

Scotland's Electoral Future

Delivering Improvements in Participation and Administration

**A consultation exercise drawing on lessons
learned in the 2012 local government elections
with a view to informing preparations for all future
elections in Scotland**

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FOREWORD

It is my firm belief that Scotland's greatest asset is our people and that the people who live in Scotland are best placed to make decisions about our future. This is why the Independence Referendum in September 2014 will be inviting our people to vote to deliver the powers which will allow Scotland to reach its full potential.



But Scotland can only truly harness the collective knowledge and experience of its people if our democratic mechanisms are modern, inclusive and fit for purpose in the 21st Century. Only when the functions of democracy are responsive to the needs of the electorate will our people be encouraged to engage fully in shaping our country's future at national, local and community level.

Following the difficulties experienced in 2007, the administration of the Local Government elections of 2012 was successful. Across Scotland, under the guidance of the Electoral Management Board, Returning Officers delivered well-run elections. The Single Transferrable Vote system – used for only the second time – was better understood and the electronic voting system operated smoothly. But we will not be complacent. The purpose of this document is to seek views on how we can strengthen and improve our electoral processes and encourage wider democratic engagement.

This Scottish Government places a great deal of importance on our relationship with wider democratic institutions including, of course, local government. That relationship is founded on a respect for local democracy and a commitment to self-determination, subsidiarity and local decision-making.

We are committed to giving local authorities more powers to further support their own communities. We wish to see new approaches in which partnership working combines the physical, financial and human assets of the public sector and Scotland's communities.

At local level, our Community Empowerment Bill, which will shortly be introduced to Parliament, will make clear our commitment to helping to make the most of the talents that exist in our communities, deliver high quality and improving public services and support strong local democracy.

This consultation is focused on how we can improve the quality of democracy in Scotland by encouraging wider engagement and participation in elections. It primarily reflects responses to the 2012 local government elections. But in seeking to learn lessons for the future, our focus is not restricted local government elections. Some of the points made and the proposals set out in this consultation could equally apply to other elections in Scotland. This may be particularly relevant for the next Scottish Parliament elections in 2016 as responsibility for the administration of these elections are soon to pass to the Scottish Government under the provisions of the Scotland Act 2012.

Some of the suggestions in this consultation paper relate to technical changes to electoral legislation which could be made relatively quickly and come into effect immediately. Others are more long-term and ambitious. While these suggestions (for example on alternative voting methods and ballot paper ordering) cannot be implemented quickly, I would encourage you to let us know what you think of them so that we can start to take forward those that receive a positive response.

This consultation is part of the continuing process to make voting more meaningful for our people and communities. The Scottish Government is committed to a strong Scottish Parliament, diverse local authorities and confident, proactive communities. By means of flexible and robust democratic mechanisms it is Scotland's people who will deliver a more successful future for the nation.

I look forward to hearing your views.

A handwritten signature in dark ink, appearing to read 'Derek Mackay', written in a cursive style.

Derek Mackay

Minister for Local Government and Planning

SCOTLAND'S ELECTORAL FUTURE

CONSULTATION PAPER

BACKGROUND

Scottish Local Government Elections of 2012

1.1 Given the widely reported difficulties experienced in the administration of the 2007 local government and Scottish Parliament elections, the process in 2012 was a major improvement. Now de-coupled from the Parliamentary elections, the local government elections of 2012 saw votes cast for 1,223 councillors in 353 wards across Scotland's 32 councils. The administration of these elections (including the electronic counting of votes) was carried out effectively and efficiently. Unlike in 2007, the results (and not the process) of the elections were the story.

1.2 While this was a welcome outcome, there is no room for complacency when carrying out a major function of the democratic process. Several key stakeholder bodies have since examined the 2012 elections with a view to highlighting what went well and pointing out where lessons could be learned for the future. These are described below.

Electoral Commission

1.3 The Electoral Commission published their report into the 2012 local government elections in September 2012¹. In their first statutory report on the administration of the council elections in Scotland, the Commission's focus was on key themes such as voter confidence, participation and vote counting. The report concluded that *"the elections were well-run and commanded high levels of voter satisfaction."*

1.4 Arising from their review, the Commission listed a total of 16 recommendations. The main recommendations are considered in this consultation.

Electoral Management Board for Scotland

1.5 The Electoral Management Board for Scotland (EMB) was established by the Scottish Parliament primarily to co-ordinate the administration of local government elections. In its 2011/12 Annual Report published in November 2012², the EMB reviewed the conduct of the local government elections. Their report described the Board's role and actions and included feedback from Returning Officers, suppliers and others.

¹ 'The Electoral Commission: Scottish Council Elections 2012: report on the administration of the elections held on 3 May 2012'

² 'Elections Scotland: 2011/2012 Annual Report of the Electoral Management Board for Scotland'

1.6 Lessons learned were also recorded under the headings of legislation, postal/proxy voting and electronic counting. Where the lessons learned are directly relevant to the Scottish Government, these issues have been reflected in this consultation.

Local Government and Regeneration Committee

1.7 On 17 June 2013, the Scottish Parliament's Local Government and Regeneration Committee published a report³ of their inquiry into the 2012 local government elections. The purpose of their inquiry was to consider matters relating to the election with a view to making recommendations for change to the Scottish Government. The Committee took particular interest in a number of key issues around voter turnout and how this might be improved in future. The Committee's recommendations are also reflected in this consultation document.

Consultation Proposals and Questions

1.8 Some of the proposals put forward by the above stakeholders are relevant only to future local government elections while others could equally apply to all elections in Scotland. While not all of the underlying causes of low voter turnout are concerned with or affected by the electoral process, the Scottish Government is particularly keen to explore methods of modernising existing process to encourage participation.

1.9 There are a total of 12 Consultation Questions in this paper. Included among these are two 'Pilot Project Questions' which seek your views on the possibility of setting up pilot schemes concerning All Postal Voting and Random Ballot Paper Ordering. Your thoughts on all or any of these questions are welcomed.

³ The Scottish Parliament, Local Government and Regeneration Committee, 8th Report, 2013 (Session 4) Report on the 2012 Scottish Local Government Elections

INCREASING VOTER TURNOUT

Alternative Voting Methods

Issue

2.1 In its report, the Scottish Parliament's Local Government and Regeneration Committee considered the potential impact on increasing voter turnout of the introduction of a number of new initiatives including better public information campaigns, targeting under-represented groups and introducing internet or telephone voting.

2.2 The 2012 elections saw a voter turnout of 39.8%. This was the lowest figure recorded since unitary authorities were created in 1995 and followed the de-coupling of the Scottish Parliament and local government elections. Local authorities recording the lowest turnout included Glasgow City Council (32.2%), Aberdeen City Council (33.7%) and Dundee City Council (36.7%).

De-coupling of local government and Scottish Parliament elections

2.3 In 2009, following a recommendation by the independent review of the 2007 Scottish Parliament and local government elections (Gould 2007) the Scottish Local Government (Elections) Act 2009 'de-coupled' the Scottish Parliament and local government elections. This was widely considered a necessary move. In 2007, it was apparent that some voters had been confused by the combined elections using two electoral systems and two ballot paper marking requirements. In addition, there had been some concern expressed that holding local government elections on the same day as elections to the Scottish Parliament (and in effect combining the campaigns) had weakened the democratic mandate of local government, or at least, reduced public awareness of and interest in local issues.

2.4 While there were strong arguments for de-coupling the two sets of elections, it was recognised that the move could lead to a reduction in voter turnout and this proved to be the case. In the 2012 local government elections the turnout of 39% was 14 per cent lower than in 2007. But, in fact, voter turnout has been on the decline for many years. Although this is an issue which is not confined to Scotland and is common across the developed world the Scottish Government is determined to explore how the decline in voter turnout can be challenged. In the interests of democracy, both locally and nationally, it is important that every effort is made to try and increase voter participation.

2.5 Voter turnout can be considered a key measure of the health of a democracy. The practice of holding the Scottish Parliament and local elections on the same day had made it difficult to judge the electorate's real level of interest in the local elections. It is not surprising that the decoupling of the two sets of elections resulted in marked decreased turnout between 2007 and 2012 (Table 1). However, turnout in 2012 was also five per cent lower than in the first set of elections to these councils in 1995, and indeed was the lowest in Scottish local elections since the wholesale restructuring of local government in 1974. During the life of the current Scottish Parliament, voter turnout has also seen a general decline (Table 2).

Table 1: Turnout in Scottish Council Elections (1999-2012)

	1999	2003	2007	2012
Turnout (%)	58.1	49.1	52.8	39.1

Table 2: Turnout in Scottish Parliament Elections (1999-2011)

	1999	2003	2007	2011
Turnout (%)	58.8	49.7	53.9	50.6

2.6 As a result, there is now a good deal of focus on issues around voter turnout and the Scottish Government is concerned to establish what steps might be taken to reverse the recent negative trend. In addition to improving public information, especially for under-represented groups, consideration must be given to the potential for introducing changes to the *methods* of voting.

Alternative Voting Methods

2.7 There are now a range of alternatives to the traditional polling place/ ballot paper approach to casting one's vote in an election. Taking account of new technology, various methods of voting have been suggested as possible means of making it easier for people to exercise their right to vote. These include:

- **(Universal) Postal Voting:** postal voting has been shown to give rise to a higher turnout than polling place voting. Although postal voting is already an option in Scottish elections, a possible innovation might be to make it universal. One way would be to have no polling stations and instead provide that everyone on the electoral register gets a postal ballot paper vote delivered to them as a matter of course. Votes would then be counted in the traditional way on polling day. A possible variation on this model might be to issue postal ballot papers to everyone on the electoral register but to give electors the option to either return their ballot paper by post (prior to polling day) or to hand in the completed paper to their local polling place on polling day.
- **Electronic Machine Voting:** this involves the combination of the voting and counting processes and takes place within polling places. Electors vote, for example, by pressing buttons or touching a screen, and the vote is stored on an electronic memory device within the system. There are no paper ballots. The counting is then a relatively speedy tallying of these electronic records.
- **Online Voting:** this can either take place in polling-stations or from computer terminals, digital televisions, mobile phones or other internet-connected devices). Again, there are not usually any paper ballots. The counting process would also be incorporated, and would be an electronic tallying of electronic records.

- **Telephone Voting:** this involves voting from landline touch-tone telephones or from mobile phones. With a telephone voting system there are no paper ballots and there is no need for polling stations.

2.8 Other countries have been experimenting with their electoral procedures for many years and some examples are discussed below.

Universal Postal Voting

2.9 In Australia, universal (or “all-postal”) voting was introduced in several states for some elections during the 1990s, albeit to different degrees in different states. All-postal voting is now the legislatively prescribed system for local government elections in Tasmania.

2.10 In the USA’s state of Oregon, all-postal voting was introduced for local elections in 1981. All-postal voting has now been used in all Oregon’s elections since 1998.

2.11 There have been a number of experiments with all-postal voting in the UK. In 2000, the Westminster Parliament passed legislation to permit local authorities to apply to pilot innovations in the method of voting at local elections (including all-postal voting, electronic voting, and voting at weekends). In recent years, a number of local authorities across the UK have piloted all-postal voting at local elections and these pilot schemes do appear to have had an encouraging impact on turnout.

2.12 Notwithstanding the generally positive impact which all-postal voting pilots have had on turnout, research has indicated that many people wish to retain the option of voting at polling stations. Thus, the Electoral Commission has previously recommended that a new model of multiple voting methods should be developed, including postal voting.

Electronic Machine Voting

2.13 Electronic voting was introduced to Brazil in 1996 and by 2000 all their elections were conducted using this method. The Brazilian voting machine incorporates three steps (voter identification, secure voting and tallying) in a single process with the aim of eliminating fraud based on forged or falsified public documents. Political parties have access to the voting machine's software and programmes before the election for auditing purposes. While there still remains some question about the security of electronic voting systems in general, no case of election fraud attributable to the Brazilian system has yet arisen.

Online Voting

2.14 Internet or ‘online’ voting has been tested in a number of countries across the world although this is not a commonly used means of voting. Four countries which have been using internet voting over the course of several elections/ referendums are: Canada, Estonia, France and Switzerland. Estonia is the only country to have offered internet voting to the entire electorate. Several other countries have either just adopted it, are currently piloting internet voting, have piloted it and not pursued

its further use, or have discontinued its use on the grounds of specific, local concerns over security.

Telephone Voting

2.15 While the public worldwide are familiar and comfortable with the use of telephones to vote for non-election purposes (e.g. in response to television talent shows) there has been limited use of this system of voting in democratic elections – the perception of security, again, being an issue. One other point to note is that if a randomised form of ordering candidates' names on ballot papers were to be introduced (see page 14) additional technical difficulties would have to be overcome to allow for telephone voting to be viable.

2.16 The Scottish Government is keen to explore options for increasing voter turnout and is therefore open to views and suggestions about any innovations in voting practice which might encourage more people to take part in the democratic process. Obviously, we must be conscious of the challenges attached to any new approach such as the security issues around internet or telephone voting. Nevertheless, the Scottish Government invites your views on the merits of extending the current range of voting options.

QUESTION 1:

Do you have any views about the introduction of alternative methods of voting such as by internet or telephone?

Would the introduction of any such new methods give rise to concerns about security or the wider integrity of the voting system?

If security and other concerns could be met, would you favour the piloting of new voting methods, for example, in a by-election?

Do you have any general comments or suggestions about ways to increase participation and turnout whether through changes to electoral processes or otherwise?

All-Postal Voting

PILOT PROJECT QUESTION:

QUESTION 2:

The Scottish Government welcomes your views about the potential for using a local government by-election to pilot a particular form of universal postal voting.

This pilot voting method would mean postal ballot forms being issued to all registered electors. Electors would then be able to opt to either return their voting form by post (prior to polling day) or to hand in the completed form to their local polling place on polling day.

Do you have any views on this proposal?

2.17 Since 2001, anyone on the electoral register in Great Britain has been able to apply to vote by post instead of in person at a polling station, without providing a reason or attestation. Postal voting is an increasingly popular method of participation for electors across Great Britain. At the most recent UK Parliamentary general election in May 2010, postal ballot packs were sent to 6.9 million electors, representing 15% of all registered electors.

2.18 Turnout among postal voters is consistently higher than among people who vote at polling stations: 5.8 million postal votes were returned at the 2010 UK Parliamentary general election, representing a turnout among electors who had applied for a postal vote of 83%, compared with 63% of those who were only able to vote at a polling station. Electoral Commission research with voters has also found that people who vote by post consistently report high levels of satisfaction with and confidence in the postal voting process.

2.19 In recent years, a number of wide-scale postal ballot pilot schemes have been conducted for local government elections in England and Wales. While these have had their successes, the difficulties inherent with all-postal voting were also apparent, including: the reliance on the postal service; security of an individual's ballot; and concerns about the increased risk to the secrecy of the ballot.

2.20 While there is not yet a sufficient base of evidence and experience in Scotland, there have been successful all-postal pilots held in Stirling, Aberdeenshire and the Scottish Borders. We are interested in your views on the potential for further pilots. (For details on these pilots, see Notes on page 25)

Engaging Young People: Political Literacy

Issue

2.21 It is often argued that there is a recognised disconnect between young people and the democratic process and it is widely felt that education is key to instilling in Scotland's young people the importance of voting in elections.

2.22 Across Scotland, a concerted effort continues to be made to improve the engagement of young people with the democratic process. Local authorities, the Electoral Management Board and others, including Education Scotland, have produced material designed to increase political literacy among young people and encourage them towards greater participation in politics.

2.23 In their 2013 report, the Local Government and Regeneration Committee proposed that the Scottish Government should regularly engage with young people in secondary and further education to raise awareness of the voting process and the importance of local democracy.

2.24 At present, Scotland's schools have and will continue to use and build on a wide range of approaches in different settings to promote young people's political literacy. This includes discussions, debates, interdisciplinary studies, personal research and reflection. Education Scotland has produced a wide range of resources to help teachers develop political literacy amongst young people. These emphasise the importance of young people receiving information about political issues in an impartial and balanced way⁴.

2.25 In addition, the Scottish Youth Parliament and Young Scot also seek to support young people to develop their political awareness and literacy both through the provision of information and by enabling young people to participate in democracy.

QUESTION 3:

Do you believe that young people in secondary and further education are sufficiently well educated about the political landscape and electoral process?

Do you have any views about how best to engage young people in local democracy? What more could be done?

Engaging Young People: Franchise

Issue

2.26 The Scottish Independence Referendum (Franchise) Act 2013, which was passed with overwhelming Parliamentary support on 27 June 2013, sets out the

⁴ As set out in the Curriculum for Excellence Briefing 14: Political Literacy.

rules for who can vote in the Referendum on Scottish Independence on 18 September 2014. The franchise is based on who can vote at Scottish Parliament elections and elections to local government in Scotland with the significant addition of 16 and 17 year olds. The normal minimum age for voters in elections is, of course, 18.

2.27 The Scottish Government's view is that the voting age should be reduced to 16 for all elections and referendums. Denying 16 and 17 year olds the vote risks them becoming disengaged from the political process at the very point society expects them to take on rights and responsibilities such as getting married, serving in the Armed Forces or paying tax. Reducing the voting age to 16 could therefore encourage participation by young people in Scotland's democratic processes and give them a voice on matters that affect them.

2.28 The Scottish Parliament has already legislated to give the vote for 16 and 17 year olds in other elections where it has the power to do so. The Health Boards (Membership and Elections) (Scotland) Act 2009 enabled 16 and 17 year olds to vote in the pilot Health Board elections on 10 June 2010. In addition, the Crofting Commission (Elections) (Scotland) Regulations 2011 have enabled those aged 16 or over to vote in elections to the Crofting Commission.

2.29 A vote for independence in the referendum on 18 September 2014 would see all powers over elections ultimately transferred to the Scottish Parliament. This would enable the Scottish Parliament to legislate about the franchise for local and parliamentary elections in Scotland. The Scottish Government's position is that in the event such powers are transferred the voting age should be lowered to 16. This section seeks your views on reducing the voting age in all Scottish elections.

QUESTION 4:

Do you agree that the power to decide the franchise for Scottish elections should sit with the Scottish Parliament?

What are your views on extending the franchise for all Scottish elections to those aged 16 and 17 years who are eligible to be registered on the electoral register?

Reaching Those Disinclined to Vote

Issue

2.30 Voting levels are not consistent, either across Scotland as a whole or even within individual wards and constituencies. The Local Government and Regeneration Committee considered how those people who appear to be less inclined to engage in local democracy can be encouraged to vote in elections.

2.31 In the Scottish local government elections of 2012, while overall turnout was 39.8%, the figure was not a consistent reflection of voting nation-wide with some

areas recording voter participation significantly below the national figure. For example, Aberdeen City Council recorded the two wards with the lowest turnout – George Street/Harbour (20.5%) and Tillydrone/Seaton/Old Aberdeen (21.9%).

2.32 Evidence submitted to the Local Government and Regeneration Committee, suggested that there may be a correlation between areas of multiple deprivation and low voter turnout. While this may be true for some local authority areas, it is not always the case. Another suggestion was that, in wards which have a higher than average population of students or people from ethnic minorities, this may also play a part in low turnout rates⁵.

2.33 Local authorities and the Electoral Commission will continue to work to ensure that public information campaigns are better targeted at under-represented groups to assist with their inclusion in the democratic process. As part of its public awareness function, the Electoral Commission, for example through its website, provides specific guidance on how and why people should register to vote and includes information specifically targeted at students, overseas voters, those in the armed forces and others for whom participation levels are below average.

QUESTION 5:

Do you have any views about how best to engage people who are at present disinclined to vote?

What might be the best approach to remedying low voter turnout – geographic targeting at wards or constituencies with a history of low turnout or alternatively focusing on key social groups (e.g. students or those from ethnic minorities) whose participation rates are lower than average?

⁵ The Committee noted that analysis of the 2011 Census data may help to clarify this.

ENHANCING FAIRNESS FOR CANDIDATES

Varying the Order of Candidates' Names on the Ballot Paper

Issue

3.1 For several years there has been consideration of the order in which candidates' names appear on ballot papers, how this affects each candidate's chances and whether a different system of ordering candidates' names might improve fairness.

3.2 At present, electoral regulations throughout the UK require that the names of candidates appear on the ballot paper in the order dictated by the alphabetical listing of their surnames. This practice is widely, though not universally, used in elections overseas. However, it has been suggested that an alphabet-based ballot paper order discriminates against those candidates with surnames starting with letters towards the end of the alphabet because they appear lower down the ballot paper.

3.3 Consideration of the impact of the ordering of candidates' names on ballot papers was discussed in the Gould report⁶ published in October 2007. As a result, in the Scottish Government's subsequent consultation document in 2010⁷ respondents were asked to consider alternatives for ballot paper ordering. The alternatives discussed in the 2010 consultation were:

- **Alphabetical listing** by surname of candidate - as at present.
- Candidates could be **grouped by party** on the ballot paper. There are several ways to doing this but political parties could be listed either in alphabetical order or randomly.
- **Random ordering** - while this would eliminate the discrimination of the alphabetical system, the procedure by which the random order was determined would need to be transparent and agreeable to all. A random system would also add to the administrative responsibilities of Returning Officers.
- Gould suggested that, for the local government ballot paper, candidates listed by surname, might have their position on the ballot paper determined by **public lottery**. Alternatively, it was suggested that candidates might be grouped by party where there is more than one party candidate on the ballot paper, with the party group position determined by public lottery. Under that system, Gould suggested that positions within the party group could be made by the party, by lottery or by other selection process. (Further thought would need to be given as to how a system of random ordering of candidates would be managed in the event of the introduction of telephone voting).

⁶ 'The Electoral Commission: Scottish Elections 2007, the Independent review of the Scottish Parliamentary and local government elections 3 May 2007.

⁷ 'The Scottish Government: The Administration of Future Elections in Scotland'

- **Rotation** involves rotating the order of candidates' names on ballot papers, i.e. ballot papers are printed and collated so that consecutive ballot papers do not show candidate names in the same order. Under a system known as 'Robson Rotation'⁸ used in local government and other elections in Tasmania, the number of versions of the ballot paper is equal to the number of candidates and each candidate's name therefore appears an equal number of times at the top, bottom and other 'favoured positions' on the ballot paper.

3.4 By rotating the order of candidate names, ballot papers showing preferences marked sequentially down a column (linear votes) are shared equally by all candidates rather than only favouring the top candidate listed on the single version ballot paper. Under Robson rotation, the number of versions is equal to the number of candidates in the column. Robson rotation for 5 candidates is shown below:

Candidate A	Candidate B	Candidate C	Candidate D	Candidate E
Candidate B	Candidate D	Candidate A	Candidate E	Candidate C
Candidate C	Candidate A	Candidate E	Candidate B	Candidate D
Candidate D	Candidate E	Candidate B	Candidate C	Candidate A
Candidate E	Candidate C	Candidate D	Candidate A	Candidate B

3.5 Ballot papers are printed and collated so that consecutive ballot papers do not show candidate names in the same order.

3.6 Responses to the Scottish Government's 2010 consultation were inconclusive. No strong views emerged in support of any of the alternatives to alphabetical listing of candidates on ballot papers. This issue was further discussed in the Scottish Parliament's Committee report. The Committee noted that:

- There was an issue with "alphabetic voting" in the local government elections under the STV system whereby voters are more inclined to opt for candidates whose names feature higher up the (alphabetical) list of candidates;
- Some form of rotation of candidates' names on ballot paper would likely counter the impact of alphabetic voting; but that
- Some stakeholders, including many local authorities, felt that there could be difficulties with a randomised ballot ordering system.

QUESTION 6:

Do you have any views on the ballot paper ordering of candidates' names?

Do you consider that listing candidates' names alphabetically by surname is discriminatory?

⁸ See '[A discussion of Robson rotation in Tasmania](#)' by the Tasmanian Electoral Commission.

PILOT PROJECT QUESTION:

QUESTION 7(a):

The Scottish Government welcomes your views about using a local government by-election to pilot an alternative method of ballot paper ordering of candidates' names.

This pilot voting method would mean a form of random ordering (including the potential use of public lottery as suggested by Gould) or a method of rotation, such as Robson Rotation, described on page 15.

QUESTION 7(b):

Do you favour any of the alternative systems set out above - or would you like any other system of ballot paper ordering to be considered for a future pilot exercise?

Random Ballot Paper Ordering

3.7 In a detailed discussion of the options, the Scottish Parliament's Local Government and Regeneration Committee concluded that *"some form of ordering should be looked at in time for the 2017 Scottish local government elections."*

3.8 The Committee's report went on to recommend that the Electoral Commission in conjunction with the Electoral Management Board and the Scottish Government should take steps to trial some potential alternative options for ordering candidates' names on ballot papers and concluded: *"While we recognise that while no trial will replicate a national election it would allow the identification of unintended consequences. If all else fails we would support Gould's suggestion...that ordering of the ballot paper for each ward should be determined by a ballot of candidates"*.

3.9 Therefore, the Scottish Government would be interested to know your thoughts on the potential to pilot an alternative to alphabetic ballot paper ordering.

3.10 We would welcome your views on some form of randomised system such as the Robson Rotation method mentioned on the previous page. Robson rotation has been shown to considerably reduce the advantage a candidate gains from being listed in favoured positions (e.g. right at the top) on a ballot paper.

Eligibility to Stand for Election

Issue

3.11 In the period up to the 2012 local government elections, the Electoral Commission received a greater than usual number of enquiries asking whether or not individual candidates were eligible to stand for election⁹.

3.12 Electoral candidates are required to sign their nomination paper confirming that they are qualified and not disqualified (for a range of specific reasons) from standing for election. It is an offence knowingly to make a false statement on a nomination form.

3.13 Although the Electoral Commission publishes guidance for candidates and agents on the qualification and disqualification rules, neither they nor Returning Officers can give definitive guidance on whether or not individual candidates are eligible to stand for election as they cannot be aware of the details of an individual's personal circumstances.

3.14 Currently the four criteria for eligibility to stand for election are:

- You are a registered elector within the local authority area in which you wish to stand.
- For the year prior to the date of nomination you must have owned, or been a tenant in, premises within the local authority area in which you wish to stand.
- For the year prior to the date of nomination your main or only place of employment must be within the local authority area in which you wish to stand.
- For the year prior to the date of nomination you have lived in the local authority area in which you wish to stand.

3.15 In the report published by the Scottish Parliament's Local Government and Regeneration Committee it is recommended that the Electoral Commission and Scottish Government carry out a review of the criteria for eligibility to stand in a local government election, with the business connection to an area having clearer definitions provided. The Committee also recommended that, for purposes of being eligible to stand for election, a candidate's designated area to stand is also the area in which they reside.

QUESTION 8:

Do you agree that a review should be carried out of the criteria for eligibility to stand in a local government election with the business connection to an area having clearer definitions provided?

Do you agree that, for purposes of being eligible to stand for election, a candidate's designated area to stand should also be the area in which they reside?

⁹ The Electoral Commission publishes [guidance on eligibility](#) for standing in local elections in Scotland.

Candidates Employed by ‘Arms-Length’ Organisations

Issue

3.16 In the run up to the 2012 local government elections, an increasing number of questions were raised by candidates who were employed by companies that deliver council services at arms-length. Concerns focused on how their employment might impact on their election as the successful candidate.¹⁰

3.17 Although survey responses indicated that the 2012 nominations process was straightforward, the Electoral Commission received a number of enquiries relating to the nomination rules, asking whether or not individual candidates were eligible to stand for election. Returning Officers also reported an increased number of queries on this issue compared with previous elections. Among these, there appears to have been an increase in queries from people employed in companies that deliver council services at arms-length.

3.18 Potential candidates who work for one of these ‘arms-length’ companies were not always clear whether they would be required to resign their employment if they were successful in being elected to any local authority for which their employer delivers services.

3.19 Although the Commission publishes guidance for candidates and agents on the qualification and disqualification rules, neither they nor Returning Officers can give definitive guidance on whether or not individual candidates are eligible to stand for election as they cannot be aware of the details of a candidate’s personal circumstances.

QUESTION 9:

Do you agree that the rules should be reviewed to provide clarity on which successful candidates who are employed by ‘arms-length’ bodies delivering council services would be required to resign from their employment in order to be a councillor at the relevant council?

Candidate Spending and Complying with the Rules

Issue

3.20 In November 2011, the Scottish Government’s Minister for Local Government and Planning requested that the Electoral Commission produce guidance for candidates on regulatory matters relating to campaigning in the 2012 local government elections. This guidance was to be produced under the terms of section 10 of the Political Parties, Elections and Referendums Act 2000 (PPERA) enabling the Commission to give assistance to bodies including the Scottish Government. The costs of providing this guidance were included in the funding provided to the Commission by the Scottish Government in respect of the 2012 council elections.

¹⁰ For detail on the relevant legislation, see Notes on page 25.

3.21 In response to the Scottish Government's request, in early January 2012 the Commission published written guidance as part of their wider suite of guidance for candidates and agents on the running of the elections. The Electoral Commission currently has no statutory role in regulating campaigning in local elections in Scotland. The Commission pointed out that this meant that the Scottish guidance differed in its application to similar guidance elsewhere in the UK.

3.22 The Scottish guidance explained that, although the Procurator Fiscal may have regard to the Commission's guidance, decisions regarding prosecution for breaches of the rules on candidate spending would be for the Procurator Fiscal alone. In its report of the 2012 elections, the Electoral Commission concluded that this situation gave rise to the potential of uncertainty for candidates and agents in future.

QUESTION 10:

In accordance with the Electoral Commission's suggestion the Scottish Government intends to consult political parties that contested the 2012 elections, the Crown Office and Procurator Fiscal Service, the Electoral Commission and any other interested stakeholders on the following issues:

- how candidate spending should be regulated and how candidates and agents should be supported to comply with the rules;
- introducing controls on the sources and reporting of donations;
- revising spending rules to include a specific list of items that count against the spending limits for candidates;
- whether candidate spending limits are set at the right level to facilitate campaigning;
- whether party campaign limits should be introduced for council elections;
- whether controls on general campaigning by non-party campaigners should apply at council elections?

Do you have any comments which would inform future work in this area?

Imprint Requirements for Candidates

Issue

3.23 It has been suggested that there is a lack of clarity about candidates' responsibilities regarding published election materials.

3.24 All printed election material must carry an imprint with details of the name and address of the printer and promoter of the material, as well as the name and address of the person, organisation or group on whose behalf the material has been printed.

3.25 The intention of the imprint requirements is to enable anyone to contact or trace the source of the material, in case of any issue about its content. A breach of the imprint requirements, where it is unclear who has produced the material, is

potentially a criminal offence and a complaint has to be made to the police. As with complaints regarding false statements, the Electoral Commission's guidance outlined the process for doing this.

3.26 In 2012, the Commission received representations that the imprint requirement for material published on behalf of candidates who were standing in different wards was unclear. Some parties felt they needed to list the name and address of every candidate standing in the area covered by the material in order to comply with the law. Others believed including the details of the agent was sufficient.

3.27 The Scottish Government accepts that a review of campaigning rules should be carried out to provide greater clarity on candidates' imprint requirements.

IMPROVING THE VOTING PROCESS

Voting by Proxy: Emergency Provisions

Issue

4.1 Legislation is already in place to provide for proxy voting. Any elector who has a valid reason may appoint a proxy to vote on their behalf. At present, however, a deadline date is fixed a number of days prior to the elections after which no proxy application is accepted. This has been described as unfair on those who unexpectedly find themselves unable to vote in an election once the proxy application deadline has passed.

4.2 If an elector had a valid reason why they are unable to vote in person, such as illness, physical incapacity, work commitments, or being overseas, they could appoint a proxy to vote on their behalf. In the 2012 local government elections, the deadline for applying for a proxy vote was the sixth working day prior to polling day. In total, 5,483 people were granted a proxy vote which, as a proportion of the electorate, was 0.14%. After the deadline for applying for a proxy vote, anyone who was taken ill and unable to vote as a result could appoint an emergency proxy, up to 5pm on polling day itself. Of the total number of proxy voters, 28 were appointed as a result of medical emergencies.

4.3 The Westminster Parliament has recently extended the emergency proxy voting provisions to those unexpectedly called away on business or military service for all elections except local government elections in Scotland (responsibility for the administration of these elections lies with the Scottish Parliament)¹¹. In its report, the Electoral Commission supported this proposal but further recommended that this be extended to apply to those who have other reasons for not being able to attend the polling station at short notice, such as caring responsibilities or a recent bereavement.

4.4 The Electoral Commission has recommended that the Scottish Government takes steps to extend the emergency proxy provisions to those who are unable to attend the polling station or apply to vote by post due to unforeseen circumstances. They consider that this should be done in time for the 2017 elections.

4.5 The Scottish Government has already provided legislation to achieve this in the Scottish Independence Referendum Act 2013 and we plan to take similar action to extend this to all local elections in Scotland.

Postal Votes

Issue

4.6 In the 2012 local government elections, of the 421,755 postal votes cast, 16,742 (4%) were reported by Returning Officers as having been rejected as invalid. While this figure is lower than that at the Scottish Parliament elections, it is higher

¹¹ Electoral Registration and Administration Act 2013

than the equivalent proportion of rejected postal votes returned at the 2010 UK Parliamentary election.

4.7 Postal vote ballot papers must be returned along with a postal vote statement. The latter document must contain the voter's date of birth and signature. At present, returned postal votes must be rejected by Returning Officers where:

- the postal vote statement or ballot paper is missing; or
- the personal details supplied by voters with their postal vote cannot be successfully matched with those previously provided by the voter and held on the Electoral Register Officer (ERO's) records.

4.8 There is a legal requirement to check these personal identifiers, designed to prevent voting fraud. Returning Officers check all returned postal votes to ensure that the personal details supplied by voters match those previously provided by the voter and held on the EROs records.

4.9 While it is clearly important that effective measures are in place to detect and prevent fraud, these measures should not inadvertently disenfranchise voters who simply make mistakes on their postal voting statements. The Electoral Commission has suggested that this problem could be addressed if EROs were permitted to request a refreshed identifying signature and also to provide electors with feedback if their postal vote statement has been rejected.

4.10 The Electoral Registration and Administration Act 2013 provides for this and for electors to be notified that their postal vote statement was rejected. The Electoral Commission recommended that the necessary legislation be made as soon as possible and Scottish Ministers have agreed to take this forward in time for the 2017 local government elections.

QUESTION 11:

Do you agree that provisions should be introduced to allow Electoral Register Officers to request up-to-date signatures and inform a voter that their postal vote statement has been rejected?

Are there any legislative changes which the Scottish Government could introduce which would help a Returning Officer allow a vote rather than reject it?

STRENGTHENING ELECTORAL MANAGEMENT

The Electoral Management Board

Issue

5.1 Although first established in November 2008 on an interim basis, 2012 was the first occasion that the Electoral Management Board had a statutory role for Scotland's council elections. Its remit includes: the operational detail of planning the delivery of the local government elections at the national level; providing practitioner advice from within the electoral community; additional advice, guidance and information; as well as providing more strategic consideration of legislation and policy.

5.2 The EMB's duty to coordinate the administration of council elections in Scotland was an important test for the body's development, and in preparation for 2012, it undertook a variety of tasks to achieve its objective. While individual Returning Officers are responsible for managing the election in their local area, and are ultimately accountable to the courts for their actions, the EMB and its Convener provided a central focus of practitioner advice.

5.3 The rationale behind the creation of the EMB was the intention to bring clear benefits to the voters in Scotland through the delivery of better and more consistent electoral administration. The Electoral Commission reported that, in the days following the 2012 election, a debate took place amongst politicians and in the media as to who had 'won' the election and what the national turnout had been. However, no one body is charged with providing the 'national result' in the sense of who amongst the parties had won most first preferences, and what the percentage share of the poll was for the various parties at a national level. The Electoral Commission recommended that the EMB was best placed to provide such national information, as it is the coordinating body for Returning Officers and particularly in the context of an e-counted council election, could easily collate and provide such data.

5.4 The Electoral Commission has expressed a view that the statutory remit of the Electoral Management Board (EMB) should be extended to cover all parliamentary elections in Scotland. While the Board is currently supporting the Convener (in her responsibilities as Regional Returning Officer for the European Elections and Chief Counting Officer for the Referendum) it is, under current arrangements, beyond the devolved competence of the Scottish Parliament to extend the remit of the Board. We would, however, welcome your views on whether the remit should be extended and on how well the Electoral Management Board has carried out its duties since it was first established.

QUESTION 12:

Do you have any views on the effectiveness of the Electoral Management Board since it came into being in 2008?

Do you have any views on the future of the Electoral Management Board?

NOTES

The following notes refer to the question around all-postal voting pilots described at paragraph 2.20, page 11.

- In 2002 the first election to be conducted purely by a postal ballot in Scotland was held in a by-election for the Teith ward of Stirling Council. The pilot scheme saw a turn-out of 63.2% - compared to a figure of 43% when the area's previous by-election was held in 2000.
- On 19 September 2002, by-elections were held in the Durn and Gamrie-King Edward wards of Aberdeenshire. The all-postal pilot in Durn produced an election turnout of 66%, the highest for any pilot scheme conducted in the UK since April 2002. In contrast, the Gamrie-King Edward by-election, which used traditional election procedures, saw a turnout of 36%.
- On 7 November 2002, an all-postal voting pilot was held for a by-election in the Earlston, Gordon and District ward in the Scottish Borders. The pilot scheme produced an election turnout of 65.8%, significantly higher than at by-elections in Scotland in May 2002 where traditional voting methods produced turnouts of between 33% and 45%.

The following notes refer to the question around Candidates Employed by 'Arms-Length' Organisations described on page 19.

- The relevant legislation is section 31A of the Local Government (Scotland) Act 1973 as well as Part 1 of the Local Government and Housing Act 1989. These provide a scheme of local government post-holders who are restricted from taking part in political activity and who would therefore have to resign if they wish to stand for election or support a candidate.
- Section 31A of the 1973 Act contains a simple principle (albeit it not always easy to apply) – if the person elected has any employment either with or in the control of the council, then they have to give it up if they want to accept the post they have been elected to. Note this isn't about candidacy, but about acceptance of office.
- Councils often have a series of arms-length bodies that deliver council functions, and if the council controls the body then employment with it is caught by the prohibition. If the council has a significant interest but, for example, is a minority shareholder, then employees are not caught by the restriction.

How to Respond

Please submit your response together with a completed Respondent Information Form below by noon on 11 July 2014 to:

Elections Team
Scottish Government
2W, St Andrew's House
Edinburgh
EH1 3DG

We would be grateful if you would use the consultation questionnaire provided on page 28 or would clearly indicate in your response which questions or parts of the consultation paper you are responding to, as this will aid our analysis of the responses received.

This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at: www.scotland.gov.uk/consultations.

Handling your Response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the Respondent Information Form on the following page which forms part of the separate consultation questionnaire as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential and treat it accordingly. All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation.

Next Steps

If you tell us we can make your response public, we will put it in the Scottish Government Library and on the Scottish Government consultation web pages. We will check all responses where agreement to publish has been given for any wording that might be harmful to others before putting them in the library or on the website. If you would like to see the responses please contact the Scottish Government Library on 0131 244 4556. Responses can be copied and sent to you, but a charge may be made for this service.

What Happens Next?

Following the closing date, all responses will be analysed and considered. We will issue a report on this consultation process which will be published on the Scottish Government's website at: <http://www.scotland.gov.uk/Publications/Recent>.

Strategy and External Affairs

Consultation on Scotland's Electoral Future

RESPONDENT INFORMATION FORM



Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Title Mr ☐ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Forename

2. Postal Address

<input type="text"/>		
<input type="text"/>		
<input type="text"/>		
Postcode	Phone	Email

3. Permissions - I am responding as...

Individual

/

Group/Organisation

☐

Please tick as appropriate

☐

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

☐ Yes ☐ No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick **ONE** of the following boxes

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate

☐ Yes ☐ No

Yes, make my response,
name and address all
available ☐

or

Yes, make my response
available, but not my
name and address ☐

or

Yes, make my response
and name available, but
not my address ☐

- (d)** We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☐ **Yes**

☐ **No**

CONSULTATION QUESTIONS

Question 1: Do you have any views about the introduction of alternative methods of voting such as by internet or telephone?

Would the introduction of any such new methods give rise to concerns about security or the wider integrity of the voting system?

If security and other concerns could be met, would you favour the piloting of new voting methods, for example, in a by-election?

Do you have any general comments or suggestions about ways to increase participation and turnout whether through changes to electoral processes or otherwise?

Comments

Question 2: [PILOT PROJECT QUESTION]

The Scottish Government welcomes your views about the potential for using a local government by-election to pilot a form of universal postal voting.

This pilot voting method would mean postal ballot forms being issued to all registered electors. Electors would then be able to opt to either return their voting form by post (prior to polling day) or to hand in the completed form to their local polling place on polling day.

Do you have any views on this proposal?

Comments

Question 3: Do you believe that young people in secondary and further education are sufficiently well educated about the political landscape and electoral process?

Do you have any views about how best to engage young people in local democracy? What more could be done?

Comments

Question 4: Do you agree that the power to decide the franchise for Scottish elections should sit with the Scottish Parliament?

What are your views on extending the franchise for all Scottish elections to those aged 16 and 17 years who are eligible to be registered on the electoral register?

Comments

Question 5: Do you have any views about how best to engage people who are at present disinclined to vote?

What might be the best approach to remedying low voter turnout – geographic targeting at wards or constituencies with a history of low turnout or alternatively focusing on key social groups (e.g. students or those from ethnic minorities) whose participation rates are lower than average?

Comments

Question 6: Do you have any views on the ballot paper ordering of candidates' names?

Do you consider that listing candidates' names alphabetically by surname is discriminatory?

Comments

Question 7(a): [PILOT PROJECT QUESTION]

The Scottish Government welcomes your views about using a local government by-election to pilot an alternative method of ballot paper ordering of candidates' names.

This pilot voting method would mean a form of random ordering (including the potential use of public lottery as suggested by Gould) or a method of rotation, such as Robson Rotation, described on page 15.

Question 7(b):

Do you favour any of the alternative systems set out in the paper - or would you like any other system of ballot paper ordering to be considered for a future pilot exercise?

Comments

Question 8: Do you agree that a review should be carried out of the criteria for eligibility to stand in a local government election with the business connection to an area having clearer definitions provided?

Do you agree that, for purposes of being eligible to stand for election, a candidate's designated area to stand should also be the area in which they reside?

Comments

Question 9: Do you agree that the rules should be reviewed to provide clarity on which successful candidates who are employed by 'arms-length' bodies delivering council services would be required to resign from their employment in order to be a councillor at the relevant council?

Comments

Question 10: In accordance with the Electoral Commission's suggestion and in good time before the next set of Scottish council elections, the Scottish Government intends to consult political parties that contested the 2012 elections, the Crown Office and Procurator Fiscal Service, the Electoral Commission and any other interested stakeholders on the following issues:

- how candidate spending should be regulated and how candidates and agents should be supported to comply with the rules;
- introducing controls on the sources and reporting of donations;
- revising spending rules to include a specific list of items that count against the spending limits for candidates;
- whether candidate spending limits are set at the right level to facilitate campaigning;
- whether party campaign limits should be introduced for council elections;
- whether controls on general campaigning by non-party campaigners should apply at council elections?

Do you have any comments which would inform future work in this area?

Comments

Question 11: Do you agree that provisions should be introduced to allow Electoral Register Officers to request up-to-date signatures and inform a voter that their postal vote statement has been rejected?

Are there any legislative changes which the Scottish Government could introduce which would help a Returning Officer allow a vote rather than reject it?

Comments

Question 12: Do you have any views on the effectiveness of the Electoral Management Board since it came into being in 2008?

Do you have any views on the future of the Electoral Management Board?

Comments



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