not be removed from the list without being replaced by a document to which the same consideration applies.

14. There are only two possible alternatives to the medical card which are worth consideration: the new-style National Insurance number card and an electoral identity card designed for the purpose.

15. The new-style NI number card is already included in the list of specified documents. It is not, however, available to the extent to which the medical card is. The new-style plastic card was introduced in 1984 and is issued automatically when a person reaches the age of 16; most 18-24 year-olds therefore have one. It is difficult to estimate the number of people in Northern Ireland between the age of 18 and retirement age who do not hold such a card, but the Department of Social Security estimate that the figure is likely to be at least 400,000 and possibly considerably higher. A relatively small number of these people might not have a NI number, and indeed might not be required to apply for a number.

16. The DSS have reservations as to the feasibility of a blanket issue of new-style cards to all those below retirement age in

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Northern Ireland. Their computer system does not hold up to date addresses for everyone and a blanket issue would risk many cards being lost or falling into the wrong hands. A new issue would therefore have to be on the basis of individual application. This would mean additional costs for the Department of Health and Social Services (Northern Ireland), which could increase significantly if applications were required to be dealt with en masse rather than spread over a longer period. The costs were estimated in 1990 to be £500,000 and would now be well in excess of that. There would also be the cost of a publicity campaign to inform people of the need to apply for a new NI card, which would be in the region of £15,000 - £30,000 depending on its nature and extent.

17. Even if it were feasible for all those below retirement age to be issued with new-style NI cards, a number of difficulties would remain. First, DSS Ministers gave an undertaking when the new card was first introduced that it would not be issued as an identity card or for any purposes unconnected with National Insurance. DSS Ministers agreed, after initial opposition, to the inclusion of the card in the list of specified documents but to issue it on a much wider basis than at present, solely for electoral purposes, might well re-awaken this issue and draw attention to the fact that DSS Ministers have gone back on their undertaking. Secondly, the new-style NI card is not ideal as a means of identity. While it is not susceptible to forgery, it is only intended to serve as a reminder of a person's NI number and is issued by the DSS virtually on request. There is little to prevent a person from using another person's card (or, for example, the card of someone who has died). Thirdly, there would remain the problem of those people who are not eligible to apply for a NI card (ie a small proportion of the 400,000 people referred to above and those above retirement age). The medical card would have to remain on the list of specified documents for the benefit of these people. We could restrict the use of the medical card to people above retirement age, but this

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would require primary legislation (since the 1985 Act does not give the power to restrict the use of particular documents to particular groups of people) and would not help those people below retirement age who are not eligible to apply for a NI card. The DSS NI card does not seem satisfactory as a replacement for the medical card.

18. An alternative would be to create an electoral identity card to replace the current medical card as a document available free of charge to any elector. This would be a less radical version of option II and would avoid some of the difficulties discussed at paragraphs 8-12 above. The legal and practical difficulties of creating a document solely for electoral purposes would nevertheless still apply, as would the considerations about cost. Primary legislation would almost certainly be required. There would be no guarantee that applications for such a card would be limited to the estimated 250,000 people who currently possess no specified document other than the medical card. Irrespective of how many people would be thought likely to apply, the necessary administrative system would have to be in place. We doubt that it would be justified to implement such a scheme simply in order to replace one of the specified documents on the existing list.

IV. Re-issue the medical card in a different form

19. Since the difficulty with the medical card is that it is relatively easy to forge, an obvious solution would be to re-issue it in a form less vulnerable to forgery (such a card would be relatively easy to produce). But the issue of such cards would not be straightforward. The main problem is the number of inaccuracies in the data base held by the Central Services Agency, namely the Master Patient Index. Like all such registers throughout the NHS, about 5% of this list is likely to relate to the uncanceled records of people who have died, emigrated, joined the Armed Forces and so

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on and who are no longer in Northern Ireland (ie those whose votes are most often stolen). The addresses of a much higher number will not be up to date. In all the Index is thought to be no more than 60% accurate.

20. It does not matter unduly for health service purposes if a family has moved a short distance and retained the same doctor, but it is a major difficulty for the purposes of a comprehensive re-issue of cards. If all 1.5 million were sent to the addresses appearing in the Index, up to 600,000 might be returned by the Post Office undelivered. Leaving aside the enormous amount of work involved in sorting this out, a significant number of cards addressed to people who have died or emigrated might fall into the wrong hands.

21. The estimated 250,000 people who rely on the medical card for voting purposes might be given priority in the issue of any new card (so that the new card could rapidly replace the old on the list of specified documents). But we would have to rely on those people responding to an advertising campaign. It is likely that, if no election was imminent, the response rate would be low; a substantial number of people would therefore find themselves in effect disfranchised at the next election following any re-issue of cards. We doubt that this would be politically acceptable. Any attempt to issue such a large number of cards in a short period close to a election would probably make it difficult to prevent fraud, since adequate checks could not be made. A general reissue of the cards over a short period is not feasible.

22. In 1985 the Central Services Agency examined the possibility of issuing a new card to every person in Northern Ireland, for reasons unconnected with electoral identification. It was concluded that the minimum feasible period for such an exercise, given the continuing requirements of the routine registration of patients, would be four years. The Agency estimate that they would have to

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engage an extra twelve staff in order to carry out a complete re-issue of cards over four years. Since pressure on accommodation is at present severe, they would have to be housed separately. The annual staffing and training costs would be in the region of £200,000. On top of this would be the cost of any necessary additional computer hardware, at least twelve VDUs and processors and the costs of the publicity and advertising. Total costs would be well in excess of £1m. We also understand that the Department of Health is considering the possibility of introducing a plastic medical card in Great Britain. The Central Services Agency would presumably wish to adopt the same format in Northern Ireland. This is unlikely to take place for some years.

25. In the light of the above, it seems to us that we should consider further with the DHSS the adoption immediately of a non-forgable medical card to be issued over the next few years with the aim of its replacing the existing medical card as a specified document. The reissue would have to be carried out in such a way that stealing the cards was not facilitated and that they were issued correctly. The reissue would have to be general so that few if any voters were in effect disfranchised and so that the allegation of disfranchisement could not be made. We would need to consider carefully with DHSS the cost aspects, and what part of those costs should fall to the NIO.

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ABSENT VOTING PROVISIONS IN NORTHERN IRELAND

| <u>Ground of eligibility</u> | <u>Whether application has to be attested</u> |
|--|--|
| 1. <u>Indefinite period</u> | |
| Service voter | No |
| No longer resident at qualifying address | No |
| Blindness or other physical incapacity | Yes; by a doctor, nurse or Christian Science practitioner who is treating the applicant, or by a warden or person in charge of a home. |
| General nature of occupation, service or employment (or that of spouse) | Yes; by employer (or someone who knows the applicant if he or she is self-employed) |
| Journey by air or sea to polling station | No |
| Overseas elector | No |
| 2. <u>Particular election</u> | |
| Applicant cannot reasonably be expected to vote in person - physical illness | Yes; by a doctor, nurse or Christian Science practitioner |
| Applicant cannot reasonably be expected to vote in person - reason other than physical illness | Yes; by a person who knows the applicant but is not a relative |
| Applicant cannot reasonably be expected to vote in person - employment as a constable or by returning officer | Yes (in the case of a constable); by RUC officer of rank of chief inspector or above |

ANNEX D

ABSENT VOTING: FRAUD

The CEO estimates that perhaps 50% of the 27,085 postal votes cast at the 1992 general election were fraudulent, although in many instances this may only be to the extent of a person signing an application on behalf of a relative who is temporarily absent in Great Britain. The CEO has expressed the view that fraudulent absent voting is a much more significant problem than personation and that the absent voting provisions are "wide open to abuse". The CEO also believes, incidentally, that the main culprits are parties other than Sinn Fein (West Belfast, for example, has one of the lowest levels of postal voting).

2. Applications in respect of a particular election present a greater opportunity for fraud than do applications for an absent vote for an indefinite period. The latter, except in the case of people who move house, have to be attested by a person such as a doctor or employer and the circumstances of the applicant can be investigated. It is impossible for the CEO to make other than cursory checks on the large number of 'one-off' applications in the short and busy period leading up to an election. The CEO has, however, made the point that an over-strict interpretation of the rules can have the result that some people who are entitled to an absent vote are in effect disfranchised because of a technical error in their application.

3. There is little scope for further tightening up the attestation requirements, which are already stricter than in Great Britain. In many cases (eg holidaymakers, people who have moved house) there is no appropriate 'qualified' attestor such as a doctor or employer;

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attestation is, or could only be, simply by someone who knows the applicant. It seems unlikely, in any event, that a person intent on submitting a fraudulent application would have much difficulty in finding someone fraudulently to attest it.

4. The computerisation of the Northern Ireland electoral register, which is currently under way, should allow for a more effective comparison of current and previous applications from would-be absent voters, thereby enabling at least some fraudulent applications to be detected (eg where the applicant has failed to be consistent in the fictitious description of his or her circumstances).

Computerisation may also enable absent voting applications to be dealt with centrally by the CEO.

5. Absent voting is, necessarily, less secure and less subject to control than voting in person; the potential for abuse is inherent in the system. There is only limited scope for preventing fraudulent applications without restricting voting rights. Any review of the current absent voting provisions would have to recognise from the start that:-

- (a) whatever the outcome of the Home Office review, the absent voting provisions in Great Britain are unlikely to be made more restrictive (the trend in recent years has been towards liberalisation);
- (b) changes to the absent voting provisions in Northern Ireland are therefore likely further to erode parity between the electoral system in Northern Ireland and that in the rest of the UK;
- (c) any change to the absent voting provisions which is likely to have a significant effect on abuse is also likely to result in some electors being, in effect, disfranchised.