



Review of Ofcom's list of larger
parties for elections taking place
on 5 May 2016
Statement

Statement

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About this document

This document sets out Ofcom's decision on the list of larger parties in advance of the various elections taking place in May 2016.

The list of larger parties reflects the fact that there are a number of larger political parties which have a significant level of electoral support, and a number of elected representatives, across a range of elections within the UK or the devolved nations. Ofcom's rules on Party Political and Referendum Broadcasts require certain licensed broadcasters to offer a minimum of two party election broadcasts ("PEBs") to the 'larger parties'. In addition, if a party is not on the list of larger parties it can still qualify for PEBs.

In summary, we have decided that the existing parties on the list should remain on it. In addition, we have decided that the UK Independence Party should be added to the list in England and Wales, and the Green Party should be added to the list in England for the purposes of the May 2016 London Assembly and London Mayoral elections only.

As indicated in the Consultation, following the May 2016 elections we intend to review the suitability of the list of larger parties going forwards and consider what alternative approaches there may be to discharge our regulatory functions. We envisage holding meetings with stakeholders ahead of any consultation about this review.

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Section 1

Executive Summary

- 1.1 This document sets out Ofcom's decision on the list of larger parties in advance of the various elections taking place in May 2016.
- 1.2 We have previously referred to this list as the Ofcom list of 'major parties'. However, as we explained in paragraph 1.9 of the Consultation we recognise that this terminology did not best express the nature of the list and Ofcom's role. Consequently, we now refer to the list as the "Ofcom list of larger parties".

What is our role?

- 1.3 There is a long-standing ban on advertisements of a political nature on television or radio in the UK. It has been argued that allowing political advertising in the broadcast media would give an advantage to the best financed candidates or parties.
- 1.4 Party election broadcasts ("PEBs") are, therefore, designed to offset the different ability of the various parties to attract campaign funds. This free airtime is provided prior to elections (and also on a seasonal basis outside election campaigns) and allows qualifying parties an opportunity to deliver their messages directly to the electorate through the broadcast media.
- 1.5 To help maintain the effectiveness of this system, Parliament, through the Communications Act 2003 has charged Ofcom with the duty of making rules regarding the allocation, length and frequency of PEBs and identifying the broadcasters that are required to transmit PEBs. Ofcom discharges this duty through our rules on Party Political and Referendum Broadcasts ("the PPRB Rules").
- 1.6 Separately, Parliament requires Ofcom to develop rules with respect to broadcasters' wider editorial coverage of elections. Ofcom discharges this duty through the Ofcom Broadcasting Code ("the Code").

What is the effect of our decision?

- 1.7 The list of larger parties is important because our PPRB Rules and Section Six of the Code impose obligations on broadcasters by reference to a defined list of 'larger parties'.
- 1.8 Specifically, the PPRB Rules require certain licensed broadcasters to offer a minimum of two party election broadcasts ("PEBs") to the 'larger parties'. In addition, if a party is not on the list it can still qualify for PEBs.
- 1.9 Separately, Section Six of the Code imposes an obligation on broadcasters to give "due weight" in their editorial coverage during the election period of the 'larger parties'. Broadcasters must also consider giving "appropriate coverage" to parties and independent candidates not on the larger parties list.

What has been our approach?

- 1.10 As with the reviews of the list carried out in 2014 and 2015, we have conducted the current review in accordance with a number of principles set out in paragraph 2.16 of

this document. In addition, having taken account of stakeholder responses, in paragraph 3.28 we confirm the analytical framework we have used to assess the relevant evidence of past electoral and current support. In Section 3, we have laid out a summary of the relevant evidence, updated from our Consultation

1.11 In making this decision, we have sought to balance broadcasters' and political candidates' right to freedom of expression, consistent with Article 10 of the European Convention on Human Rights

1.12 We have based our decision on objective and verifiable evidence consisting of:

- Evidence of political parties' actual performance in significant elections.

Evidence of performance in previous elections is an important factor in our assessment as this is evidence of how citizens have actually exercised their vote. It takes account of any differences between how people say they will vote and how they do vote. We have placed particular weight on each party's performance at the 2015 General Election, as this is the most recent evidence of past electoral support and General Elections generally attract the highest turnout of any election in the UK. In relation to the different types of elections being contested in May 2016, we have placed less weight on the more historical data from two elections ago. We have also considered the parties' performance in other significant elections which are not being contested in May 2016.

- Evidence of current support for political parties, as indicated by opinion poll data.

Evidence of current support over a period of time up to and including February/March 2016 ensures that our approach is sufficiently flexible to accommodate the emergence of popular support for political parties that have not previously been on the list. In relation to England, we have relied on data produced by the Polling Observatory Project, which aggregates results from a number of polling organisations. We have also relied on opinion polls specific to Wales, Scotland and Northern Ireland. However, overall we have placed less weight on opinion poll data in this current review. This is because of the relative paucity of such data since the 2015 General Election (in particular in Wales and Northern Ireland), and the fact that we had a significant amount of relevant evidence of past electoral support on which to base our assessment.

Our decision

1.13 We have decided that:

- the existing larger parties across Great Britain, and in each of Scotland, Wales and Northern Ireland, should remain on the list;
- the UK Independence Party should be added to the list of larger parties in England and Wales; and
- we have added the Green Party to the list of larger parties in England for the purposes of the London Assembly and London Mayoral elections being held on 5 May 2016.

- 1.14 As indicated in the Consultation, following the May 2016 elections, we intend to review the suitability of the list of larger parties going forwards and consider what alternative approaches there may be to discharge our regulatory functions. We envisage that we will hold meetings with stakeholders ahead of any consultation about this review.

Section 2

Introduction

- 2.1 On 7 January 2016, we published a consultation document (“the Consultation”)¹ setting out our proposals for the political parties to be included in Ofcom's list of larger parties in advance of the elections taking place on 5 May 2016, which are:
- English local elections (in some parts of England) and English mayoral elections (in three areas)²;
 - London Assembly and London mayoral elections;
 - Police and Crime Commissioner elections (in England and Wales);
 - National Assembly for Wales elections;
 - Scottish Parliamentary elections; and
 - Northern Ireland Assembly elections.
- 2.2 We have previously referred to this list as the Ofcom list of ‘major parties’. However, as we explained in paragraph 1.9 of the Consultation we recognise that this terminology did not best express the nature of the list and Ofcom's role. We explained that we had decided to use the term ‘larger parties’ to reflect more accurately the nature of the parties included on the list and consequently that we would now refer to the list as the “Ofcom list of larger parties”. All the stakeholders who expressed an opinion on this matter³ agreed with this change in terminology. Therefore, together with this Statement, we are issuing amended versions of the PPRB Rules, Section Six of the Code and the published Guidance to Section Six of the Code, to reflect this new terminology.
- 2.3 The list of larger parties includes the larger political parties in each of the nations of the UK, determined by reference to the criteria set out in this document. The list is relevant to two types of broadcast content during the election campaigns⁴:
- **party election broadcasts (“PEBs”)** granted by relevant broadcasters to registered political parties under Ofcom's rules on Party Political and Referendum Broadcasts (“the PPRB Rules”)⁵. For the May 2016 elections PEBs must be broadcast by the relevant regional Channel 3 services⁶; and

¹ Available at: <http://stakeholders.ofcom.org.uk/consultations/review-larger-parties-elections-5-May-2016/>

² Due to take place in: Bristol; Liverpool and Salford. These are a form of English local election. In this consultation we treat the 2016 English local elections and 2016 English mayoral elections (other than London) together when reviewing our election rules for the purposes of the ‘English local elections’.

³ The Electoral Commission, the Commercial TV PSBs (see footnote 31), and the Green Party of England and Wales.

⁴ The BBC has its own Editorial Guidelines in relation to the coverage of elections. Typically these have set out which parties are “larger” and “smaller” parties across Great Britain and in different devolved nations of the UK.

⁵ See <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/ppbrules.pdf> As explained further in Annex 1 of the Consultation, section 333 of the Communications Act 2003 requires Ofcom to make rules which may include provision for determining the political parties on whose behalf party political

- **broadcasters' own editorial coverage** relevant to the elections – e.g. news and current affairs programming. Such programming must comply with Section Five (due impartiality)⁷ and Section Six (elections and referendums)⁸ of the Ofcom Broadcasting Code ("the Code").

2.4 Before setting out the reasoning for our decision in Sections 3 and 4, we explain further below:

- our statutory duties in this context;
- the rules relating to election coverage and their relationship with the list of larger parties;
- the principles by which we have undertaken our assessment; and
- a general summary of Consultation responses.

Our statutory duties

- 2.5 Ofcom has a number of statutory duties set by Parliament in the area of elections. Our principal duty in carrying out our functions, as set by section 3 of the Communications Act 2003 ("the Act"), is to further the interests of citizens in relation to communications matters (namely, in this context broadcast coverage of elections). In performing our functions we are required to have regard to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent, and targeted only at cases in which action is needed.
- 2.6 There is a long-standing ban on advertisements of a political nature on television or radio in the UK. It has been argued that allowing political advertising in the broadcast media would give an advantage to the best financed candidates or parties.
- 2.7 PEBs and Party Political Broadcasts ("PPBs") are, therefore, designed to offset the differential ability of parties to attract campaign funds. This free airtime is provided in the election period⁹ prior to elections, in the case of PEBs (and also on a seasonal basis outside election campaigns, in the case of PPBs) and allows qualifying parties

broadcasts, including PEBs, may be made. The PPRB Rules contain minimum requirements set by Ofcom which Licensees must abide by in deciding the allocation, length, frequency and scheduling of PEBs and broadcasts outside of elections i.e. party political broadcasts ("PPBs").

⁶ In addition, under the PPRB Rules, relevant local digital television programme service licensees must carry local election broadcasts for the 2016 English local elections. These licensees fulfil this obligation by carrying the same PEB as broadcast by the relevant Channel 3 licensee.

⁷ See <http://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/broadcast-code/impartiality/>

⁸ See <http://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/broadcast-code/elections-and-referendums/>

⁹ The election period will vary between different types of election. For example, Section Six of the Code defines the election period as follows: "For a parliamentary general election, this period begins with the dissolution of Parliament. For a parliamentary by-election, this period begins with the issuing of a writ or on such earlier date as is notified in the London Gazette. For the Scottish Parliament elections and National Assembly for Wales elections, the period begins with the dissolution of the Scottish Parliament or the National Assembly for Wales as appropriate or, in the case of a by-election, with the date of the occurrence of a vacancy. For the Northern Ireland Assembly, the London Assembly and for local government elections, it is the last date for publication of notices of the election. For European parliamentary elections, it is the last date for publication of the notice of election, which is 25 days before the election. In all cases the period ends with the close of the poll".

an opportunity to deliver their messages directly to the electorate through the broadcast media.

- 2.8 To help maintain the effectiveness of this system, we have specific functions in this area. Parliament has charged Ofcom with the duty of making rules regarding the allocation, length and frequency of PEBs and PPBs and identifying the broadcasters that are required to transmit PEBs and PPBs. Specifically, section 333 of the Act provides that the regulatory regime for every licensed public service television channel and national radio service is to include conditions requiring the inclusion on that channel or service of party political broadcasts (including PEBs) and conditions requiring the adherence to rules made by Ofcom with respect to those broadcasts. We have discharged this duty by including the necessary conditions in the relevant television and radio broadcast licences and by the PPRB Rules¹⁰.
- 2.9 In addition, under section 93 of the Representation of the People Act 1983 (as amended), Ofcom is required to adopt a code of practice with respect to the participation of candidates at a parliamentary or local government election in broadcast items about the constituency or electoral area in question i.e. we are required to put in place rules which broadcasters have to comply with when they broadcast items which feature candidates, for example discussing or raising issues about the constituencies or electoral areas they are contesting. This obligation is reflected in a number of statutory instruments with respect to broadcast items covering elections to the Scottish Parliament, the Welsh Assembly, the Northern Ireland Assembly, the European Parliament and the post of Police and Crime Commissioner¹¹. In each case, before drawing up such a code of practice, we must have regard to any views expressed by the Electoral Commission. We have discharged this duty by preparing rules in Sections Five and Six of the Code (and in particular Rules 6.8 to 6.13 on constituency coverage and electoral area coverage in elections) and associated Guidance.
- 2.10 In performing our duties in this context, we are mindful of the need to strike an appropriate balance between both the broadcasters' and political candidates' right to freedom of expression, consistent with Article 10 of the European Convention on Human Rights.
- 2.11 Annex 1 of the Consultation contained a summary of the obligations contained in the PPRB Rules and Section Six of the Code as regards the various political parties and reference should be made to that document for a more complete description.

Broadcasting relating to the elections and the larger parties list

- 2.12 The list of larger parties is important because our PPRB Rules and Section Six of the Code impose obligations on broadcasters by reference to a defined list of 'larger parties'¹². That list is contained in a self-standing annex¹³ to both the PPRB Rules and Section Six of the Code.

¹⁰ See footnote 5.

¹¹ See SI 2007/236 National Assembly for Wales (Representation of the People) Order 2007 regulation 67; SI 2010/2999 Scottish Parliament (Elections etc) Order 2010 regulation 64; SI 2004/1267 European Parliamentary Elections (Northern Ireland) Regulations 2004 regulation 60; SI 2004/293 European Parliamentary Elections Regulations 2004 regulation 65; Northern Ireland Assembly (Elections) (Amendment) Order 2009 regulation 3.

¹² See <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/larger-parties.pdf>

¹³ Ibid.

2.13 Specifically, the PPRB Rules require certain licensed broadcasters to offer a minimum of two party election broadcasts (“PEBs”) to the ‘larger parties’. In addition, if a party is not on the list it can still qualify for PEBs. To illustrate this, Figure 1 lays out Ofcom’s understanding of the allocation of party election broadcasts by the Channel 3 services, ITV, STV and UTV in the 2015 General Election, with the minimum¹⁴ number of broadcasts required by the PPRB Rules shown in brackets. Figure 1 demonstrates that broadcasters use Ofcom’s PPRB Rules as a baseline for allocating PEBs rather than a limit.

Figure 1: Channel 3 allocations of PEBs for the 2015 General Election

Political Party	England ¹⁵	Wales ¹⁶	Scotland ¹⁷	N. Ireland ¹⁸
Conservative	5 (2)	4 (2)	4 (2)	1 (1)
Labour	5 (2)	4 (2)	4 (2)	-
Lib-Dems	4 (2)	4 (2)	4 (2)	-
Plaid Cymru	-	4 (2)	-	-
SNP¹⁹	-	-	4 (2)	-
UKIP²⁰	3 (2)	3 (2)	2 (1)	1 (1)
Green²¹	2 (1)	1 (1)	2 (1)	1 (1)
SLP²²	-	1 (1)	-	-
TUSC²³	1 (1)	1 (1)	1 (1)	-
DUP²⁴	-	-	-	4 (2)
Sinn Fein	-	-	-	4 (2)
SDLP²⁵	-	-	-	4 (2)
UUP²⁶	-	-	-	4 (2)
Alliance	-	-	-	3 (2)
TUV²⁷	-	-	-	2 (1)
CISTA²⁸	-	-	-	1 (1)
Workers Party	-	-	-	1 (1)

2.14 In relation to broadcasters’ own election programming, Section Six of the Code requires broadcasters in their editorial coverage to give “due weight” to the ‘larger parties’. Broadcasters are therefore not required to give equal coverage to all the larger parties. In addition, the Code does not prevent broadcasters from covering

¹⁴ Parties other than the larger parties are eligible for at least one PEB if they are contesting one sixth or more of the seats in a nation in a first-past-the-post election such as the General Election.

¹⁵ Broadcast by ITV.

¹⁶ Broadcast by ITV.

¹⁷ Broadcast by STV.

¹⁸ Broadcast by UTV.

¹⁹ Scottish National Party.

²⁰ UK Independence Party.

²¹ including the Scottish Green Party.

²² Socialist Labour Party.

²³ Trade Unionist and Socialist Coalition.

²⁴ Democratic Unionist Party.

²⁵ Social Democratic and Labour Party.

²⁶ Ulster Unionist Party.

²⁷ Traditional Unionist Voice.

²⁸ Cannabis is Safer Than Alcohol.

parties and independent candidates other than the parties on the list during election campaigns.

- 2.15 We would therefore expect broadcasters to give appropriate editorial coverage to parties not on the list of larger parties, especially in situations where there are likely to be a greater range of potential voices competing for coverage. There may be particular reasons for this in the context of the different elections being contested in May 2016, especially in the different nations of the UK.

The principles by which we have undertaken our assessment

- 2.16 This review is the third²⁹ stand-alone review that we have conducted of the list. We conducted our 2014 and 2015 Reviews in accordance with a number of principles, which we first set out in our PPRB Statement of March 2013:
- we would consider whether it is appropriate to review the list of larger parties on a periodic basis i.e. we would only review the list if there were cogent reasons for doing so;
 - mindful of the need for continuity and certainty in this area so that both political parties and broadcasters can plan ahead for elections, we would commence any reviews in the autumn preceding the relevant election(s) happening in the following May/June;
 - in any review of the list we might carry out, we would take into account factors such as the electoral performance of parties (including the numbers of elected candidates and overall percentage of vote received) over a range of elections³⁰ over at least two electoral cycles (including elections prior to the PPRB Consultation) for the different types of elections, and levels of current support (i.e. opinion polls);
 - if a party's performance over several elections of the same type was significant but not reflected in other types of election, we would consider drawing up a specific list of larger parties for that specific type of election;
 - whenever we decide to review the list, we would publicly consult on any proposed changes, including obtaining input from the Electoral Commission on any proposed changes; and
 - as appropriate, we would publicly consult only in relation to the relevant election or particular elections, rather than all possible types of elections.
- 2.17 For the purposes of this review, we have broadly adopted the same set of principles. We discuss further in Section Three the analytical framework we have applied to the relevant evidence in making our decision (see paragraph 3.28).

²⁹ We undertook a first review ahead of the May 2014 elections ("the 2014 Review" – see <http://stakeholders.ofcom.org.uk/consultations/major-political-parties-2014/>) and a second review ahead of the May 2015 elections ("the 2015 Review" – see <http://stakeholders.ofcom.org.uk/consultations/major-parties-15/>).

³⁰ including Westminster Parliamentary by-elections.

General summary of Consultation responses

- 2.18 We received responses to the Consultation from: the group of leading commercial public service broadcasters (“the Commercial TV PSBs”)³¹; the Electoral Commission; ITN; the Green Party of England and Wales (“the Green Party”); the Liberal Democrats; Ofcom’s Advisory Committee for Scotland³²; the Scottish Green Party; the Scottish Liberal Democrats; the Scottish Young Greens; and, the UK Independence Party (“UKIP”).
- 2.19 In addition, we received 408 responses from individuals, virtually all of whom objected to Ofcom’s proposal not to designate the Scottish Green Party as a larger party in Scotland.
- 2.20 The responses to the Consultation from the respondents named above have been published on our website³³, as has a summary of the responses from individuals. A detailed summary of all of the consultation responses is set out in Annex 3.

³¹ This was a joint response from: ITV plc; UTV Media plc; STV Group plc; Channel 4 Television Corporation; and Channel 5 Broadcasting Ltd.

³² The Advisory Committee for Scotland advises Ofcom about the interests and opinions, in relation to communications matters, of persons living in Scotland (see <http://www.ofcom.org.uk/about/how-ofcom-is-run/committees/scotland/functions-and-role/>).

³³ See <http://stakeholders.ofcom.org.uk/consultations/review-larger-parties-elections-5-May-2016/?showResponses=true>

Section 3

Relevant evidence relied upon by Ofcom

Introduction

3.1 In this section, we:

- set out the analytical framework that we have used to assess the relevant electoral evidence;
- confirm the relevant evidence of electoral performance and current support that we have relied on to make our decision; and
- summarise the relevant evidence³⁴ available to Ofcom of electoral performance and the updated evidence of current support for the various political parties specific to the elections due to take place on 5 May 2016.

3.2 In each case we set out our consideration of the submissions received from respondents to the Consultation.

Our Consultation proposals

3.3 In paragraphs 2.2 to 2.4 of the Consultation we set out:

- the available electoral evidence of past and current support that we considered to be relevant to our assessment (the evidence was set out in full in Annex 2 of the Consultation); and
- the analytical framework that we had used in the assessment of that relevant evidence for the purpose of making our proposals.

3.4 We invited stakeholders to provide their views on the relevant evidence laid out in Annex 2 of the Consultation, as well as whether there is any other relevant evidence which stakeholders consider that Ofcom should take into account for the purposes of the 2016 review of the list of larger parties. We also invited views on our proposed analytical framework for assessing the available evidence.

Ofcom views on respondents' submissions

3.5 In considering what the appropriate analytical framework and the nature of the evidence for the current Review, we note that the Liberal Democrats considered the proposed framework was "broadly correct". In addition, we note that the Electoral Commission, the specialist regulator whom we have a statutory duty to consult in these matters, stated that Ofcom had identified "the relevant factors that need to be taken into account" in relation to reviewing the list of larger parties.

3.6 Various respondents suggested amendments to Ofcom's proposed analytical framework and suggested Ofcom should take account of other forms of evidence as

³⁴ In this Statement we have updated the evidence of current support we relied upon in the Consultation and which we laid out in Annex 2 of that document, to encompass relevant opinion poll data since November/December 2015.

a means of assessing current support and past electoral support for political parties. A detailed summary of respondents' submissions on these aspects of our Consultation is set out at Annex 3, paragraphs A3.2 to A3.14. We explain our position in relation to each of these aspects of our decision and then set out our conclusions below.

The analytical framework

- 3.7 Several respondents made points in relation to our consideration of evidence of past electoral support versus evidence of current support in opinion polls.
- 3.8 The Scottish Green Party, Scottish Young Greens and a number of individual respondents did not agree with our proposal to place particular weight on each party's performance at the 2015 General Election³⁵ in the context of the 2016 Scottish Parliamentary elections. The Scottish Young Greens argued that votes for regionally-elected MSPs, elected via a form of proportional representation, are "more clearly the preference" of a voter, and voters are less likely to have voted tactically compared with a General Election. On a similar basis, the Green Party argued that more weight should be given to elections contested under a form of proportional representation due to the lack of tactical voting in such elections.
- 3.9 There is some limited evidence that voters will tend to vote less tactically when comparing first-past-the-post elections (such as General Elections and directly-elected constituency MSPs in Scottish Parliamentary elections) with more proportional electoral systems (such as for regionally-elected MSPs in Scottish Parliamentary elections). However, the evidence about tactical voting is not clear cut. The study³⁶ identified by the Scottish Young Greens, dating from 2001, found that "[A]s many as one in ten" voters voted tactically in the 1997 General Election, while in the 1999 Scottish Parliamentary elections, 6% voted tactically in the vote for directly-elected constituency MSPs and 4% voted tactically in the vote for regionally-elected MSPs. However, we note the same research also stated that "we cannot discount the possibility that voters would have been less inclined to vote tactically in 1999 than they were in 1997 anyway". In addition, we note that the variance in tactical voting of 6% between the 1997 General Election and the 1999 elections for regionally-elected MSPs was not attributable to a single party. In our view, the evidence available to us does not suggest that tactical voting is materially less in elections for regional MSPs when compared to first-past-the-post elections. Moreover, we do not consider it appropriate for Ofcom to seek to deconstruct election results of elections contested via different forms of electoral systems as a means of determining voters' 'real' voting intentions.
- 3.10 Therefore we do not agree with the Scottish Young Green's argument that General Election results are "irrelevant" when considering the composition of the list of larger parties for the Scottish Parliamentary elections. Nor do we agree that we should put more weight on the past results of regional MSPs elected under proportional representation compared with directly-elected constituency MSPs and General Election results. We consider that the 2015 General Election results are highly relevant because they are the most recent evidence of past electoral support, and General Elections generally attract the highest turnout³⁷ of any election in the UK. However, in reaching our decision, we have also have taken into account the

³⁵ And also the 2015 English local elections where turnout was nearly as high as in the General Election in England – see footnote 47.

³⁶ See footnote 119.

³⁷ See footnote 47.

electoral performance of parties over two electoral cycles (including the numbers of elected candidates and overall percentage of vote received) in the different types of elections being contested in May 2016, including both types of elected MSP in the case of the Scottish Parliamentary elections.

- 3.11 Both the Liberal Democrats and Scottish Liberal Democrats argued that past electoral support should be assessed over the last two electoral cycles. We agree, but as we stated in the Consultation, in reaching our decision, we have placed less weight on the evidence of electoral performance two electoral cycles ago given the historical nature of this evidence. The Liberal Democrats also cautioned about weight being given to performance in the 2012 Police and Crime Commissioner elections due to the low turnout in those elections. We acknowledge that the turnout was particularly low (15.1%) in those elections and have taken this factor into account.
- 3.12 Respondents also made points in relation to the consideration of evidence of current support (i.e. opinion polls).
- 3.13 The Scottish Young Greens and a number of individual respondents disagreed with Ofcom's proposal to place greater weight on the performance of a given political party in elections over opinion poll data. In particular, the Scottish Young Greens argued that that opinion polling is a "comparatively better" source of electoral evidence compared to General Election results. However, this view was not held by another Green political organisation, the Green Party in England and Wales, who stated: "Opinion poll data should not be given any weight in determining whether or not a political party is included in any of the lists of larger parties. It is too partial...unreliable and in any event does not represent actual electoral performance or support". Similarly, The Liberal Democrats and the Scottish Liberal Democrats argued against undue weight being given to opinion poll evidence, citing the fact that following the widely reported problems with aspects of Great Britain-wide opinion polls leading up to the 2015 General Election.
- 3.14 In response to these points, we note that as stated by some respondents, opinion polls conducted in Scotland during the 2015 General Election did in general appear to better correlate with the final results of that election in Scotland³⁸. However, we do not agree that opinion polling is a "comparatively better" source of electoral evidence compared to General Election results. This is because, as we stated in the Consultation, past electoral performance is a measure of how voters have actually exercised their democratic choice. It therefore avoids any differences between how people say (in opinion polls) that they will vote and how they actually do vote. Therefore evidence of past electoral support compares with the greater uncertainty associated with opinion poll evidence, which may not translate into votes or seats at an election. In this regard, and as the Scottish Young Greens noted, opinion polls typically have a 3% margin of error, reflecting this level of uncertainty attached to opinion polls.
- 3.15 The Scottish Young Greens also argued that, in the context of Scottish Parliamentary elections, opinion polls gauging support for the election of regional MSPs elected by proportional representation are "superior" to opinion polls gauging support for the election of directly-elected constituency MSPs because, for example, they reflect lower levels of tactical voting. This was a point also referred to by Ofcom's Advisory Committee for Scotland that there should be discussion of the reliability of opinion polls for regionally-elected MSPs. We do not agree that opinion polls gauging support

³⁸ For example, see <http://blog.whatscotlandthinks.org/2015/05/how-accurate-were-the-general-election-polls-in-scotland/>

for the election of the 56 regional MSPs elected by a form of proportional representation are “superior” to opinion polls gauging support for the election of the 73 directly-elected constituency MSPs, elected under the first-past-the-post system. For example, in making our decision, we do not want to imply in any way that regionally-elected MSPs are inherently superior to directly-elected MSPs by putting different weights on how the two categories of MSP are elected. In addition, and as discussed in paragraph 3.9 above, the evidence of the existence of tactical voting taking place in the elections for regional MSPs is not overwhelming. Further, we do not think it appropriate for Ofcom to seek to deconstruct election results in elections contested under different forms of electoral system as a means of determining voters’ ‘real’ voting intentions. Therefore, in reaching our decision in relation to Scotland, we have taken full account of opinion polls gauging voter preference for the election of both directly-elected and regionally-elected MSPs.

- 3.16 Finally, on the issue of opinion polls, the Liberal Democrats said that Ofcom should not give “much” weight to opinion polls in Wales and Scotland due to: the low number of opinion polls in those two countries; and that in Scotland the sample sizes in such polls are “usually small”. We agree that, in relation to Wales, there have been very few opinion polls published in relation to that country since the May 2015 General Election. However, that is not the case in Scotland where there have been significantly more. In addition, we are not aware of the sample sizes for Scotland-only opinion polls being “usually small”. Therefore, in reaching our decision, we have taken into account the fact that very few opinion polls have been conducted in Wales and Northern Ireland, but more have been carried out in Scotland.
- 3.17 Respondents provided other comments on our proposed analytical framework. The Green Party said that a very low weighting should be given to whether a party is part of the government in any particular nation because such a party’s past electoral performance “should already give it sufficient weighting in determining larger party status”. We note this point. However, we consider that whether a party is part of the UK or devolved government is still a relevant fact that we should take into account in reaching our decision.
- 3.18 The Green Party also said that Ofcom had not provided any clear definition of what is regarded as either “significant” or “sustained” in terms of evidence of support. It added that these terms had been implied in the Consultation and had been “applied inconsistently”. As we have made clear in both the 2014 Review, 2015 Review and the present review, we continue to consider that the best approach is to undertake an assessment taking into account both evidence of actual electoral performance and evidence of current support as indicated by opinion polls. This ensures that the list of larger parties is capable of reflecting the long standing support that some parties have experienced over time, whilst being sufficiently flexible to accommodate the emergence of popular support for other political parties that have not previously been on the list. We do not consider that such an assessment is amenable to a single mechanistic definition or threshold as to what is significant or sustained. Rather, we take into account all relevant factors. Therefore, we do not agree with the Scottish Young Green’s suggestion of a threshold of “between 2% and 5%” in average opinion poll ratings for parties in relation to the elections for regionally-elected MSPs as a method of determining the list of larger parties in Scotland.

The nature of the evidence

- 3.19 A number of political parties as well as individual respondents suggested that membership should be used as a factor in gauging current support. However, total party membership of all UK political parties remains a very small proportion of the

total electorate³⁹. As such, we do not consider that party membership totals would be a robust indicator of wider support for the various parties across the electorate at large. In a similar vein, we do not agree with the Scottish Green Party's argument that a December 2015 Scottish Green Party petition of 6,000 to the BBC Trust to include the party "in its 'major parties' list", demonstrated "strong public demand" for balanced coverage before the Scottish Parliamentary elections. This is because the petitioners in that case were self-selecting and could not be seen as representative of wider public opinion.

- 3.20 UKIP suggested that we take into account levels of support for parties shown on social media platforms such as Facebook and Twitter. However, we consider such an approach would not be sufficiently objective or measurable because, for example, the number of Twitter followers attributed to a party, unlike opinion polls, could not be statistically weighted to reflect the electorate as a whole, and will not necessarily denote an accurate number of unique individuals expressing support for a party at any particular time.
- 3.21 The Scottish Green Party said that the fact its councillors and MSPs "regularly feature on national and local media" should be taken into account. However, in our view, levels of media coverage (produced by broadcast, new media and print publication organisations) would not be a straightforward variable to quantify and it is debatable the extent to which coverage across all forms of media would easily correlate with levels of support with the different parties.
- 3.22 We consider that some factors cited by respondents could not be said to be measurements for support for political parties within the wider electorate. These factors were: the fact that the Scottish First Minister Nicola Sturgeon had stated her support for "including the Greens in broadcasting", as argued by the Scottish Green Party; the role of the Scottish Green Party in the 2014 Scottish Independence Referendum; and, as suggested by UKIP, numbers of positive news articles about different political parties. Similarly, a number of individuals and Liberal Democrats and Scottish Liberal Democrats argued that account should be taken of political parties having distinctive policies. We disagree. The nature of a party's policy platform, or whether particular policy viewpoints are reflected amongst parties on the list of larger parties do not in our view relate to the levels of parties' current support
- 3.23 The Scottish Green Party, the Liberal Democrats, the Scottish Liberal Democrats and a number of individuals argued that a relevant factor, in relation to the demonstration of past electoral support, was whether a party had been continuously represented in the Scottish Parliament since its inception in 1999. We were not persuaded by this argument. We note that parties have been elected to the Scottish Parliament with relatively low levels⁴⁰ of electoral support, and therefore the fact that a party had had an MSP since 1999 is not in itself evidence of significant past electoral support.
- 3.24 The Scottish Young Greens argued that the franchise for Scottish Parliamentary elections, which includes 16 and 17 year olds and EU citizens, makes comparisons of past results for General Elections (where those categories of person cannot vote) and "possible results" of the May 2016 Scottish Parliamentary elections "impractical

³⁹ For example, House of Commons research published in August 2015 found that: "In spring 2015 approximately 1.0% of the electorate was a member of either the Conservative, Labour or the Liberal Democrat parties". (See <http://researchbriefings.files.parliament.uk/documents/SN05125/SN05125.pdf>).

⁴⁰ For example, the Scottish Green Party received 4.0% of the votes for regionally elected MSPs in 2007 and 4.4% in 2011.

as a method of gauging party support". We disagree. The Scottish legislation⁴¹ widening the franchise to 16 and 17 year olds was only passed in 2015 so all previous Scottish Parliamentary elections and UK General elections were contested under the same franchise and, in our view, are comparable for the purposes of reaching our decision. In addition, we note that the various Scotland-only opinion polls relating to projected support in the 2016 Scottish Parliamentary elections are based on responses of representative samples of Scottish residents aged 16 years and above. Further, we note the difference in the size of franchise between Scottish Parliamentary elections and UK General Election in Scotland is relatively small⁴². We therefore consider that this difference does not materially affect comparisons between results of UK General Elections in Scotland, on the one hand, and results of Scottish Parliamentary elections and Scotland-only opinion polls for Scottish Parliamentary elections on the other.

- 3.25 Some individual respondents argued that in the 2015 General Election in Scotland, many Scottish Green Party supporters voted for the SNP. However, no evidence was provided to corroborate this fact. Another argument put forward by individual respondents was that the Scottish Green Party was only able to field candidates in 31 of Scotland's 59 Parliamentary constituencies in the 2015 General Election. However, the statutory requirement to pay deposits to field candidates in elections is an established 'gating mechanism' that applies equally to all political parties. The choice as to whether to field candidates in an election is ultimately a decision for political parties, and we do not consider it a relevant factor in assessing current support.
- 3.26 One other factor which the Scottish Green Party and a number of individuals suggested as being an indicator of current support was the support in opinion polls for different party leaders. However, we note that the support for party leaders can vary significantly from the underlying levels of public support indicated for the parties they lead, and this might be for a range of reasons unrelated to the policy positions or administrative records of their parties. We therefore do not consider that support for individual party leaders in opinion poll would be a robust and reliable measure on which to base an assessment of support of political parties.
- 3.27 Finally, in reaching our decision in relation to the composition of the list of larger parties, we have taken into account some additional evidence, highlighted by respondents: firstly, as suggested by a number of individual respondents, the results of Scottish local Government by-elections held since the 2015 General Election; and second, as suggested by UKIP, the fact this party has three members of the House of Lords, one member of the Northern Ireland Assembly, three Northern Ireland local councillors and one MEP in Scotland.

Conclusion on our analytical framework of assessment and the nature of the evidence of electoral performance and current support

- 3.28 We have assessed the relevant evidence for the purposes of determining the larger parties on the list by reference to the following framework:

⁴¹ The Scottish Elections (Reduction of Voting Age) Act 2015 (see <http://www.legislation.gov.uk/asp/2015/7/section/1/enacted>).

⁴² In April 2015 the difference in the size of the franchise was c.2.2% (See <http://www.nrscotland.gov.uk/news/2015/increase-in-scottish-electorate>).

- as in our previous two reviews⁴³, we have assessed the available evidence of each party's past electoral performance and current support separately in each of England, Wales, Scotland and Northern Ireland. Our intention has been to undertake a balanced assessment having regard to the totality of relevant evidence presented in Annex 2;
- our preference, as we made clear in the 2015 Review, has been to place greater weight on the performance of a given political party in elections over opinion poll data. This reflects the fact that electoral performance is a measure of how voters have actually exercised their democratic choice. This compares with the greater uncertainty associated with support in opinion polls, which may not translate into votes or seats at an election. We noted for example in the May 2015 elections that there were notable differences between the opinion poll ratings published by various polling organisations and the final election result (for the Conservative Party and Labour Party in particular)⁴⁴. In treating evidence of current support with some caution, we were mindful that the British Polling Council and the Market Research Society instigated an independent inquiry into the causes of the discrepancy between the final polls and the election result⁴⁵. We have also placed less weight on opinion poll data in this review due to the relative paucity of such data since the 2015 General Election (in particular in Wales and Northern Ireland) and the fact that we had a significant amount of relevant evidence of past electoral support;
- in relation to electoral performance, we have placed particular weight on each party's performance at the 2015 General Election⁴⁶. This election is the most recent evidence of past electoral support, and General Elections generally attract the highest turnout⁴⁷ of any election in the UK. Similarly, we have

⁴³ For our rationale for considering past electoral support and current support separately in each of England, Wales, Scotland and Northern Ireland, see paragraphs 2.26 and 2.27 of the Statement we published in our 2015 Review (see http://stakeholders.ofcom.org.uk/binaries/consultations/major-parties-15/statement/Major_Parties_Statement.pdf).

⁴⁴ According to House of Commons Library research, 85 Great Britain-wide opinion polls were published during the election campaign (30 March 2015 to 7 May 2015). 90% of these opinion polls suggested the Conservative Party and Labour Party vote shares were within three percentage points of each other; and an average of all 85 polls suggested that the Conservative Party and Labour Party were on approximately 34% of the vote each. Only one opinion poll suggested the Conservatives held a share of the vote greater than or equal to the actual result they achieved. However, none of the opinion polls conducted during the campaign showed the Conservative Party with the seven percentage point lead over the Labour Party they achieved on polling day (see <http://researchbriefings.files.parliament.uk/documents/CBP-7186/CBP-7186.pdf>, p.88).

⁴⁵ See <http://www.britishpollingcouncil.org/details-of-opinion-poll-inquiry-announced/>

⁴⁶ And also the 2015 English local elections where turnout was nearly as high as in the General Election in England – see footnote 47 below.

⁴⁷ When comparing the turnout in each of the four nations of the UK in the 2015 General Election and the most recent example of the various elections being contested in May 2016, the turnout figures are as follows:

- England: 2015 General Election: 66.0%, 2015 English local elections: 64.0%, 2012 London Assembly elections: 37.4%, 2012 London mayoral election: 37.5% and 2012 Police and Crime Commissioner elections: 14.7%;
- Wales: 2015 General Election: 65.7%, 2011 Welsh Assembly elections: 41.5% (directly-elected) 41.4% (regional) and 2012 Police and Crime Commissioner elections: 14.9%;
- Scotland: 2015 General Election: 71.0% and 2011 Scottish Parliamentary elections: 50.4% (directly-elected and regional) ; and
- Northern Ireland: 2015 General Election: 58.1% and 2011 Northern Ireland Assembly elections: 55.7%.

placed greater weight on the 2015 English local elections for the purposes of determining the composition of the list of larger parties in England because those elections also attracted almost as high a turnout⁴⁸ as for the 2015 General Election in England;

- we have taken into account the electoral performance of parties over two electoral cycles (including the numbers of elected candidates and overall percentage of vote received) in the different types of elections being contested in May 2016. However, we have placed less weight on the evidence of electoral performance two electoral cycles ago given the historical nature of this evidence⁴⁹;
- we have also considered the parties' performance in other significant elections⁵⁰ which are not being contested in May 2016;
- we have taken into account whether parties are part of the governments at UK-level and also in the devolved nations; and
- where the evidence is finely balanced, and in recognition of the importance of political parties' right to freedom of expression and citizens' rights to receive information and ideas, we have exercised our judgement in favour of the inclusion of a party on the list. In this context, in considering the evidence for the removal and/or addition of larger parties from the list, we have looked at whether a party has demonstrated significant, sustained support over a long period of time. In particular, we have considered whether the evidence indicates that any reduction or increase in the level of a party's support has been significant and sustained, rather than of a short-term nature.

Conclusions on relevant evidence

3.29 In assessing the relevant evidence we have used the analytical framework laid out above, taking into account the various arguments put forward by stakeholders.

3.30 For the purposes of this decision, we have relied on the following relevant evidence which is set out in full in Annex 2:

- a) evidence of past electoral support at the 2015 General Election; the different types of elections being contested in May 2016; and other significant elections; and
- b) evidence of current support in relation to England⁵¹, Wales, Scotland and Northern Ireland as demonstrated by opinion poll data. In summary, this evidence comprises of the following:

⁴⁸ Ibid.

⁴⁹ These elections are: English local elections (and mayoral) elections; London Assembly and London mayoral elections; Police and Crime Commissioner elections (in England and Wales); National Assembly for Wales elections; Scottish Parliamentary elections; and Northern Ireland Assembly elections.

⁵⁰ These are: European Parliamentary elections (last contested in 2014); Welsh local elections (last contested in 2012); Scottish local elections (last contested in 2012) and Northern Ireland local elections (last contested in 2014).

⁵¹ Ofcom is not aware of any recent aggregated figures of different polling organisations' opinion polls, showing support for the political parties in England only. We have therefore used the Great Britain-wide polls as a proxy for gauging levels of current support in England only.

- England: as in the 2015 Review, we have used the Great Britain-wide polls as a proxy for gauging levels of current support in England only. The figures we have used are contained in the weekly figures produced by the Polling Observatory project⁵²; and
- Wales, Scotland and Northern Ireland: we note that very few opinion polls relate individually to Wales, but more relate to Scotland only. We are aware of only one opinion poll having been published since the 2015 General Election which relates to Northern Ireland only. We present the information that is available in Annex 2.

3.31 We have updated the relevant evidence of current support since the publication of our Consultation to include the latest available data until the end of February/early March 2016.

Summary of the relevant electoral evidence

3.32 By way of summary, our analysis of the relevant electoral evidence in each of England, Wales, Scotland and Northern Ireland is as follows: we have had regard to the totality of the evidence presented in Annex 2. A summary of the available evidence in each of the nations of the UK is set out below together with our assessment and proposals.

England

3.33 Figure 2 summarises the available evidence for the various political parties in England (For full details see Annex 2):

[See next page]

⁵² See <http://sotonpolitics.org/tag/polling-observatory/> The BBC 'Poll of Polls' data (of Great Britain-wide polls) which we used in the 2015 Review has not been compiled since the 2015 General Election.

Figure 2: Summary of evidence of past electoral support (number of seats and share of vote) and current support – England

Type of evidence	Cons.	Lab	Lib-Dem.	UKIP	Green Party
2015 General Election (England)	318 40.9%	206 31.6%	6 8.2%	1 14.1%	1 4.2%
Elections being contested in May 2016					
2015 English local elections	5,540 35.8%	2,292 28.4%	661 10.3%	201 12.8%	84 6.5%
2014 English local elections	2,124 25.9%	1,366 35.8%	429 11.1%	163 15.7%	38 6.6%
2012 mayoral elections (outside London) ⁵³	0 8.9%	2 45.2%	0 6.3%	0 2.5%	0 5.0%
2012 London Mayoral election	44.0%	40.3%	4.2%	2.0%	4.5%
2008 London Mayoral election	43.2%	37.0%	9.8%	0.9%	3.2%
2012 London Assembly elections	DE ⁵⁴ : 6, 32.7% TL ⁵⁵ : 3, 32.0%	DE: 8, 42.3% TL: 4, 41.1%	DE: 0, 8.8% TL: 2: 6.8%	DE: 0, 4.3% TL: 0, 4.5%	DE: 0, 8.5% TL: 2, 8.5%
2008 London Assembly elections	DE: 8, 37.4% TL: 3, 34.6%	DE: 6, 28.0% TL: 2, 27.6%	DE: 0, 13.7% TL: 3, 11.4%	DE: 0, 3.0% TL: 0, 1.9%	DE: 0, 8.1% TL: 2, 8.4%
2012 PCC ⁵⁶ elections (England)	15 28.2%	12 31.4%	0 7.7%	0 7.4%	0 0.2%
Other significant elections					
2014 European Parliamentary elections (England)	17 24.9%	17 25.2%	1 7.0%	22 29.2%	3 8.0%
Opinion poll data					
Polling Observatory data May 2015 to February 2016	38.5%	30.8%	6.7%	13.1%	4.3%

3.34 In relation to the **Conservative Party** and the **Labour Party**:

- these two parties have each demonstrated significant levels of past electoral performance, achieving: 31.6% and above at the 2015 General Election; 28.4% and above at the 2015 English local elections; and 25.9% and above

⁵³ Bristol, Liverpool and Salford.

⁵⁴ DE: Directly-elected seats.

⁵⁵ TL: Top-up list seats.

⁵⁶ Police and Crime Commissioner.

(but with one exception⁵⁷) in the last two cycles⁵⁸ of the various elections being contested in May 2016; and 24.9% and above in the 2014 European Parliamentary elections, the only other significant election which is not being contested in England in May 2016;

- the Conservative Party currently has 318 MPs in England and makes up the UK Government. The Labour Party has 206 MPs and is the official opposition within Parliament; and
- for both of these parties, Great Britain-wide opinion polls⁵⁹ from May 2015 to February 2016 have suggested significant levels of current support (30.8% and above).

- 3.35 In relation to the **Liberal Democrats**, the evidence is more mixed. The party demonstrated significant past electoral support in the 2015 English local elections (10.3%). In the 2015 General Election in England it achieved a lower share of the vote (8.2%). In the last two cycles of the various elections being contested in May 2016 it achieved: between 9.8% and 13.7% of the vote in 2008⁶⁰ and 2014⁶¹ (two cycles ago) and between 4.2% and 8.8% of the vote in 2012 (one cycle ago). This party achieved 7.0% of the vote in the 2014 European Parliamentary elections, the only other significant election which is not being contested in England in May 2016. In addition, the party's current support, as suggested by Great Britain-wide polls⁶² from May 2015 to February 2016 is 6.7%.
- 3.36 In relation to the **UK Independence Party ("UKIP")**, the evidence demonstrates that this party achieved a significant level of electoral support in England in the 2015 General Election (14.1% and one MP) as well as in the 2015 English local elections (12.8%). In the 2014 European Parliamentary elections UKIP gained a significant share of the vote (29.2%). In addition, Great Britain-wide polls⁶³ from May 2015 to February 2016 have suggested significant levels of current support for UKIP (13.1%). With one exception⁶⁴, UKIP did not demonstrate significant levels of support in the last two cycles of the various elections being contested in May 2016: between 0.9% and 3.0% in 2008 (two cycles ago⁶⁵); and, between 2.0% and 7.4% in 2012 (one cycle ago).
- 3.37 In relation to the **Green Party**, the evidence demonstrates that it achieved materially lower levels of support than the larger parties in the 2015 General Election (4.2%) and the 2015 English local elections (6.5%). It achieved between 0.2% and 6.6% in the last two cycles of various other elections being contested in May 2016 (i.e. the 2014 English local, the 2012 English mayoral elections outside London, the 2008 and 2012 London mayoral elections and the 2012 PCC elections). However, in the past two cycles of London Assembly elections the Green Party achieved between 8.1% and 8.5% of the vote and in the 2014 European Parliamentary elections it achieved

⁵⁷ The Conservative Party achieved 8.9% in 2012 in the three English mayoral elections (outside London in Bristol, Liverpool and Salford) being contested in May 2016.

⁵⁸ including the 2014 English local elections (i.e. two election cycles ago for this class of election).

⁵⁹ See footnote 51.

⁶⁰ London Mayoral and London Assembly elections.

⁶¹ English local elections.

⁶² See footnote 51.

⁶³ Ibid.

⁶⁴ In the 2014 English local election (i.e. two election cycles ago for this class of election), UKIP achieved 15.7% in England.

⁶⁵ Ibid.

an 8.0% share of the vote. In terms of current support, Great Britain-wide polls⁶⁶ from May 2015 to February 2016 have not suggested significant levels of current support (4.3%);

Wales

3.38 Figure 3 summarises the available evidence for the various political parties in Wales (For full details see Annex 2):

Figure 3: Summary of evidence of past electoral support (number of seats and share of vote) and current support – Wales

Type of evidence	Cons.	Lab	Lib-Dem.	Plaid Cymru	UKIP	Green Party
2015 General Election (Wales)	11 27.2%	25 36.9%	1 6.5%	3 12.1%	0 13.6%	0 2.6%
Elections being contested in May 2016						
2011 Welsh Assembly elections	DE ⁶⁷ : 6, 25.0% RL ⁶⁸ : 8, 22.5%	DE: 28, 42.3% RL: 2, 36.9%	DE: 1, 10.6% RL: 4: 8.0%	DE: 5, 19.3% RL: 6, 17.9%	DE: N/A RL: 0, 4.6%	DE: 0, 0.2% RL: 0, 3.4%
2007 Welsh Assembly elections	DE: 5, 22.4% RL: 7, 21.5%	DE: 24,32.2% RL: 2, 29.6%	DE:3, 14.6% RL: 3, 11.7%	DE: 7, 22.4% RL: 8, 21.0%	DE: 0, 1.8% RL: 0, 4.0%	DE: N/A RL: 0, 3.5%
2012 PCC elections (Wales)	1 20.8%	1 41.8%	N/A	N/A	0 1.7%	N/A
Other significant elections						
2014 European Parliamentary elections (Wales)	1 17.4%	1 28.1%	0 3.9%	1 15.3%	1 27.6%	0 4.5%
2012 Welsh local elections	104 12.7%	577 35.6%	72 8.0%	158 15.7%	2 0.3%	0 1.2%
Opinion poll data						
Welsh opinion poll data May 2015 to February 2016	DE: 22.8% RL: 22.8%	DE: 35.8% RL: 32.8%	DE: 5.3% RL: 4.5%	DE: 19.3% RL: 18.8%	DE: 15.0% RL: 15.5%	DE: 2.0% RL: 3.8%

⁶⁶ See footnote 51.

⁶⁷ DE: Directly-elected seats (i.e. seats contested under a First-past-the-post' system within constituencies).

⁶⁸ RL: Regional list seats i.e. additional seats allocated to parties under a proportional representation system).

3.39 In relation to the Conservative Party, the Labour Party and Plaid Cymru:

- these three parties have each demonstrated significant levels of electoral performance, achieving 12.1% and above at the 2015 General Election. In the last two cycles of the various elections being contested in May 2016 they achieved: 21.0% and above in 2007 (two cycles ago); and 17.9% and above in 2011/12 (one cycle ago). These parties achieved 12.7% and above in other significant elections which are not being contested in Wales in May 2016;
- the Labour Party is the governing party in the National Assembly for Wales; and
- in terms of evidence of current support, the limited data available in terms of Wales-only opinion polls from May 2015 to February 2016, suggests significant levels of current support for the Conservative Party (22.8%⁶⁹), the Labour Party (35.8%⁷⁰ and 32.8%⁷¹) and Plaid Cymru (19.3%⁷² and 18.8%⁷³).

3.40 In relation to the **Liberal Democrats**, in the last two cycles of the Welsh Assembly elections the party achieved 14.6%⁷⁴ and 11.7%⁷⁵ of the vote in 2007 (two cycles ago); and 10.6%⁷⁶ and 8.0%⁷⁷ in 2011 (one cycle ago). In addition, the party achieved 8.0% in the 2012 Welsh local elections, a significant election which is not being contested in Wales in May 2016. However, the party performed less well in the 2015 General Election in Wales (6.5%) and the 2014 European Parliamentary elections in Wales (3.9%). In terms of evidence of current support, the limited data available in terms of Wales-only opinion polls from May 2015 to February 2016 does not suggest significant levels of support for the Liberal Democrats (5.3%⁷⁸ and 4.5%⁷⁹).

3.41 In relation to **UKIP**, this party had demonstrated significant electoral support in Wales in the 2015 General Election (13.6%) and in the 2014 European Parliamentary elections (27.6%). However, we note that the party did not achieve a significant share of the vote in the last two cycles of the elections being contested in May 2016 (i.e. the Welsh Assembly elections and PCC elections), achieving: between 1.8% and 4.0% in 2007 (two cycles ago); and between 1.7% and 4.6% in 2011/12 (one cycle ago). In addition, the party achieved 0.3% in the 2012 Welsh local elections, which are not being contested in Wales in May 2016. The limited data available in terms of Wales-only opinion polls from May 2015 to February 2016 suggests significant levels of current support for UKIP (15.0%⁸⁰ and 15.5%⁸¹).

⁶⁹ In opinion polls for both directly-elected and regional list seats in the Welsh Assembly elections.

⁷⁰ In opinion polls for directly-elected seats in the Welsh Assembly elections.

⁷¹ In opinion polls for regional list seats in the Welsh Assembly elections.

⁷² In opinion polls for directly-elected seats in the Welsh Assembly elections.

⁷³ In opinion polls for regional list seats in the Welsh Assembly elections.

⁷⁴ In directly-elected seats.

⁷⁵ In regional seats.

⁷⁶ In directly-elected seats.

⁷⁷ In regional seats.

⁷⁸ In opinion polls for directly-elected seats in the Welsh Assembly elections.

⁷⁹ In opinion polls for regional list seats in the Welsh Assembly elections.

⁸⁰ In opinion polls for directly-elected seats in the Welsh Assembly elections.

⁸¹ In opinion polls for regional list seats in the Welsh Assembly elections.

3.42 In relation to the **Green Party**, this party has not demonstrated significant levels of support in previous elections in Wales. It achieved 2.6% in the 2015 General Election. And in the last two cycles of the Welsh Assembly elections (the only elections being contested in Wales in May 2016 which the party has contested before), it achieved 3.5%⁸² of the vote in 2007 (two cycles ago) and 0.2%⁸³ and 3.4%⁸⁴ of the vote in 2011 (one cycle ago). In relation to significant elections which are not being contested in Wales in May 2016, the party achieved 4.5% of the vote in the 2014 European Parliamentary elections and 1.2% in the 2012 Welsh elections. In terms of evidence of current support, the limited data available in terms of Wales-only opinion polls from May 2015 to February 2016 does not suggest significant levels of support for the Green Party (2.0%⁸⁵ and 3.8%⁸⁶).

Scotland

3.43 Figure 4 summarises the available evidence for the various political parties in Scotland (For full details see Annex 2):

Figure 4: Summary of evidence of past electoral support (number of seats and share of vote) and current support – Scotland

[See next page]

⁸² The Green party only stood in regional seats in the 2007 Welsh Assembly elections.

⁸³ In directly-elected seats.

⁸⁴ In regional seats.

⁸⁵ In opinion polls for directly-elected seats in the Welsh Assembly elections.

⁸⁶ In opinion polls for regional list seats in the Welsh Assembly elections.

Type of evidence	Cons.	Lab	Lib-Dem.	SNP	UKIP	Scottish Green Party
2015 General Election (Scotland)	1 14.9%	1 24.3%	1 7.5%	56 50.0%	0 1.6%	0 1.3%
Elections being contested in May 2016						
2011 Scottish Parliamentary elections	DE ⁸⁷ : 3, 13.9% RL ⁸⁸ : 12, 12.4%	DE: 15, 31.7% RL: 22, 26.3%	DE: 2, 7.9% RL: 3, 5.2%	DE: 53, 45.4% RL: 16, 44.0%	DE: 0, 0.1% RL: 0, 0.9%	DE: N/A RL: 2, 4.4%
2007 Scottish Parliamentary elections	DE: 4, 16.6% RL: 13, 13.9%	DE: 37, 32.1% RL: 9, 29.2%	DE: 11, 16.2% RL: 5, 11.3%	DE: 21, 32.9% RL: 26, 31.0%	DE: N/A RL: 0, 0.4%	DE: 0, 0.2% RL: 2, 4.0%
Other significant elections						
2014 European Parliamentary elections (Scotland)	1 17.2%	1 25.9%	0 7.1%	1 29.0%	1 10.5%	0 8.1%
2012 Scottish local elections	115 13.3%	394 31.4%	71 6.6%	425 32.3%	0 0.3%	14 2.3%
Opinion poll data						
Scottish opinion poll data May 2015 to early March 2016	DE: 14.8% RL: 14.3%	DE: 21.3% RL: 20.6%	DE: 5.2% RL: 5.7%	DE: 54.9% RL: 48.2%	DE: c.1.7% RL: 2.7%	DE: c.2.4% RL: 7.2%

3.44 In relation to the Scottish National Party ("SNP"), Conservative Party and the Labour Party:

- these three parties have each demonstrated significant levels of past electoral performance, achieving 14.9% and above at the 2015 General Election. In the last two cycles of the Scottish Parliamentary elections, the only elections being contested in Scotland in May 2016, they achieved: 13.9% and above in 2007 (two cycles ago); and 12.4% and above in 2011 (one cycle ago). These parties achieved 13.3% and above in other significant elections which are not being contested in Scotland in May 2016;
- the SNP is the governing party in the Scottish Parliament; and

⁸⁷ DE: Directly-elected seats.

⁸⁸ RL: Regional list seats.

- in terms of evidence of current support, Scotland-only opinion polls from May 2015 to early March 2016 suggest significant levels of current support for the Conservative Party (14.8%⁸⁹ and 14.3%⁹⁰), the Labour Party (21.3%⁹¹ and 20.6%⁹²) and the SNP (54.9%⁹³ and 48.2%⁹⁴).

- 3.45 In relation to the **Liberal Democrats'** past electoral performance, the party demonstrated significant levels of support in Scotland in the 2007 Scottish Parliamentary elections (two cycles ago) when they achieved 16.2%⁹⁵ and 11.3%⁹⁶. However, more recently, the party has performed less well, achieving: 7.5% in the 2015 General Election; 7.9%⁹⁷ and 5.2%⁹⁸ in the 2011 Scottish Parliamentary elections (one cycle ago); 7.1% in the 2014 European Parliamentary elections; and 6.6% in the 2012 Scottish local elections. In terms of evidence of current support, Scotland-only opinion polls from May 2015 to early March 2016 do not suggest significant levels of current support for the Liberal Democrats (5.2%⁹⁹ and 5.7%¹⁰⁰).
- 3.46 In relation to **UKIP**, its best past performance in previous elections in Scotland were the 2014 European Parliamentary elections when the party achieved 10.5%. However, the party has not demonstrated significant levels of support in other previous elections: 1.6% in the 2015 General Election; between 0.1% and 0.9% in previous elections to the Scottish Parliament; and 0.3% in the 2012 Scottish local elections. In terms of evidence of current support, Scotland-only opinion polls from May 2015 to early March 2016 do not suggest significant levels of current support for UKIP (c.1.7%¹⁰¹ and 2.7%¹⁰²).
- 3.47 In relation to the **Scottish Green Party**, its best past performance in previous elections in Scotland were the 2014 European Parliamentary elections when the party achieved 8.1%. However, the party has not demonstrated significant levels of support in any other election: 1.3% in the 2015 General Election; between 0.2% and 4.4% in the 2007 and 2011 Scottish Parliament elections; and 2.3% in the 2012 Scottish local elections. In terms of evidence of current support, Scotland-only opinion polls from May 2015 to early March 2016 suggest a mixed picture for the Scottish Green Party: 7.2% support for the regional seats but c.2.4% support for the directly-elected seats.

Northern Ireland

- 3.48 Figure 5 summarises the available evidence for the various political parties in Northern Ireland (For full details see Annex 2):

⁸⁹ In opinion polls for directly-elected seats in the Scottish Parliamentary elections.

⁹⁰ In opinion polls for regional seats in the Scottish Parliamentary elections.

⁹¹ In opinion polls for directly-elected seats in the Scottish Parliamentary elections.

⁹² In opinion polls for regional list seats in the Scottish Parliamentary elections.

⁹³ In opinion polls for directly-elected seats in the Scottish Parliamentary elections.

⁹⁴ In opinion polls for regional seats in the Scottish Parliamentary elections.

⁹⁵ In directly-elected seats.

⁹⁶ In regional seats.

⁹⁷ In directly-elected seats.

⁹⁸ In regional seats.

⁹⁹ In opinion polls for directly-elected seats in the Scottish Parliamentary elections.

¹⁰⁰ In opinion polls for regional seats in the Scottish Parliamentary elections.

¹⁰¹ In opinion polls for directly-elected seats in the Scottish Parliamentary elections.

¹⁰² In opinion polls for regional seats in the Scottish Parliamentary elections.

Figure 5: Summary of evidence of past electoral support (number of seats and share of vote) and current support – Northern Ireland

Type of evidence	DUP	Sinn Fein	SDLP	UUP	Alliance	TUV	Green Party	UKIP
2015 General Election (Northern Ireland)	8 25.7%	4 24.5%	3 13.9%	2 16.0%	0 8.6%	0 2.3%	0 2.6%	0 1.0%
Elections being contested in May 2016								
2011 Northern Ireland Assembly elections	38 30.0%	29 26.9%	14 14.2%	16 13.2%	8 7.7%	1 2.5%	1 0.9%	0 0.6%
2007 Northern Ireland elections	36 30.1%	28 26.2%	16 15.2%	18 14.9%	7 5.2%	N/A	1 1.7%	0 0.2%
Other significant elections								
2014 European Parliamentary elections (Northern Ireland)	1 20.9%	1 25.5%	0 13.0%	1 13.3%	0 7.1%	0 12.1%	0 1.7%	0 3.9%
2014 Northern Ireland local elections	130 23.1%	105 24.1%	66 13.6%	88 16.2%	32 6.7%	13 4.5%	4 0.9%	3 1.4%
Opinion poll data								
Northern Ireland opinion poll data May 2015 to February 2016	25.8%	25.4%	10.8%	15.0%	7.6%	3.2%	2.4%	2.2%

3.49 In relation to the Democratic Unionist Party (“DUP”), Sinn Fein, the Social Democratic and Labour Party (“SDLP”) and the Ulster Unionist Party (“UUP”):

- these four parties have each demonstrated significant levels of electoral performance, achieving 13.9% and above at the 2015 General Election. In the last two cycles of the Northern Ireland Assembly elections, the only elections being contested in Northern Ireland in May 2016, they achieved: 14.9% and above in 2007 (two cycles ago); and 13.2% and above in 2011 (one cycle ago). These parties achieved 13.0% and above in other significant elections which are not being contested in Northern Ireland in May 2016;

- in terms of evidence of current support, the single Northern Ireland-only opinion poll from May 2015 to February 2016, suggests significant levels of current support for these parties of 10.8% and above; and
- all these parties have Departmental Ministerial posts within the Northern Ireland Executive.

- 3.50 The **Alliance Party** has demonstrated lower levels of past electoral support than the other larger parties: 8.6% in the 2015 General Election; 5.2% in the 2007 Northern Ireland Assembly elections (two cycles ago); and 7.7% in the 2011 Northern Ireland Assembly elections (one cycle ago); 7.1% in the 2014 European Parliamentary elections; and 6.7% in the 2014 Northern Ireland local elections. In addition, in terms of evidence of current support, the single Northern Ireland-only opinion poll from May 2015 to February 2016, shows this party's level of current support as being 7.6%. However, this party is part of the Northern Ireland Executive, holding two of the 11 Departmental Ministerial posts within that administration.
- 3.51 In relation to **Traditional Unionist Voice ("TUV")**, the party's best previous performance in elections in Northern Ireland was the 2014 European Parliamentary elections, when the party achieved 12.1%. However, the party has not demonstrated significant levels of support in other previous elections: 2.3% in the 2015 General Election; 2.5% in the 2011 Northern Ireland Assembly elections (one cycle ago), the only time it contested these elections; and 4.5% in the 2014 Northern Ireland local elections. The single Northern Ireland-only opinion poll from May 2015 to February 2016, does not suggest significant levels of current support for TUV (3.2%).
- 3.52 No other parties have demonstrated significant levels of past electoral support or current support in Northern Ireland¹⁰³.

¹⁰³ The Green Party achieved: 1.0% in the 2015 General Election in Northern Ireland; 1.7% in the 2007 Northern Ireland Assembly elections (two cycles ago); and 0.9% in the 2011 Northern Ireland Assembly elections (one cycle ago); 1.7% in the 2014 European Parliamentary elections; and 0.9% in the 2014 Northern Ireland local elections. UKIP achieved: 2.6% in the 2015 General Election; 0.2% in the 2007 Northern Ireland Assembly elections (two cycles ago); and 0.6% in the 2011 Northern Ireland Assembly elections (one cycle ago); 3.8% in the 2014 European Parliamentary elections; and 1.4% in the 2014 Northern Ireland local elections. The only Northern Ireland-only opinion poll suggests insignificant levels of current support of 2.4% and 2.2% respectively for the Green Party and UKIP.

Section 4

Our assessment of the evidence and decision

Introduction

4.1 In this section, we set out:

- Our assessment of the relevant evidence applying the analytical framework set out in Section 3; and
- our decision on the composition of the list of larger parties in advance of the elections due to take place on 5 May 2016.

Our Consultation proposals

Our proposals based on our assessment of the available evidence

4.2 Our proposals, on which we sought respondents' views, were as follows:

- the existing larger parties in each of England, Scotland and Wales should remain on the list;
- the UK Independence Party ("UKIP") should be added to the list of larger parties in England and Wales;
- the Green Party should be added to the list of larger parties in England for the specific purpose of the London Assembly and London Mayoral elections taking place on 5 May 2016 only.

4.3 We asked stakeholders whether they agreed with our assessment of the relevant evidence and our proposals for the larger parties to be included in the Ofcom list of larger parties.

Ofcom's views on respondents' submissions and our assessment of the relevant evidence

4.4 A detailed summary of respondents' submissions regarding our assessment of evidence is set out at Annex 3, paragraphs A3.15 to A3.25.

The existing larger parties

4.5 We noted that: the Commercial TV PSBs; the Liberal Democrats (and Scottish Liberal Democrats), Ofcom's Advisory Committee Scotland; and UKIP, all agreed with our proposal to retain all existing parties on the list of larger parties. The one key exception was our proposal in relation to the Scottish Liberal Democrats with it being argued that the various evidence pointed to the removal of that party from the list of larger parties in Scotland.

4.6 Having undertaken an assessment of the relevant evidence and considered responses to the Consultation, we have decided that none of the existing larger parties should be removed from the list of larger parties on this occasion.

4.7 In this context, we note that:

- the **Conservative Party** and the **Labour Party** have each demonstrated significant levels of electoral performance, in particular in the 2015 General Election, as well as in the various types of elections being contested in May 2016, as well as other recent significant elections;
- the Conservative Party is the governing party in the UK Government, and the Labour Party is the official opposition within Parliament and is also the governing party in the National Assembly for Wales;
- relevant¹⁰⁴ opinion polls indicate significant levels of current support for the Conservative Party and the Labour Party in each of England, Wales and Scotland;

4.8 In relation to the **Liberal Democrats**, the evidence is more mixed:

- in England, this party achieved a significantly lower share of the vote (8.2%) in the 2015 General Election than it did in the past and its level of current support (6.7%), as indicated by opinion polls, is lower than the other larger parties in England. In relation to the elections being contested in May 2016 and other significant recent elections, the party has seen its performance drop in some elections. However, it continues to demonstrate significant past electoral support in the last two cycles of English local elections (11.1% and 10.3%). On balance, therefore, we have decided to include the Liberal Democrats on the list of larger parties for England;
- in Wales, this party achieved 6.5% of the vote in the 2015 General Election and 3.5% the 2014 European Parliamentary elections. The party performed more strongly in the 2012 Welsh local elections and has demonstrated significant past performance in the Welsh Assembly elections in 2007 (14.6% and 11.7%) and 2011 (10.6% and 8.0%). Available opinion polls do not demonstrate significant levels of current support for the Liberal Democrats in Wales (5.3%¹⁰⁵ and 4.5%¹⁰⁶). On balance, however, we have decided to include the Liberal Democrats on the list of larger parties for Wales. The key factor in relation to this aspect of our decision is this party's previous strong performance in the Welsh Assembly Elections, one of the elections taking place in May 2016; and
- in Scotland, we note that a number of respondents advocated this party's removal from the list. However, in our view those respondents placed little or no weight on the relatively strong performance of the Liberal Democrats in the 2015 General Election in Scotland (in which it obtained 7.5% of the vote), or its performance of 7.9% in the elections for directly-elected constituency MSPs in the 2011 Scottish Parliamentary elections, nor that party's strong performance in the 2007 Scottish parliamentary elections (16.2% and 11.3%).

¹⁰⁴ Great Britain-wide opinion polls for England (see footnote 51), and Wales-only and Scotland-only opinion polls as appropriate.

¹⁰⁵ In opinion polls for directly-elected seats in the Welsh Assembly elections.

¹⁰⁶ In opinion polls for regional list seats in the Welsh Assembly elections.

However, we note that their performance in all other elections in recent years has been less strong. In addition, the party is not demonstrating significant levels of current support in opinion polls in Scotland. We consider that the evidence in relation to the Scottish Liberal Democrats is finely balanced. There have been declines in this party's support over the last two cycles of various elections, notably between the General Elections in 2010 and 2015. This is mirrored in the evidence of current support demonstrated by opinion polls. Prior to this more recent decline in electoral performance, however, this party has demonstrated significant, sustained support over a large number of years. Therefore, while acknowledging the drop in support for the Liberal Democrats in Scotland, we do not consider this has been significant for a sustained period. On balance, therefore, and taking all relevant factors into account, our decision is to include the Liberal Democrats on the list of larger parties for Scotland on this occasion. However, should the party continue to demonstrate lower levels of electoral support, it is unlikely that the party would remain on the list in future.

4.9 In relation to the other existing larger parties we note that:

- **Plaid Cymru** demonstrated significant electoral performance in the 2015 General Election in Wales, as well as in the various types of elections being contested in May 2016, as well as other recent significant elections in Wales. Similarly, Wales-only opinion polls indicate significant levels of current support for this party. Our decision is that this party should remain on the list of larger parties for Wales;
- the **SNP** demonstrated significant electoral performance in the 2015 General Election in Scotland, as well as in Scottish Parliamentary elections and in other recent significant elections in Scotland. The party is the governing party in the Scottish Parliament. Similarly, Scotland-only opinion polls indicate significant levels of support for this party. Our decision is that this party should remain on the list of larger parties for Scotland;
- the **Democratic Unionist Party**, **Sinn Fein**, the **Social Democratic and Labour Party** and the **Ulster Unionist Party** each demonstrated significant electoral performance in the 2015 General Election in Northern Ireland, as well as in the Northern Ireland Assembly elections and in other recent significant elections in Northern Ireland. All these parties have Departmental Ministerial posts within the Northern Ireland Executive. Similarly, the single recent Northern Ireland-only opinion poll indicates significant levels of support for these parties. Our decision is that these four parties should remain on the list of larger parties for Northern Ireland; and
- the **Alliance Party** demonstrated lower levels of electoral performance in the 2015 General Election in Northern Ireland Assembly elections, as well as in other recent significant elections in Northern Ireland, compared with the other larger parties. In addition, the single recent Northern Ireland opinion poll suggests a lower level of support than for the other larger parties in Northern Ireland. However, it achieved its highest ever electoral performance in the 2015 General Election. In addition, this party is part of the Northern Ireland Executive, holding two of the 11 Departmental Ministerial posts within that administration. We consider that in light of all the relevant evidence taken together the Alliance Party should remain on the list of larger parties for Northern Ireland.

UK Independence Party (“UKIP”)

- 4.10 No respondents directly disagreed with our proposal to add UKIP to the list of larger parties in England and Wales. Having assessed the evidence and the views of respondents to our Consultation, we have decided that UKIP should be added to the list of larger parties in England and Wales only (not Scotland or Northern Ireland). This is because of the following:
- the party demonstrated significant electoral performance in the 2015 General Election in England (14.1% and one MP) and Wales (13.6%);
 - in relation to the elections being contested in May 2016 in England and Wales, the party performed significantly in the last two cycles of English local elections (15.7% and 12.8%). However, UKIP did not demonstrate significant levels of support in the last two cycles of the various elections being contested in May 2016 in England: achieving between 0.9% and 3.0% in 2008 (two cycles ago) and between 2.0% and 7.4% in 2012 (one cycle ago); and in Wales: achieving: between 1.8% and 4.0% in 2007 (two cycles ago); and between 1.7% and 4.6% in 2011/12 (one cycle ago);
 - in relation to other recent significant elections, the party performed strongly in the 2014 European Parliamentary elections in England (29.2%) and in Wales (27.6%). However, the party achieved only 0.3% in the 2012 Welsh local elections; and
 - UKIP also demonstrates significant levels of current support in opinion polls in England and Wales.
- 4.11 In relation to Scotland, UKIP demonstrated a significant level of support in the 2014 European Parliamentary elections (10.5%). However, it has not demonstrated significant levels of support in any other types of election, notably the 2015 General Election (1.6%) and the Scottish Parliament elections in 2007 (0.4%) and 2011 (0.1% and 0.9%). Nor do available opinion polls indicate significant levels of current support for UKIP in Scotland. We do not, therefore, consider that the relevant evidence justifies UKIP's inclusion on the list of larger parties in Scotland.

The Green Party in England and Wales

- 4.12 While expressing satisfaction with Ofcom's proposal to add it to the list of larger parties in England for the purposes of the 2016 London Assembly elections, the Green Party argued that it should also be classed as a larger party for the purposes of the 2016 London Mayoral election. This was because, in its view, the London Assembly and Mayoral elections “are essentially treated as one unit” and due to the party's strength in London. In this regard it cited various data in relation to its support in London.
- 4.13 Having carefully considered the Green Party's arguments in this regard, we recognise the fact that both the London Assembly and post of London Mayor are closely linked being the two functional components of the Greater London Authority (“GLA”). This is reflected in the fact, for example, that PEBs are typically allocated to parties for the GLA elections in general, rather than separately the London Assembly elections and London Mayoral elections. We are also mindful that in the Consultation, and in the 2014 Review and 2015 Review, we have treated¹⁰⁷ local mayoral contests

¹⁰⁷ See footnote 2.

as a form of English local election for the purposes of our assessment i.e. we have treated elections to executive and legislative posts at English local government level as being in the same category of election. As such, due to the close links between the London Assembly elections and London Mayoral elections and consistent with how we have treated local and other mayoral elections in England we agree that London Assembly and Mayoral elections should be grouped together as suggested by the Green Party.

- 4.14 The Green Party has demonstrated a lower level of performance in one type of GLA election, the London Mayoral elections (4.5% and 3.2% in the last two cycles of elections). However, it has demonstrated consistent and significant levels of support in the other type of GLA election, the London Assembly elections (8.5%¹⁰⁸ and 8.1%¹⁰⁹/8.4%¹¹⁰ in the last two cycles of elections). We have therefore decided to add the Green Party to the list of larger parties for the purposes of all GLA elections taking place on 5 May 2016.
- 4.15 The Green Party proposed several further reasons why it should be designated as a larger party for all elections in England. Firstly, it said it had “quadrupled” in the 2015 General Election in England compared with the 2010 General Election. However, although the party had increased its vote in England between the two General Elections, we did not consider that the 4.2% it achieved in 2015 was significant when compared with the other, larger parties on the list. Second, the party said its level of support in English local elections over the last two electoral cycles was at “a significant level above 6%”. While these results were higher than the Green Party’s performance in some other categories of election, on balance we do not consider they were sufficiently significant as a factor to justify this party’s inclusion on the list of larger parties in England for all elections.
- 4.16 Third, this respondent said the party had won more votes than the Liberal Democrats in the 2014 European Parliament and the 2012 London Assembly elections, both types of election being contested under a form of proportional representation which “reduces tactical voting”. In response to this point, we noted that we had proposed in the Consultation that the Green Party merited being a larger party for the purposes of the London Assembly elections. Further, as discussed in Section 3, we consider the evidence presented to us of tactical voting being less prevalent in elections contested under a form of proportional representation is not conclusive, and therefore we do not consider it appropriate to place additional weight on elections contested by proportional representation. Additionally, we do not consider the relative performance of the Green Party and Liberal Democrats in the 2014 European Elections to be determinative of whether these parties should be designated as larger parties ahead of the May 2016 elections. Rather, we have taken into account a range of factors in reaching our decision in relation to these two parties.
- 4.17 The Green Party also argued that Ofcom had applied “the significant support test inconsistently” because Ofcom had proposed that the Liberal Democrats and UKIP should be listed as larger parties despite, like the Green Party, “also having a mixed pattern of significant electoral support”. In our view we have not applied our analytical framework inconsistently. We have adopted the same framework for assessment of, and looked at the same categories of evidence for, all of the political parties considered in this document. In addition, and as shown by our assessments of the evidence in relation to the Liberal Democrats and UKIP above, the fact that a party

¹⁰⁸ In both directly-elected and top-up seats in 2012.

¹⁰⁹ In directly-elected seats in 2008.

¹¹⁰ In top-up seats in 2008.

demonstrates what some might regard as a relatively significant level of support by reference to some indicators of past electoral and current support does not mean that a party will automatically justify being categorised as a larger party.

- 4.18 Having reviewed the latest evidence, we have had regard to the following factors in our assessment for the Green Party:
- the Green Party did not demonstrate significant electoral support in the 2015 general Election in England (4.2% and one MP) and Wales (2.6%) in comparison with the other larger parties on the list;
 - in relation to the elections being contested in May 2016 in England and Wales, the party achieved between 8.1% and 8.8% in the last two cycles of the London Assembly elections. However it performed less well in other elections being contested in May 2016 (between 0.2% and 6.6% in the last two electoral cycles in England and between 0.2% and 3.5% in the last two electoral cycles in Wales);
 - in relation to other recent significant elections, the party achieved 8.0% in the 2014 European Parliamentary elections in England and 4.5% in those elections in Wales. However, the party achieved only 1.2% in the 2012 Welsh local elections; and
 - the Green Party has not demonstrated significant levels of current support in opinion polls in England and Wales.

- 4.19 On balance, therefore, we have decided that the Green Party should be added to the list of larger parties in England only for the sole purposes of the London Assembly and London Mayoral elections taking place on 5 May 2016. We do not consider that the relevant evidence justifies this party's inclusion on the list in any other respect.

The Scottish Green Party

- 4.20 Many individual respondents argued that the Scottish Green Party merited being designated as a larger party in Scotland based on comparisons with the Liberal Democrats and/or UKIP. For example, a number of respondents objected to the Scottish Green Party being categorised in the same way as UKIP in Scotland i.e. not as a larger party. However, as already mentioned, in reaching our decision, we have used the same analytical framework and looked at the same categories of evidence for all of the political parties to reach separate assessments of the different parties. While the Scottish Green Party may have performed slightly better than UKIP in some elections in Scotland and has demonstrated higher levels of current support in opinion polls, these factors do not necessarily mean that the Scottish Green Party merits being designated as a larger party.
- 4.21 The Scottish Green Party and individual respondents pointed to various comparisons between the Scottish Green Party and Liberal Democrats, which in their view, were arguments for classifying the Scottish Green Party as a larger party. These comparisons included the Scottish Green Party achieving: 8.1% of the vote in Scotland during the 2014 European Parliamentary elections compared with 7.1% for the Scottish Liberal Democrats; 5.9% in Scottish local council by-elections since the 2015 General Election compared with 4.4% for the Liberal Democrats; and higher ratings in opinion polls for regionally-elected MSPs. These respondents also pointed to elections where the Scottish Green Party performed only slightly less well than the Liberal Democrats, such as: the regional list vote in the 2011 Scottish Parliamentary

elections, where the Scottish Green Party achieved 4.4% compared to 5.2% for the Liberal Democrats; and the 2012 Scottish local elections, where the Scottish Green Party achieved 2.3% compared to 6.6% for the Liberal Democrats.

- 4.22 The above facts in isolation are not, in our view, determinative of whether the Scottish Green Party and Liberal Democrats should be designated as larger parties in Scotland. As already mentioned, the Scottish Green Party and individual respondents appeared to put little or no weight on the stronger performance of the Liberal Democrats in the 2015 General Election in Scotland, and the correspondingly lower performance of the Scottish Green Party in that General Election. In addition, these respondents appeared to put little or no weight on the Liberal Democrats' stronger performance of 7.9% in the elections for directly-elected constituency MSPs in the 2011 Scottish Parliamentary elections, nor that party's strong performance in the 2007 Scottish Parliamentary elections (16.2% and 11.3%).
- 4.23 In relation to opinion poll evidence we noted that the Scottish Green Party, and a number of individual respondents, stated that in opinion polls the Scottish Green Party was exceeding the level of support expressed for the Scottish Liberal Democrats. It was also argued that the Scottish Green Party was predicted¹¹¹ to win a "record number of seats" for regionally-elected MSPs, and outperform the Scottish Liberal Democrats, in the 2016 Scottish Parliamentary elections. We acknowledge that in the period since the May 2015 General Election, the Scottish Green Party has demonstrated slightly higher levels of support than the Liberal Democrats in opinion polls for the election of regionally-elected MSPs (7.2% compared to 5.7%). However, in the case of opinion polls for directly-elected constituency MSPs, the Liberal Democrats have demonstrated slightly higher levels of support (5.2% compared to c.2.4%). Therefore, when considering opinion poll data, the picture is mixed. In our view, neither the Scottish Green Party nor, as already mentioned, the Liberal Democrats have demonstrated significant levels of current support in opinion polls.
- 4.24 Having reviewed the latest evidence, we have had regard to the following factors in our assessment:
- the Scottish Green Party did not demonstrate significant electoral support in the 2015 General Election in Scotland (1.3%);
 - in relation to the elections being contested in May 2016 in Scotland, i.e. the Scottish Parliamentary elections, the party achieved between 0.2% and 4.4% in the last two cycles of those elections, in 2007 and 2011;
 - in relation to other recent significant elections, the party achieved 8.1% in the 2014 European Parliamentary elections in Scotland and 2.3% in the 2012 Scottish local elections; and
 - as already discussed, the Scottish Green Party has not demonstrated significant levels of current support in opinion polls in Scotland.
- 4.25 We do not consider that the relevant evidence justifies this party's inclusion on the list as a larger party in Scotland.

¹¹¹ In its response, the Scottish Green Party cited a projection calculated by Weber Shandwick in November 2015 which predicted the Scottish Green Party winning 9 MSPs whilst the Liberal Democrats were predicted to win 7 MSPs. However, we note that in the latest prediction published by Weber Shandwick in early March 2016, the Scottish Green Party is predicted to win only 2 MSPs compared with 6 MSPs for the Liberal Democrats (See <http://www.scotlandvotes.com/holyrood>).

Decision

- 4.26 For the reasons set out above, we have decided that the existing larger parties should remain on the list. These are:
- in Great Britain, the Conservative Party, the Labour Party and the Liberal Democrats.
 - in Scotland, the Scottish National Party.
 - in Wales, Plaid Cymru.
 - in Northern Ireland, the Alliance Party, the Democratic Unionist Party, Sinn Fein, the Social Democratic and Labour Party and the Ulster Unionist Party.
- 4.27 In addition, we have added the UK Independence Party to the list of larger parties in England and Wales.
- 4.28 Further, we have added the Green Party to the list of larger parties in England for the purposes only of the London Assembly and London Mayoral elections being held on 5 May 2016.
- 4.29 A full version of the updated list of larger parties is at Annex 1.

Other issues

- 4.30 Several respondents welcomed Ofcom's intention, following the current review, to review the suitability of the list of larger parties going forwards and consider what alternative approaches there may be to discharge our regulatory functions. The Electoral Commission said that "the existence of the list itself creates an unnecessarily inflexible approach to regulating broadcasting at elections". However, it welcomed the "suggestion that Ofcom plans to consider this issue after the elections in May". The Commercial TV PSBs said such a review must look at the applicability of the list of larger parties to both editorial coverage as well as the allocation of PEBs. ITN also welcomed Ofcom's proposed review because it argued that the "prescriptive" constituency and electoral area reporting rules, which refer to the list, "are not workable in the present day given the number of parties¹¹² and also the differing types of elections". This respondent therefore requested that this matter also be dealt with in any future review undertaken by Ofcom.
- 4.31 As indicated in the Consultation, we envisage that in the second half of 2016 we will hold meetings with stakeholders ahead of any consultation reviewing the suitability of the list of larger parties going forwards. As part of this further review, we intend to deal with the points raised by stakeholders above.
- 4.32 In its response, the Ofcom Advisory Committee for Scotland said that while Ofcom's rules relating to editorial coverage "will be relatively easy to interpret in broadcasts targeted specifically within the relevant Nations and English regions (e.g. *Reporting Scotland* or *Scotland Tonight* in Scotland) there is a concern that they will be more difficult to interpret in Network news (e.g. *ITN News at Ten*)". This respondent therefore suggested that "more detailed guidance should be provided on how news

¹¹² ITN said that in: "Wales and the London Assembly there are now five major parties. It will be difficult, given the time constraints in a news report, to include five different interviews. The danger is that a news service may avoid reporting constituency issues due to the inflexible nature of the rules".

broadcasts which deliver news to the whole of the UK should interpret" Ofcom's rules. It added that such guidance would need to deal with the "balance of coverage of the various different elections taking place; and also the relative coverage of the 'larger parties' in each of the UK Nations and Regions where elections are taking place". We note this point. However, we consider the Code is suitably flexible to allow both UK-wide broadcasters and those broadcasting just in the devolved nations to cover the range of elections that will be taking place in May 2016. Further, we are not aware of UK-wide network news broadcasters encountering problems in the past, covering elections taking place in the devolved nations. We therefore do not consider it necessary to publish specific guidance in this area. However, we will raise this as an issue to discuss with stakeholders at the series of compliance workshops we will be hosting across the UK ahead of the May 2016 elections.

Annex 1

Finalised Ofcom list of larger parties

- A1.1 This document sets out the definition of "larger parties" as applies to Section Six of the Ofcom Broadcasting Code and the Ofcom rules on Party Political and Referendum Broadcasts.
- A1.2 Ofcom will periodically review the definition of "larger parties", taking account of relevant evidence, such as changes in the electoral landscape, across a range of elections.
- A1.3 At present in England and Wales, larger parties are defined as: the Conservative Party; the Labour Party; the Liberal Democrats; and the UK Independence Party.
- A1.4 In addition, larger parties in Wales include Plaid Cymru.
- A1.5 The larger parties in Scotland are: Conservative Party; the Labour Party; the Liberal Democrats and the Scottish National Party
- A1.6 The larger parties in Northern Ireland are: the Alliance Party; the Democratic Unionist Party; Sinn Fein; the Social Democratic and Labour Party; and the Ulster Unionist Party.
- A1.7 In addition to the above, in England the larger parties for the purposes of the London Assembly and London Mayoral elections taking place on 5 May 2016 include the Green Party.

Annex 2

Evidence of past electoral support and updated evidence of current support

A2.1 In this annex, we reproduce Annex 2 of the Consultation, but updating evidence of current support as appropriate. We set out:

- relevant evidence of past electoral support for: the 2015 General Election; and past elections for all the categories of elections that are being contested in 2016; and
- relevant updated evidence of current support across Great Britain and within Wales, Scotland and Northern Ireland.

Evidence of past electoral support

The 2015 General Election

A2.2 Figure 6 lays out the numbers of seats won and share of the popular vote achieved by the various political parties for the 2015 General Election in England, Wales and Scotland.

Figure 6: Number of seats and share of vote at the 2015 General Election (England, Wales and Scotland)

	Cons.	Lab.	Lib-Dem.	SNP	Plaid Cymru	UKIP	Green Party ¹¹³	Others
England ¹¹⁴	318 40.9%	206 31.6%	6 8.2%	N/A	N/A	1 14.1%	1 4.2%	1 1.0%
Wales	11 27.2%	25 36.9%	1 6.5%	N/A	3 12.1%	0 13.6%	0 2.6%	0 1.0%
Scotland	1 14.9%	1 24.3%	1 7.5%	56 50.0%	N/A	0 1.6%	0 1.3%	0 0.4%

Source: BBC and House of Commons Library

A2.3 Figure 7 sets out the numbers of seats won and share of the popular vote achieved by the various political parties for the 2015 General Election in Northern Ireland.

¹¹³ And Scottish Green Party.

¹¹⁴ In addition there has been one Westminster by-election that has taken place since the 2015 General Election, on 3 December 2015 when the Labour Party won the seat of Oldham West and Royton. The results were: Conservative Party (9.4%); Labour Party (62.1%); Liberal Democrats (3.7%); UKIP (23.4%); Green Party (0.9%); and others (0.5%).

Figure 7: Number of seats and share of vote at the 2015 General Election (Northern Ireland)

DUP	Sinn Fein	SDLP	UUP	Alliance Party	TUV	UKIP	Green Party	Others
2015								
8 25.7%	4 24.5%	3 13.9%	2 16.0%	0 8.6%	0 2.3%	0 2.6%	0 1.0%	1 5.4%

Source: BBC and House of Commons Library

Previous results of elections being contested in 2016*English local elections*

A2.4 Figure 8 shows figures collated by the Elections Centre, Plymouth University, of the numbers of seats won and share of the popular vote achieved by the various political parties for English local elections for the period 2010 to 2015.

Figure 8: Numbers of seats and share of vote at English local elections

Year	Cons.	Lab.	Lib-Dem.	UKIP	Green Party	Others
2015	5,540 35.8%	2,292 28.4%	661 10.3%	201 12.8%	84 6.5%	562 6.2%
2014	2,124 25.9%	1,366 35.8%	429 11.1%	163 15.7%	38 6.6%	146 5.1%
2013	1,117 34.6%	538 21.2%	352 13.9%	147 19.9%	22 3.6%	186 6.8%
2012	786 27.5%	1,189 43.1%	288 14.1%	7 4.4%	26 4.2%	116 6.7%
2011	5,113 37.8%	2,461 31.6%	1,099 16.1%	8 2.4%	79 3.6%	700 8.5%
2010	1,611 32.5%	1,778 31.9%	728 23.8%	1 1.6%	13 3.4%	95 6.8%

Source: The Elections Centre, Plymouth University

English mayoral elections (outside London)

A2.5 Mayoral elections are due to take place in May 2016 in: Bristol, Liverpool and Salford. Figure 9 lays out for each of the parties the number of mayoralties won and the share of the vote in 2012, the only occasion when these mayoral elections have been contested in the past.

Figure 9: Number of mayoralties and share of vote at English mayoral elections

Year	Cons.	Lab.	Lib-Dem.	UKIP	Green Party	Others
2012 (3 contests)	0 8.9%	2 45.2%	0 6.3%	0 2.5%	0 5.0%	1 30.1%

Source: Local authority websites

London mayoral elections

A2.6 Figure 10 sets out the share of the first preference vote achieved by the various political parties in the past two cycles of London mayoral elections.

Figure 10: Share of vote at London mayoral elections

Cons.	Lab.	Lib-Dem.	UKIP	Green Party	Others
2012					
44.0%	40.3%	4.2%	2.0%	4.5%	5.1%
2008					
43.2%	37.0%	9.8%	0.9%	3.2%	5.9%

Source: BBC

London Assembly elections

A2.7 Figure 11 shows the numbers of seats won and share of the popular vote achieved by the various political parties in the past two cycles of the London Assembly elections.

Figure 11: Numbers of seats and share of vote at London Assembly elections

Type of Vote	Cons.	Lab.	Lib-Dem.	UKIP	Green Party	Others
2012						
Directly-elected seats	6 32.7%	8 42.3%	0 8.8%	0 4.3%	0 8.5%	0 3.4%
Top-up list	3 32.0%	4 41.1%	2 6.8%	0 4.5%	2 8.5%	0 7.1%
2008						
Directly-elected seats	8 37.4%	6 28.0%	0 13.7%	0 3.0%	0 8.1%	0 9.8%
Top-up list	3 34.6%	2 27.6%	3 11.4%	0 1.9%	2 8.4%	1 16.1%

Source: BBC

2012 Police and Crime Commissioner ("PCC") elections

A2.8 Figure 12 shows the numbers of PCC posts won and share of the popular vote achieved by the various political parties in 2012, the only occasion when the PCC elections have been contested in the past.

Figure 12: Numbers of PCC posts and share of vote at PCC elections

	Cons.	Lab.	Lib-Dem.	UKIP	Green Party	Others
England	15 28.2%	12 31.4%	0 7.7%	0 7.4%	0 0.2%	10 25.1%
Wales	1 20.8%	1 41.8%	N/A	0 1.7%	N/A	2 35.7%

Source: BBC

Welsh Assembly elections

A2.9 Figure 13 shows the numbers of seats won and share of the popular vote achieved by the various political parties in the past two cycles of the Welsh Assembly elections.

Figure 13: Numbers of seats and share of vote at Welsh Assembly elections

Type of Vote	Cons.	Lab.	Lib-Dem.	Plaid Cymru	UKIP	Green Party	Others
2011							
Directly-elected	6 25.0%	28 42.3%	1 10.6%	5 19.3%	N/A	0 0.2%	0 2.6%
Regional lists	8 22.5%	2 36.9%	4 8.0%	6 17.9%	0 4.6%	0 3.4%	0 6.7%
2007							
Directly-elected	5 22.4%	24 32.2%	3 14.6%	7 22.4%	0 1.8%	N/A	0 6.6%
Regional lists	7 21.5%	2 29.6%	3 11.7%	8 21.0%	0 4.0%	0 3.5%	0 7.7%

Source: BBC and Electoral Commission

Scottish Parliamentary elections

A2.10 Figure 14 shows the numbers of seats won and share of the popular vote achieved by the various political parties in the past two cycles of the Scottish Parliamentary elections.

Figure 14: Numbers of seats and share of vote at Scottish Parliamentary elections

Type of Vote	Cons.	Lab.	Lib-Dem.	SNP	UKIP	Scottish Green Party	Others
2011							
Directly-elected	3 13.9%	15 31.7%	2 7.9%	53 45.4%	0 0.1%	N/A	0 1.0%
Regional lists	12 12.4%	22 26.3%	3 5.2%	16 44.0%	0 0.9%	2 4.4%	0 6.8%
2007							
Directly-elected	4 16.6%	37 32.1%	11 16.2%	21 32.9%	N/A	0 0.2%	0 2.0%
Regional lists	13 13.9%	9 29.2%	5 11.3%	26 31.0%	0 0.4%	2 4.0%	0 10.2%

Source: Electoral Commission

Northern Ireland Assembly elections

A2.11 Figure 15 shows the numbers of seats won and share of the popular vote achieved by the various political parties in the past two cycles of the Northern Ireland Assembly elections.

Figure 15: Numbers of seats and share of vote at Northern Ireland Assembly elections

DUP	Sinn Fein	SDLP	UUP	Alliance Party	TUV	Green Party	UKIP	Others
2011								
38 30.0%	29 26.9%	14 14.2%	16 13.2%	8 7.7%	1 2.5%	1 0.9%	0 0.6%	1 4.0%
2007								
36 30.1%	28 26.2%	16 15.2%	18 14.9%	7 5.2%	N/A	1 1.7%	0 0.2%	2 7.5%

Source: BBC

Previous results of other significant elections which are not being contested in 2016

A2.12 Figures 16 to 20 set out the number of seats won and share of the popular vote achieved by the various political parties in a range of other significant elections which are not being contested in May 2016.

European Parliamentary elections

Figure 16: Number of seats and share of vote at the 2014 European Parliamentary elections – England, Wales and Scotland

	Cons.	Lab.	Lib-Dem.	SNP	Plaid Cymru	UKIP	Green Party ¹¹⁵	BNP	Others
England	17 24.9%	17 25.2%	1 7.0%	N/A	N/A	22 29.2%	3 8.0%	0 1.2%	0 4.5%
Wales	1 17.4%	1 28.1%	0 3.9%	N/A	1 15.3%	1 27.6%	0 4.5%	0 1.0%	0 2.1%
Scotland	1 17.2%	2 25.9%	0 7.1%	2 29.0%	N/A	1 10.5%	0 8.1%	0 0.8%	0 1.5%

Source: BBC and House of Commons Library

Figure 17: Number of seats and share of vote at the 2014 European Parliamentary elections – Northern Ireland

DUP	Sinn Fein	SDLP	UUP	Alliance Party	TUV	Green Party	UKIP	Others
1 20.9%	1 25.5%	0 13.0%	1 13.3%	0 7.1%	0 12.1%	0 1.7%	0 3.9%	0 2.5%

Source: BBC and House of Commons Library

¹¹⁵ And the Scottish Green Party

Welsh local elections

Figure 18: Number of seats and share of vote at the 2012 Welsh local elections

Cons.	Lab.	Lib-Dem.	Plaid Cymru	UKIP	Green Party	Others
104 12.7%	577 35.6%	72 8.0%	158 15.7%	2 0.3%	0 1.2%	311 26.5%

Source: The Elections Centre, Plymouth University

Scottish local elections

Figure 19: Number of seats and share of vote at the 2012 Scottish local elections

Cons.	Lab.	Lib-Dem.	SNP	UKIP	Scottish Green Party	Others
115 13.3%	394 31.4%	71 6.6%	425 32.3%	0 0.3%	14 2.3%	204 13.8%

Source: Electoral Commission

Northern Ireland local elections

Figure 20: Number of seats and share of vote at the 2014 Northern Ireland local elections

DUP	Sinn Fein	SDLP	UUP	Alliance Party	TUV	Green Party	UKIP	Others
130 23.1%	105 24.1%	66 13.6%	88 16.2%	32 6.7%	13 4.5%	4 0.9%	3 1.4%	6 9.5%

Source: BBC

Evidence of current support

A2.13 We lay out below evidence of current support, as indicated by opinion polls, in respect of the four separate nations of the UK.

England

A2.14 We are not aware of any recent aggregated figures of different polling organisations' opinion polls, showing support for the political parties in England only. In the 2015 Review, we used the Great Britain-wide polls as a proxy for gauging levels of current support in England only, derived from two sources: the BBC Poll of Polls and the Polling Observatory project¹¹⁶. The BBC Poll of Polls has not been compiled since the 2015 General Election. We have therefore used only the Polling Observatory figures for the purposes of gauging indicative support for the various parties in England.

A2.15 The Polling Observatory project has produced estimates of current support by pooling all the currently available polling data, while taking into account the estimated biases of the individual pollsters ("house effects"), the effects of sample size on the likely accuracy of polls, and the effects of the sampling decisions pollsters make, which mean their samples are not truly random ("design effects").

¹¹⁶ See <http://sotonpolitics.org/tag/polling-observatory/>

Since the 2015 General Election, the Polling Observatory has chosen to anchor its estimates on the average polling organisation, which means the data in figure 21 below are those of a hypothetical pollster that, on average, falls in the middle of the various polling organisations¹¹⁷. Figure 21 shows the Polling Observatory data since the General Election on 7 May 2015 to February 2016.

Figure 21: Polling Observatory opinion poll data (Great Britain-wide) May 2015 to February 2016

Date	Cons.	Lab.	Lib-Dem.	UKIP	Green Party	Others
19/02/2016	38.7%	30.2%	6.4%	14.7%	3.6%	6.4%
11/02/2016	38.7%	30.3%	6.4%	14.7%	3.7%	6.2%
04/02/2016	38.6%	30.6%	6.4%	14.5%	3.8%	6.1%
28/01/2016	38.4%	30.9%	6.3%	14.4%	3.9%	6.1%
21/01/2016	38.5%	30.9%	6.4%	14.4%	3.8%	6.0%
14/01/2016	38.4%	30.9%	6.4%	14.3%	3.8%	6.2%
07/01/2016	38.4%	30.9%	6.4%	14.2%	3.9%	6.2%
31/12/2015	38.4%	30.9%	6.4%	14.1%	4.0%	6.2%
24/12/2015	38.4%	30.9%	6.4%	14.0%	4.1%	6.2%
17/12/2015	38.2%	30.9%	6.5%	14.0%	4.2%	6.2%
10/12/2015	38.5%	30.8%	6.5%	14.0%	4.0%	6.2%
03/12/2015	38.8%	30.6%	6.5%	13.8%	3.9%	6.4%
26/11/2015	38.4%	30.3%	6.5%	13.8%	3.8%	7.2%
19/11/2015	38.5%	30.6%	6.5%	13.6%	3.7%	7.1%
12/11/2015	38.1%	30.8%	6.6%	13.5%	3.7%	7.3%
05/11/2015	38.1%	31.1%	6.6%	13.4%	3.7%	7.1%
29/10/2015	37.9%	31.5%	6.7%	13.3%	3.6%	7.0%
22/10/2015	38.0%	31.4%	6.7%	13.5%	3.4%	7.0%
15/10/2015	38.2%	31.5%	6.7%	13.4%	3.4%	6.8%
08/10/2015	38.0%	31.6%	6.8%	13.3%	3.4%	6.9%
01/10/2015	37.9%	31.7%	6.8%	13.2%	3.3%	7.1%
24/09/2015	38.4%	31.7%	6.8%	13.0%	3.6%	6.5%
17/09/2015	38.5%	31.5%	6.8%	12.9%	3.8%	6.5%
10/09/2015	38.6%	31.4%	6.8%	12.7%	4.2%	6.3%
03/09/2015	38.7%	31.2%	6.8%	12.6%	4.5%	6.2%
27/08/2015	38.8%	31.0%	6.9%	12.4%	4.7%	6.2%
20/08/2015	38.7%	30.9%	6.9%	12.6%	4.6%	6.3%
13/08/2015	38.6%	30.7%	6.9%	12.6%	4.7%	6.5%
06/08/2015	38.5%	30.6%	6.9%	12.5%	4.9%	6.6%
30/07/2015	38.3%	30.5%	6.9%	12.4%	5.2%	6.7%
23/07/2015	38.2%	30.4%	6.9%	12.6%	5.5%	6.4%
16/07/2015	38.2%	30.4%	6.9%	12.6%	5.3%	6.6%
09/07/2015	38.3%	30.2%	7.0%	12.5%	5.5%	6.5%
02/07/2015	38.3%	30.0%	7.0%	12.3%	5.6%	6.8%
25/06/2015	38.5%	30.0%	7.0%	12.2%	5.5%	6.8%
18/06/2015	38.6%	30.0%	7.1%	12.2%	5.4%	6.7%

¹¹⁷ Following the well-publicised failure of the various polling organisations to accurately predict the results of the 2015 General Election, all of the polling organisations have been undertaking reviews of their methods. The Polling Observatory has therefore stressed that whilst it accounts for the uncertainty due to random fluctuation in the polls and for differences between polling organisations, it cannot be sure that there is no systematic bias in the average polling organisation (i.e. the polling industry as a whole could be inaccurately measuring levels of support). The Polling Observatory has stated: "It may be that the polls are collectively right or wrong. It may also be that a pollster producing figures higher or lower than the average is more accurately reflecting the state of support for the parties than their competitors. Our estimates cannot adjudicate on whether figures on the high or the low side for a party better reflect the underlying preference of the electorate".

Date	Cons.	Lab.	Lib-Dem.	UKIP	Green Party	Others
11/06/2015	38.9%	30.2%	7.1%	11.8%	5.3%	6.7%
04/06/2015	39.3%	30.4%	7.1%	11.4%	5.1%	6.7%
28/05/2015	39.8%	30.6%	7.1%	11.1%	4.9%	6.5%
21/05/2015	39.9%	30.6%	7.0%	11.1%	4.7%	6.7%
14/05/2015	40.1%	30.7%	7.0%	11.1%	4.5%	6.6%
Average	38.5%	30.8%	6.7%	13.1%	4.3%	6.6%

Source: Polling Observatory

Wales

A2.16 It is Ofcom's understanding that very few opinion polls have been carried out in relation to Wales only. Figure 22 sets out indicative levels of current support for the period from the General Election on 7 May 2015 to February 2016, as suggested by two polls carried out by YouGov.

Figure 22: Opinion poll data (Wales only) May 2015 to February 2016

Date	Type of Vote	Cons.	Lab.	Lib-Dem.	Plaid Cymru	UKIP	Green Party	Others
Feb. 2016	Directly-elected	22.0%	34.0%	5.0%	19.0%	18.0%	1.0%	1.0%
	Regional lists	22.0%	31.0%	4.0%	19.0%	18.0%	3.0%	3.0%
Dec. 2015	Directly-elected	23.0%	35.0%	5.0%	20.0%	15.0%	2.0%	1.0%
	Regional lists	23.0%	34.0%	4.0%	18.0%	16.0%	4.0%	2.0%
Sept. 2015	Directly-elected	23.0%	39.0%	6.0%	18.0%	13.0%	2.0%	0.0%
	Regional lists	24.0%	34.0%	5.0%	18.0%	14.0%	4.0%	1.0%
June 2015	Directly-elected	23.0%	35.0%	5.0%	20.0%	14.0%	3.0%	0.0%
	Regional lists	22.0%	32.0%	5.0%	20.0%	14.0%	4.0%	3.0%
Average	Directly-elected	22.8%	35.8%	5.3%	19.3%	15.0%	2.0%	0.5%
	Regional lists	22.8%	32.8%	4.5%	18.8%	15.5%	3.8%	2.3%

Source: YouGov

Scotland

A2.18 It is also Ofcom's understanding that more opinion polls have been carried out in relation to Scotland only compared with Wales only. Figure 23 indicates levels of current opinion poll support for the period from the General Election on 7 May 2015 to early March 2016 in Scotland only, according to opinion polls carried out by: Ipsos-Mori; Panelbase; Survation; TNS-BMRB; and YouGov.

Figure 23: Opinion poll data (Scotland only) May 2015 to early March 2016

Date	Type of Vote	Cons.	Lab.	Lib-Dem.	SNP	UKIP	Scottish Green	Others
March 2016 (TNS-BMRB)	Directly-elected	16.0%	22.0%	6.0%	52.0%	See others	See others	4.0%
	Regional lists	15.0%	18.0%	6.0%	45.0%	6.0%	9.0%	1.0%
Feb. 2016 (Survation)	Directly-elected	16.0%	21.0%	5.0%	54.0%	See others	See others	4.0%
	Regional lists	14.0%	19.0%	7.0%	43.0%	6.0%	9.0%	2.0%
Feb. 2016 (Survation)	Directly-elected	13.0%	21.0%	4.0%	60.0%	See others	See others	2.0%
	Regional lists	13.0%	21.0%	4.0%	55.0%	1.0%	6.0%	0.0%
Feb. 2016 (YouGov)	Directly-elected	20.0%	19.0%	6.0%	50.0%	2.0%	2.0%	1.0%
	Regional lists	20.0%	20.0%	5.0%	42.0%	3.0%	6.0%	4.0%
Feb. 2016 (TNS-BMRB)	Directly-elected	17.0%	21.0%	3.0%	57.0%	See others	See others	2.0%
	Regional lists	17.0%	19.0%	6.0%	52.0%	1.0%	6.0%	0.0%
Jan. 2016 (Panelbase)	Directly-elected	17.0%	21.0%	6.0%	50.0%	2.0%	3.0%	1.0%
	Regional lists	17.0%	19.0%	7.0%	48.0%	2.0%	5.0%	2.0%
Jan. 2016 (Survation)	Directly-elected	16.0%	21.0%	7.0%	52.0%	See others	See others	4.0%
	Regional lists	16.0%	20.0%	8.0%	42.0%	5.0%	9.0%	0.0%
Dec. 2015 (TNS-BMRB)	Directly-elected	12.0%	21.0%	4.0%	58.0%	See others	See others	5.0%
	Regional lists	12.0%	20.0%	4.0%	54.0%	1.0%	9.0%	0.0%
Nov. 2015 (TNS-BMRB)	Directly-elected	12.0%	24.0%	4.0%	58.0%	See others	See others	2.0%
	Regional lists	11.0%	25.0%	5.0%	52.0%	2.0%	5.0%	0.0%
Oct. 2015 (YouGov)	Directly-elected	19.0%	21.0%	5.0%	51.0%	1.0%	2.0%	1.0%
	Regional lists	19.0%	20.0%	5.0%	45.0%	3.0%	6.0%	2.0%

Date	Type of Vote	Cons.	Lab.	Lib-Dem.	SNP	UKIP	Scottish Green	Others
Oct. 2015 (TNS-BMRB)	Directly-elected	12.0%	21.0%	6.0%	56.0%	See others	See others	5.0%
	Regional lists	11.0%	23.0%	6.0%	52.0%	3.0%	5.0%	0.0%
Sept. 2015 (Panelbase)	Directly-elected	14.0%	23.0%	6.0%	52.0%	2.0%	3.0%	0.0%
	Regional lists	15.0%	22.0%	6.0%	48.0%	3.0%	6.0%	0.0%
Sept. 2015 (Survation)	Directly-elected	14.0%	22.0%	6.0%	53.0%	2.0%	2.0%	1.0%
	Regional lists	13.0%	21.0%	6.0%	42.0%	5.0%	11.0%	2.0%
Sept. 2015 (YouGov)	Directly-elected	18.0%	22.0%	4.0%	51.0%	2.0%	2.0%	1.0%
	Regional lists	18.0%	20.0%	4.0%	45.0%	3.0%	6.0%	4.0%
Sept. 2015 (TNS-BMRB)	Directly-elected	12.0%	23.0%	5.0%	58.0%	See others	See others	2.0%
	Regional lists	11.0%	24.0%	6.0%	51.0%	1.0%	6.0%	1.0%
Sept. 2015 (Ipsos-Mori)	Directly-elected	12.0%	20.0%	7.0%	55.0%	1.0%	4.0%	1.0%
	Regional lists	12.0%	20.0%	7.0%	50.0%	0.0%	8.0%	3.0%
Aug. 2015 (TNS-BMRB)	Directly-elected	12.0%	20.0%	3.0%	62.0%	See others	See others	3.0%
	Regional lists	12.0%	20.0%	4.0%	54.0%	1.0%	8.0%	1.0%
July 2015 (Panelbase)	Directly-elected	15.0%	22.0%	5.0%	53.0%	2.0%	2.0%	1.0%
	Regional lists	15.0%	21.0%	5.0%	48.0%	2.0%	6.0%	3.0%
July 2015 (TNS-BMRB)	Directly-elected	14.0%	20.0%	5.0%	60.0%	See others	See others	1.0%
	Regional lists	13.0%	21.0%	5.0%	51.0%	1.0%	7.0%	2.0%
July 2015 (Survation)	Directly-elected	14.0%	20.0%	7.0%	56.0%	1.0%	2.0%	0.0%
	Regional lists	12.0%	19.0%	8.0%	45.0%	5.0%	11.0%	0.0%
Average	Directly-elected	14.8%	21.3%	5.2%	54.9%	c.1.7%	c.2.4%	c.2.1%
	Regional lists	14.3%	20.6%	5.7%	48.2%	2.7%	7.2%	1.4%

Source: Ipsos-Mori, Panelbase, Survation, TNS-BMRB and YouGov

Northern Ireland

A2.19 Ofcom is aware of only one opinion poll having been conducted in Northern Ireland since the 2015 General Election. This was produced by Lucidtalk in December 2015 and is reproduced in figure 24.

Figure 24: Opinion poll data (Northern Ireland-only) May 2015 to February 2016

DUP	Sinn Fein	SDLP	UUP	Alliance Party	TUV	Green Party	UKIP	Others
25.8%	25.4%	10.8%	15.0%	7.6%	3.2%	2.4%	2.2%	7.6%

Source: Lucidtalk

Annex 3

Respondents' views on our Consultation proposals

A3.1 In this Annex, we set out a summary of respondents' views on the proposals made in our Consultation. Our views on these submissions are set out in Sections 3 and 4.

The analytical framework of assessment and the nature of the evidence of electoral performance and current support

A3.2 The following stakeholders responded to this aspect of the Consultation: the Electoral Commission; the Green Party of England and Wales ("the Green Party"); ITN; the Liberal Democrats; Ofcom's Advisory Committee for Scotland; the Scottish Green Party; the Scottish Liberal Democrats; the Scottish Young Greens; and UKIP. In addition, a large number of the individual responses we received responded to this aspect of the Consultation. In large part, these individual respondents echoed points made by the named respondents. However, where individual respondents made substantive points not covered by other responses, we deal with these below.

A3.3 The Electoral Commission stated that "whilst the list remains in its current form, it should be reviewed in advance of every set of larger elections to ensure that the particular circumstances of each are considered". It also stated its belief that Ofcom had identified "the relevant factors that need to be taken into account" in relation to reviewing the list of larger parties. Further, however, as with the previous Ofcom Reviews in this area, it did not express a view on "how the criteria have been applied".

A3.4 ITN said it did "not object to" Ofcom's analytical framework and the way Ofcom had assessed the evidence.

A3.5 In its response, the Scottish Green Party welcomed Ofcom's focus on past and present electoral support. However, it added that where evidence is "finely balanced consideration should be given to broader trends in public support – namely, membership and public profile and support". It also referred to its lower performance in the 2015 General Election, and said this was less relevant than its performance in other elections, because the first-past-the-post voting system used in that election (and associated voting behaviour), is "significantly different" to the proportional representation system used (and associated voting behaviour) in the elections for regional MSPs in the Scottish Parliamentary elections¹¹⁸.

A3.6 The Scottish Green Party also cited the following additional factors that, in its view, supported its inclusion on the list of larger parties for Scotland:

- the fact that membership of the Scottish Green Party had increased from approximately 1,200 in January 2014 to "over 9,000 people" in January

¹¹⁸ This respondent also said that: "Whilst the European election is also conducted using a proportional system even it does not compare well to" the electoral system used for [the Scottish Parliament] and its two ballot papers".

2016, more than the Liberal Democrats' membership figure (most recently estimated at 2,800);

- in this respondent's view, its councillors and MSPs "regularly feature on national and local media";
- the party's co-convenor, Patrick Harvie, has "the second highest approval rating among Scottish party leaders at +25 (Ipsos Mori 2015)". The respondent added that "voters have come to expect his appearance alongside other leaders after his performance in major televised independence referendum debates";
- a December 2015 Scottish Green Party petition of 6,000 to the BBC Trust to include the party "in its 'major parties' list", demonstrating "strong public demand" for balanced coverage before the Scottish Parliamentary elections;
- the fact that the First Minister and SNP leader Nicola Sturgeon also stated her support for "including the Greens in broadcasting".

A3.7 The Scottish Young Greens said that Ofcom's evidence was "up to date and accurate". However it made two main points about how, in its view, Ofcom should treat relevant evidence: Firstly, this respondent said the results of the 2015 General Election in Scotland should not be used in relation to drawing up the list of larger parties for the Scottish Parliamentary elections. It made various points to support this view:

- the fact that regionally-elected MSPs in the Scottish Parliamentary elections are elected by a form of proportional representation, whereas General Elections use the first-past-the-post electoral system. This respondent argued that voters vote differently in each election, with more tactical voting¹¹⁹ in General Elections. It argued therefore that Ofcom should put more weight on the past results of regional MSPs elected under proportional representation compared with directly-elected constituency MSPs and also General Election results. The respondent also argued that votes for regionally-elected MSPs are "more clearly the preference¹²⁰ of a voter for their preferred party and the fact that Westminster only has the less useful constituency vote means that [General Election] results are irrelevant" when considering the composition of the list of larger parties for the Scottish Parliamentary elections;
- this respondent said that in the 2015 General Election in Scotland many Scottish Green Party supporters had voted for the SNP and the party fielded candidates in only 31 constituencies due to the "prohibitive cost of deposits on seats"; and

¹¹⁹ The Scottish Young Greens cited an April 2001 academic study, "*What we already know: lessons on voting reform from Britain's first PR elections*", by Philip Cowley, John Curtice et al. which stated: "As many as one in ten voters voted tactically in [the] 1997 [General Election]... while in Scotland [in the 1999 Scottish Parliamentary elections] it was 6% on the first [constituency] ballot and just 4% on the second [list]".

¹²⁰ This respondent also argued that the results of the 2014 European Parliamentary elections, which like the regional MSP contest in the Scottish parliamentary elections, were also contested under a form of proportional representation. It said that the 2014 elections could be used as a "secondary source" of evidence because the 2011 Scottish parliamentary election results are "relatively dated".

- the fact that the franchise for the Scottish Parliamentary elections includes 16 and 17 year olds and EU citizens, makes comparisons of past results for General Elections (where those categories of person cannot vote) and “possible results” of the May 2016 Scottish Parliamentary elections “impractical as a method of gauging party support”.

A3.8 Second, the Scottish Young Greens also made a number of arguments as to how Ofcom should view opinion poll evidence:

- opinion polls conducted in Scotland during the 2015 General Election "did not encounter the problems they did in England", with the opinion polls for Scotland being “within 2% of the parties’ actual votes” in the 2015 General Election in Scotland;
- current opinion polls in Scotland are “specifically tailored” to measuring support in the context of the Scottish Parliamentary elections; and
- this respondent argued that opinion polls gauging support for the election of regional MSPs elected by proportional representation are "superior" to opinion polls gauging support for the election of directly-elected constituency MSPs because they reflect: lower levels of tactical voting; support for parties as opposed to individual candidates; and parties other than the SNP would be likely to win “the vast majority if not all of their seats” in the elections for regionally-elected MSPs in the Scottish Parliamentary elections.

A3.9 In summary, the Scottish Young Greens said that opinion polling is a “comparatively better” source of electoral evidence compared to General Election results. It added that: “The typical 3% margin of error is less of a problem than the structural biases inherent” in General Election results making the latter “inapplicable” within the context of Scottish Parliamentary elections. In determining who should be a larger party in Scotland, this respondent suggested “a cut-off of between 2% and 5%” in average opinion poll ratings for parties in relation to the elections for regionally-elected MSPs.

A3.10 The responses we received from individuals made similar points to the Scottish Green Party and Scottish Young Greens. Addition, these respondents cited the following additional factors that Ofcom should take into account in reaching its decision:

- the fact that in addition to the four parties currently listed as larger parties in Scotland, the Scottish Green Party is the only other party to have had representation within the Scottish parliament since its inception in 1999;
- the results of Scottish local Government by-elections¹²¹ held since the 2015 General Election and the levels of local support for the Scottish Green Party in areas such as Aberdeen, Edinburgh and Glasgow; and
- the role of the Scottish Green Party in the 2014 Scottish Independence Referendum and the relevance of the Scottish Green Party’s distinct policies.

¹²¹ According to various individual respondents, there had been 27 such by-elections since the May 2015 General Election.

- A3.11 The Green Party argued that: "Opinion poll data should not be given any weight in determining whether or not a political party is included in any of the lists of larger parties. It is too partial...unreliable and in any event does not represent actual electoral performance or support". Rather, it argued that Ofcom should "give more even balance" to all forms of past election results; and other elections. In particular, this stakeholder argued that more weight should be given to elections contested under a form of proportional representation due to the lack of tactical voting in such elections. The Green Party said that a very low weighting should be given to whether a party is part of the government in any particular nation, because such a party's past electoral performance "should already give it sufficient weighting in determining larger party status". Finally, this stakeholder said that Ofcom had not provided any clear definition of what is regarded as either "significant" or "sustained" in terms of evidence of support. It added that these terms had been implied in the Consultation but had been "applied inconsistently".
- A3.12 The Liberal Democrats said that Ofcom's proposed analytical approach was "broadly correct". However, it added that "in a more volatile political climate it is important that the multi-party nature of politics is properly reflected". Both it and the Scottish Liberal Democrats argued that past electoral support should be assessed over the last two electoral cycles in given elections. These respondents cited other factors that should be taken into account when assessing electoral support in Scotland: that the party has had continuous representation in the Scottish Parliament since its inception in 1999; its level of membership, and the party's distinct policy positions. The Liberal Democrats also cautioned about weight being given to performance in the 2012 Police and Crime Commissioner elections due to the low turnout in those elections. This respondent and the Scottish Liberal Democrats also argued against undue weight being given to opinion poll evidence, citing the fact that following the widely reported problems with aspects of Great Britain-wide opinion polls leading up to the 2015 General Election. The Liberal Democrats also said that Ofcom should not give "much" weight to opinion polls in Wales and Scotland due to the low number of opinion polls in those two countries.
- A3.13 UKIP cited various pieces of additional evidence that it considered Ofcom should take into account in its final decision, including: support for the party on social media platforms; its membership numbers; positive news articles about the party; and the fact that UKIP has three members of the House of Lords, one member of the Northern Ireland Assembly, three Northern Ireland local councillors and one MEP in Scotland.
- A3.14 Ofcom's Advisory Committee for Scotland also commented on the issue of opinion polls in the context of the Scottish Parliamentary elections. This respondent referred to the possibility that there might be less tactical voting in the election for regionally-elected MSPs in the Scottish Parliamentary elections. It therefore said that in determining the list of larger parties for Scotland, there should be "explicit recognition" of the differences in voting for directly-elected constituency MSPs and regionally-elected MSPs and discussion of the reliability of opinion polls for regionally-elected MSPs.

Proposed assessment of the evidence for the purposes of the May 2016 elections

- A3.15 The following stakeholders responded to this aspect of the Consultation: the Commercial TV PSBs; the Green Party of England and Wales (“the Green Party”); ITN; the Liberal Democrats; Ofcom’s Advisory Committee for Scotland; the Scottish Green Party; the Scottish Liberal Democrats; and UKIP. In addition, the vast majority of the individual responses we received responded to this aspect of the Consultation. In large part, these individual respondents echoed points made by the named respondents. However, where individual respondents made substantive points not covered by other responses, we deal with these below.
- A3.16 The Commercial TV PSBs, the Liberal Democrats (and Scottish Liberal Democrats), Ofcom’s Advisory Committee for Scotland, and UKIP stated their agreement with Ofcom’s proposals. ITN said it was “neutral” concerning Ofcom’s assessment of the evidence.
- A3.17 The Scottish Green Party welcomed Ofcom’s proposal to exercise its “judgement in favour of inclusion of a party on the list”. However, it considered that Ofcom was “not responding quickly enough to changes in the Scottish political context”. This respondent therefore considered it should be classified as a larger party in Scotland for various reasons, such as:
- the party’s presence in the Scottish Parliament since its inception in 1999. It added that at present it had 4 MSPs¹²² almost the same as the Liberal Democrats total of 5 MSPs;
 - the party’s level of support, as indicated by opinion polls¹²³, exceeded that for the Scottish Liberal Democrats, and the Scottish Green Party was predicted¹²⁴ to win a “record number of seats” for regionally-elected MSPs, and outperform the Scottish Liberal Democrats, in the 2016 Scottish Parliamentary elections;
 - the party achieving 8.1% of the vote in Scotland during the 2014 European Parliamentary elections, an election fought under a form of proportional representation;
 - the party’s lower performance in the 2015 General Election. The respondent said that the latter was less relevant because the first-past-the-post voting system used in that election (and associated voting behaviour), is “significantly different” to the proportional representation system used (and

¹²² The Scottish Green party said that as well as two MSPs (Patrick Harvie MSP and Alison Johnstone MSP), two independent MSPs (John Wilson MSP and John Finnie MSP) “are party members and are standing for re-election as Scottish Green Party candidates”.

¹²³ The Scottish Green Party said that in 27 opinion polls conducted in 2014 its average opinion poll rating was 7.9%.

¹²⁴ The Scottish Green Party cited a projection calculated by Weber Shandwick in November 2015 which predicted the Scottish Green Party winning 9 MSPs whilst the Liberal Democrats were predicted to win 7 MSPs.

associated voting behaviour) in the elections for regional MSPs in the Scottish Parliamentary elections¹²⁵; and

- the party's increased membership, greater than the Liberal Democrats, coupled with its leading position in the Scottish independence referendum and opinion poll figures showing the party had "the most popular leader in the Scottish opposition".

A3.18 Individual respondents also cited other factors which, in their view, supported the inclusion of the Scottish Green Party on the list of larger parties in Scotland, including:

- performance in the 2011 Scottish Parliamentary elections and 2012 Scottish local elections when compared with the Liberal Democrats in particular;
- the party's performance in Scottish local council by-elections since the 2015 General Election, where it had won 5.9% of the vote compared with 4.4% for the Liberal Democrats and 0.8% for UKIP, and the levels of local support for the Scottish Green Party in areas such as Aberdeen, Edinburgh and Glasgow; and
- the role of the Scottish Green Party in the 2014 Scottish Independence Referendum and the relevance of the Scottish Green Party's distinct policies.

A3.19 Many individual respondents disagreed with Ofcom's proposal to include the Liberal Democrats on the list of larger parties in Scotland, especially if the Scottish Green Party was not also so designated. A number of these respondents objected to the Scottish Green Party being categorised in the same way as UKIP in Scotland i.e. not as a larger party.

A3.20 The Green Party argued that it should be a larger party for all elections taking place in England for a number of reasons:

- its electoral support had "quadrupled" in the 2015 General Election in England compared with the 2010 General Election;
- the party's support in English local elections over the last two electoral cycles was at "a significant level above 6%"; and
- the party had won more votes than the Liberal Democrats in the 2014 European Parliament and the 2012 London Assembly elections, both types of election being contested under a form of proportional representation which "reduces tactical voting".

A3.21 The Green Party expressed satisfaction with Ofcom's proposal to add it to the list of larger parties in England for the purposes of the 2016 London Assembly elections. However, it argued that the party should also be classed as a larger party for the purposes of the 2016 London Mayoral election, because the London Assembly and Mayoral elections "are essentially treated as one unit" and due to the party's strength in London. It cited the following to support this point:

¹²⁵ This respondent also said that: "Whilst the European election is also conducted using a proportional system even it does not compare well to" the electoral system used for [the Scottish parliament and its two ballot papers].

- the fact that for 17 years it had had an MEP in London;
- it had held the post Deputy Mayor of London in 2003-2004;
- the party had “held the balance of power” in the London Assembly from 2004-2008;
- the BBC Trust had classed the Green Party, according to this respondent “as a major party (given coverage on a par with the Liberal Democrats)” for the 2012 Mayoral & Assembly elections and had proposed to the same arrangements for the 2016 elections;
- the party came third in the 2012 Mayoral Election, ahead of the Liberal Democrats and UKIP;
- the party's 2015 Election result in London had been the party's “best...ever”; and
- the party's membership had “more than tripled in London”.

A3.22 The Green Party also argued that Ofcom had applied “the significant support test inconsistently” because Ofcom had proposed that the Liberal Democrats and UKIP should be listed as larger parties despite, like the Green Party, “also having a mixed pattern of significant electoral support”.

A3.23 In its response, the Liberal Democrats cited various evidence which, in its view, supported it remaining on the list of larger parties in England, Wales and Scotland. In relation to England, this respondent pointed to factors including: its General Election performance in 2010 and 2015; the fact it had 1,689 councillors in England (including 138 councillors in London); the fact it had two elected mayors; and its past performance in the 2008 and 2012 London Assembly and Mayoral elections. In relation to Wales, the Liberal Democrats pointed to factors including: its past performance in Welsh Assembly elections; the fact it was only one of four parties defined as a “political group” under the standing orders of the Welsh Assembly; and the fact it had 72 councillors in Wales.

A3.24 In relation to Scotland, the Liberal Democrats, and Scottish Liberal Democrats, pointed to factors including: its performance in the 2015 General Election in Scotland relative to the performance of UKIP and the Scottish Green Party; that it is one of the four largest parties in the Scottish Parliament, that it has had continuous representation in the Scottish Parliament since its inception in 1999; the fact the party was in the Scottish coalition government between 1999 and 2007; the fact that the party is “currently in administration in a number of local authority areas” in Scotland; its level of membership, which had increased by one third since the 2015 General Election; and the party's distinct policy positions. The Scottish Liberal Democrats also said that in relation to the 2015 General Election, in many seats¹²⁶ it had previously held, the number of votes received by Liberal Democrat candidates had increased from the 2010 General Election.

¹²⁶ The Scottish Liberal Democrats said: “In Edinburgh West, the number of votes the party received increased by 1,484. In East Dunbartonshire, the number of votes we received increased by 1,375. We observed similar patterns in seats like Caithness, Sutherland and Easter Ross, Argyll and Bute and Gordon”.

A3.25 UKIP cited various pieces of evidence that it considered Ofcom should take into account in its final decision, including: support for the party on social media platforms; its membership numbers (40,761); positive news articles about the party; and the fact that UKIP has three members of the House of Lords; one member of the Northern Ireland Assembly, three Northern Ireland local councillors and one MEP in Scotland.