

PE1483/D

Petitioner Letter of 5 November 2013

Chris Hynd,
Committee Assistant,
Public Petitions Committee,
Scottish Parliament,
Edinburgh EH99 1SP

5th November 2013

Dear Chris,

PE1483 - RESPONSES

Thanks you for forwarding to me the written responses you received from The Scottish Government, The Electoral Management Board for Scotland and the Electoral Commission in reply to your letter seeking their views on the above petition. My comments on all three responses are as follows:

The Scottish Government:

I am pleased to read that the Scottish Government recognises that the issue is not about Gaelic speakers' understanding of English. However, they still insist that the Scottish Independence Referendum Bill "*replicates the standard arrangements in place at elections and referendums in Scotland and the UK.*" While these may have been standard arrangements in Scotland up to now, I know that there have been several referendums held in Wales where bilingual ballot papers have been used, and my argument, supported by the terms of the Gaelic Language (S) Act 2005, and the Government's own Gaelic Language Plan, is that the principle of "*equal respect for Gaelic and English*" ought to be applied to the provision of a bilingual ballot paper in next year's referendum. The Welsh experience has not caused difficulty for voters, and the simple terms proposed for the Scottish Referendum ballot paper would provide the ideal opportunity to give practical effect to the above statutory and policy terms.

It would be surprising if both the Scottish Government and the Scottish Parliament, when presenting and approving the Gaelic Language (S) Bill in 2005, with its reference to "*equal respect for Gaelic and English*" did not consider the practical consequences of such a term in relation to public policy areas such as the voting process at local and national levels.

Electoral Management Board for Scotland:

I agree that the Independence Referendum - like any referendum or election - should produce a result that will be trusted, and is "guided by principles of accessibility, consistency, efficiency and integrity." However, much of the EMBS response is couched in an alarmist tone, containing speculation and negative spin, and supported by no evidence whatsoever. Repeatedly, they make statements such as "*this could lead to a greater number of spoiled papers*"... "*would be a real danger of voter confusion*"..... "*potential for general voter confusion*"..... "*voters might cross*

out the second language””may be exposed to legal challenge””bilingual paper would pose a range of practical challenges which might add to the complexity” etc.

While all these things might happen, it could equally be said that they might not happen: without evidence on these matters, it is impossible to say. Of particular concern are statements such as this, *“people who do not speak Gaelic might be unhappy”*, which reflects very poorly indeed on their understanding of multilingualism in a 21st century context, and one which is totally at odds with the spirit and letter of the Gaelic Language (S) Act 2005, the first and second National Gaelic Language Plans of Bòrd na Gàidhlig, the Bòrd’s Statutory Guidance on the preparation of statutory Gaelic Language Plans, and all such plans prepared and approved by the Bòrd, all of which emphasise the importance of the greater visibility of Gaelic in the public space. It may well be that some people *“might be unhappy”* with the greater visibility of the Gaelic language, but the promotion of such greater visibility is now the settled policy of policy-makers in Scotland, including the Scottish Government and Scottish Parliament, and is also consistent with and indeed required by the UK’s international legal commitments, including those under the Council of Europe’s European Charter for Regional or Minority Languages, which, among other things, requires the UK to base its *“policies, legislation and practice”* on a range of objectives and principles, including *“the need for resolute action to promote”* Gaelic and *“the facilitation and/or encouragement”* of the use of Gaelic *“in speech and writing, in public and private life”* (article 7, paragraphs 1 c and d). Taken as a whole, the EMBS response is fundamentally flawed, and very poor.

The Electoral Commission:

This response is in much more measured tones. They point out that the only way to ensure that a proposed question and ballot paper do not present any usability issues is to carry out user testing with voters before the question and ballot paper are used in any referendum. They confirm that when they undertook their assessment of the question proposed by the Scottish Government, they did not test a Gaelic version or a bilingual paper and they were not asked to do so. That was an unfortunate missed opportunity at the time. They are willing, if asked by Parliament to undertake an assessment on a revised question and ballot paper, to do so. However, the timescale may not render it possible for a bilingual ballot paper to be used in the 2014 referendum.

I suggest to the Committee that it would be a worthwhile exercise to ask the Electoral Commission to do an assessment on a bilingual question and ballot paper, even if at this late stage it might not be possible to implement their findings in time for next year’s referendum. The outcome of such an assessment could be of use in the consideration of bilingual ballot papers in future referendums or elections. I would also suggest that Bòrd na Gàidhlig be asked to provide acceptable translations of the question & answers to be referred for testing.

Yours sincerely,

John M Macleod