



The Scottish Parliament
Pàrlamaid na h-Alba

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Dear Bill,

Scottish Elections Reform Bill

As you will be aware, the Local Government and Communities Committee [took evidence on 6 November](#) on the Scottish Elections (Reform) Bill, in relation to some key aspects of the Bill touching on local government elections. We heard from Ronnie Hinds, representing the Local Government Boundary Commission for Scotland (LGBCS), and Jonathon Shafi, representing the Electoral Reform Society (ERS). We had hoped to secure representation on the panel from representatives of local government but unfortunately this turned out not to be possible.

Although the Committee did not expressly solicit written evidence, leaving that to your Committee as lead Committee, it was helpful to have sight of the written submissions on the Bill you received from the LGBCS and the ERS, which have helped inform this letter. It was also helpful to receive informative written evidence directly from Dr James Gilmour. We are grateful to him and to our two witnesses for helping us in our scrutiny.

It is relevant to add that the Committee's scrutiny of the Bill also built on work we undertook earlier this session on:

- [The LGBCS's 5th Review of local government boundaries](#);
- [Payments to returning officers in Scotland](#);
- [Scottish local government elections and voting](#).

I am now writing to you setting out this Committee's view on a number of matters that arose during our evidence-taking. We hope that the Standards, Procedures and Public Appointments Committee will take account of these in its deliberations on the general principles of the Bill at Stage 1.

Overall scope and ambition of the Bill

The Committee recognises that the Bill is the result of several years of research and consultation with the aim of modernising various aspects of electoral law, including local government electoral law. We expect that many of the changes in the Bill will be widely welcomed.

However, the Committee consider the Bill and the consultation that has preceded it, to have been something of a missed opportunity. Two decades have passed since the Scottish Parliament was reinstated, establishing a new relationship between the Scottish Government and Parliament on the one hand and local government on the other. It has also been 15 years since the passing of the Local Governance (Scotland) Act 2004, which introduced multi-member wards and the single transferrable vote to Scottish local government. It is widely agreed that this has delivered far greater proportionality in election results, helping end effective “one-party rule” in some parts of Scotland, and this might be considered a public good in itself. This does not mean that the system that replaced it should be assumed to be optimal. As Ronnie Hinds told us, when the new system was being introduced, “there was talk about reviewing it after it had been in place for a while. We cannot find any evidence of that having been done”.¹

The Committee would have welcomed there being, prior to the introduction of the Bill, a comprehensive audit of the system of multi-member wards for Scottish local government and associated matters, taking account of issues such as:

- Whether the public feel better represented under the post-2004 multi-member ward electoral system than the previous one and the practical consequences; for the public and for councillors themselves, of having more than one councillor per ward;
- Whether the current STV system has enhanced electoral choice and competition or reduced it. Committee Members are aware of instances under the current system where the number of candidates put forward by parties in a ward barely exceeds the number of available seats, if at all. This indicates that, in some cases, the system is being manipulated by parties (entirely legitimately) in a way that in effect inhibits substantial electoral competition. It would have been useful to have taken the opportunity to consider how this could be addressed;
- Related to this, the extent, if any, to which elements in the current system may lead to unintended outcomes. For instance, it is widely perceived that the current system of listing candidates alphabetically arbitrarily skews results in favour of people who happen to come higher on the list. Whilst evidence to us has noted that no system will ever be perfect, we consider that the Bill affords an opportunity to reconsider this issue and possible alternative approaches;
- Evidence and views on the extent to which the switch to a more proportional system has actually driven better local governance, including better decision-making processes, better policy choices and more effective engagement with communities;
- Whether the current councillor – citizen ratio is optimal. In this connection, the Committee notes the evidence to us from the ERS that, in an international context, the number of councillors in Scotland is unusually low;

¹ Official Report, 6 November, col. 6

- Countering apathy and improving turnout at local government elections. This is intrinsically linked to the wider issue of local empowerment; at both the council and grassroots level; a matter in which the Committee has had a consistent interest, for instance, in our annual scrutiny of the Scottish Government budget as it applies to councils and communities.

If the Bill proceeds to Stage 2, there would be the opportunity to continue the debate on these and other matters. The Committee accepts that effective policy-making is a deliberative process, but where practical solutions to known defects are already within reach, and there is a legislative route to addressing them, this opportunity should be taken – not least because we do not know long it will be before another Bill of this nature comes forward. The Committee would prefer it if it were the Scottish Ministers, with their considerable legal and drafting resources, who led in taking up further opportunities for reform offered by the Bill at amending stages, but we note that that route is open to all Members.

Specific provisions in the Bill

Term lengths: The Bill would change the frequency of the local government electoral cycle (and of the Scottish Parliament election cycle) from four to five years, but the Policy Memorandum states that this change is not the “settled preference” of the Scottish Ministers. No clear preferences were expressed in our own evidence-taking. As was noted, there is a trade-off between allowing local administrations time to deliver their programme and ensuring that people feel democratically invested in their communities. For what it is worth, there is also a minor benefit to the public purse in having less frequent elections.

Ronnie Hinds told us that a longer electoral cycle might bring marginal benefit to the LGBCS, in that an apparent knock-on effect of this change would be that there would be more time to conduct boundary reviews. He said that this might help the Commission achieve a deeper level of engagement with local communities but stressed that overall the Commission was “agnostic” on the proposed change.

The Committee supports the proposal in the Bill for five-year electoral cycles in local government elections.

Multi-member wards: Wards are drawn up by the LGBCS, having regard to criteria set out in the 2004 Act. Leaving aside the special case of island councils, all council wards must return either three or four councillors. In [our report on the LGBCS's Fifth Review](#) we commented (in paragraphs 70-72) that the current legislative process and methodology used for reviews was “inflexible and unsatisfactory”. We said that there was “inherent contradiction” between, on the one hand, respecting local ties and boundaries and, on the other, giving paramount consideration to electoral parity as is required under current law. We called for the Scottish Government and the LGBCS to review current criteria with a view to making recommendations for improvement.

It is important to make clear that this was not solely a criticism of current rules on councillors per ward. At root is a concern that there is not a stronger legal duty to ensure, as much as possible, that wards delineate recognised communities and make sense on the ground, to the people who live there.

In terms of councillors per ward, the Bill will widen the bandwidth, enabling wards to return anything between two and five members, and we welcome this as a step in the right direction, as did our witnesses. The LGBCS will always have a difficult job to do in drawing up ward boundaries that truly reflect communities but we think this change is likely to help. In the case of two-member wards, evidence noted that there will be a cost in terms of proportionality, which might suggest that they should be made use of sparingly. Witnesses also noted that two-member wards carried increased risks in terms of resilience. There was more risk of the ward being left with only one effective representative, where one councillor became ill or otherwise incapacitated.

Voting more than once in local elections: There is no legal impediment to an elector with more than one place of residence in Scotland voting in any or all of those places, provided they are in different local authority areas. The Bill will put an end to this, making multiple voting in local elections held on the same day an offence, as it already is for Parliamentary elections. The Policy Memorandum remarks (at paragraph 30) that registration in multiple areas is “relatively rare” and it must be assumed that multiple voting in local elections is rarer still. However uncommon it may be, the Committee agrees that the current situation is not tenable, on the “one person, one vote” principle.

During evidence-taking of this provision, the issue of how current rules against multiple voting are actually policed arose. It was not clear to the Committee how a returning officer would become aware that a person had cast two or more votes in an election, if that person was legitimately registered in those places. An alternative approach, which would appear to circumvent this problem, would be to provide that no one may be entered in more than one electoral register at any one time. We would acknowledge that this issue requires careful consideration, as any reform along these lines should not disenfranchise people who, through no fault of their own, find themselves in the “wrong” place when an election is called (for instance, students or secondees). However, we consider that is worthy of further consideration in the context of a modern, digitised electoral registration system that ought to be able to process routine changes expeditiously.

We consider that there would be merit in exploring further issues around both illegal multiple voting (and how it would be caught) and multiple registration, as the Bill progresses.

“Rolling” reviews of local authority ward boundaries: Currently, the LGBCS must review ward boundaries in all 32 local authorities simultaneously. The Bill would empower the Commission to carry out what the policy memorandum refers to as “rolling” reviews, dealing with local authorities in tranches. Ronnie Hinds told us that he saw this as a positive change on balance. There was a slight risk of the Commission becoming less consistent in its approach to reviews, but he felt it should be possible to mitigate this risk, provided it continued to apply a consistent methodology in this work.

In Mr Hinds’ view, the key benefit of this change was that the Commission would be able to better manage its resources. Amongst other things, this might help it carry out

deeper and fuller consultation within local communities. The Committee has already noted that the LGBCS does not have an easy task when it carries out its reviews. **If this change to rolling reviews will help the Commission gather more and better data and information, we support it.**

However, we note views in the Commission's written evidence (repeated in person by Mr Hinds when he gave evidence) that, as currently drafted, the Bill may not fully deliver the intended policy benefits. The LGBCS suggested some minor changes, including raising from 12 to 15 years the period within which a review of a local government area must take place – this on the assumption that five-year electoral cycles are introduced. **We suggest that the Scottish Government would benefit from engaging further with the LGBCS on the detail of this provision as the Bill progresses.**

Council vacancies and by-elections: The issue of by-elections for casual vacancies in local government came up in our evidence-taking. At present, where there is a vacancy, a by-election takes place using the same preferential vote system as at ordinary local government elections. This in effect makes the election one conducted using the Alternative Vote method as, ordinarily in a council by-election, there will only be one seat to fill. The Committee notes that the Bill will not change this. The Committee heard from the ERS which favoured a "count again" system. This method would use the ballots cast at the previous elections, with the next most popular candidate from the same party (if there is one) being elected to the vacant seat. The Committee does not consider this to be a practical or desirable approach.

Whilst Committee Members agree that by-elections for casual vacancies should be retained, and some are content with the status quo, other Members would prefer the first past the post method to be used. **The Committee suggests that it would be helpful to find out from the Scottish Government, during scrutiny of this Bill, whether it has considered changing the system used for council by-elections. It would also be useful to know whether the Scottish Government retains an open mind as to making changes in this area.**

I hope you find the comments in this letter helpful. The letter is copied to the Minister for Housing, Planning and Local Government and the Minister for Parliamentary Business and Veterans.

Yours sincerely

A handwritten signature in black ink, appearing to read 'James Dornan', written in a cursive style.

James Dornan MSP
Convener of the Local Government and Communities Committee