

Scottish Parliament Review

For decision

1. The Commission is invited to agree the timing for the 2nd Review of Scottish Parliament constituencies and regions.

Background

2. The 1st Review of Scottish Parliament constituencies and regions was carried out between July 2007 and May 2010. The 2nd Review must be completed within 8-12 years ie report between 1 May 2018 and 1 May 2022. The next Scottish Parliament election is expected in May 2021 with subsequent ones in May 2025 and May 2029.
3. Responsibility for Scottish Parliament boundary reviews transferred to the Local Government Boundary Commission for Scotland in May 2017. In anticipation of the transfer the Commission considered pros and cons of the timing of the next review at its meeting in March 2017 (Paper 2408/17). The Commission asked the Secretariat for information on any precedent of reviews being conducted over a period within which an election falls; and to consider the degree to which electorates fluctuate over time; this was provided in Paper 2416/17.
4. The Commission has three options in considering the timing of the next review:

Option 1

- 4.1. Option 1 would be to complete the 2nd Scottish Parliament Review by Summer of 2020 in order that any new constituencies could be in place for the 2021 Scottish Parliament election. This would require an immediate start to the Review with preparations being made now to make the necessary announcement via notice in the Edinburgh Gazette.

Option 2

- 4.2. Option 2 would defer the start of the Review until 2019 with a view to completing at the latest point allowed by the legislation, ie May 2022. Any new constituencies would be in place for the 2025 Scottish Parliament election. The Review timetable would mean that it would overlap with the 2021 election.

Option 3

- 4.3. The Commission has a third option, namely to seek legislative amendment so that the May 2022 date for latest submission of the review report is moved back to May 2024. Scottish Government officials view this as a possibility but cannot guarantee it within the timescales required to inform the decision needed now. Even if it were possible, it would only solve the problem of Option 2 completing so far in advance of the 2025 election and using electoral data from 2019; it would not resolve the question of whether the current constituency variations from the electoral quota are acceptable for the 2021 election.

Issues to consider

Electoral change

5. Under the legislative rules for constituency design, there is no set target in terms of parity, nor is parity given more weight than other factors:
 - **Rule 1** of the constituency rules requires the Commission to take into account the boundaries of council areas.
 - **Rule 2** requires that the electorate of a constituency must be as near the electoral quota as is practicable, while having regard to rule 1.
 - **Rule 3** enables the Commission to make allowance for any special geographical considerations that may apply to a particular area.

- **Rule 4** sets out that the Commission need not aim to give full effect in all circumstances to Rules 1 to 3 but must take account of inconveniences arising from alterations to constituencies, and local ties that would be broken by such alterations.
6. No formal target for what constitutes “as near the electoral quota as is practicable” appears to have been set during the 1st Review. Setting a target may look as if greater weight is being given to Rule 2 than Rule 1. However, using the Venice Commission benchmark of 10% shows the following:

Number of constituencies more than 10% from electoral quota (excluding 2 protected constituencies)		
EQ 2007	EQ 2014	EQ 2020 (estimate)
7	15	21

7. In other words, if Option 2 were pursued then it is possible the 2021 election would be conducted with around 30% of constituencies forecast to be more than 10% from the electoral quota. Pursuing an earlier review, under Option 1, would ensure more constituencies were closer to the EQ for the 2021 election. However, with a review cycle of 8-12 years it is likely that in any election conducted towards the end of the cycle, constituencies will have greater variation around the EQ – if Option 1 is pursued then both the 2025 and 2029 elections would be likely to be conducted using the same constituencies as in 2021, created using 2017 electorate data.
8. Option 2 would require the use of 2019 data to enable submission by May 2022 for the election in 2025. Option 3 would result in the same forecast disparities as Option 2 for the 2021 election but would enable more timely review data and report submission for the subsequent election in 2025.

Overlap with elections

9. While there is no precedent for the Scottish Parliament, it is clear that elections have taken place during other reviews but care is taken to avoid consultation or announcements during the pre-election period. The most recent example is the UK General Election held in June 2017 which overlapped with the on-going 2018 Westminster Review. Option 2 would mean that the next Scottish Parliament review would be underway during the 2021 election but it would be possible to avoid active consultation at that time.

Scottish Government position

10. The decision over timing of the review is for the Commission alone and nothing in discussions with the Minister for Parliamentary Business or Scottish Government officials should be seen as attempting to influence that process.
11. During the meeting with the Minister in June 2017, he sounded a note of caution about pre-empting the forthcoming consultation on electoral reform and subsequent legislation. It is understood that the consultation (expected to be launched late September or early October) has no specific proposals directly affecting the planned Scottish Parliament review; however, it may contain discussion of the single transferrable voting (STV) system. As with any consultation, further issues might arise for example on election dates or term lengths.

Consultation with others

12. There is no precedent of consulting others over the proposed timing of the review and it is not clear what this would add to the Commission’s deliberations. Whichever option is pursued, local authorities, Electoral Registration Officers, political parties and others would in effect have around 3 years’ notice that new constituencies are coming into effect.

13. During the 1st Review there were discussions with political parties about use of GIS and support needed to enable them to participate effectively in the consultations; that is unlikely now to be an issue given more prevalent use of GIS systems.
14. Scottish Government needs to complete the implementation of any change to boundaries 6 months before the relevant election; for Option 1 that would mean the necessary Orders being in force by November 2020 and officials have confirmed that they would therefore need the Commission's recommendations before Summer recess 2020.

Other review pressures

Westminster

15. The Secretariat is currently working on the 2018 Westminster Review, on behalf of BCS, and will be consulting on revised proposals between October and December 2017. Thereafter, there will be a process to finalise proposals and prepare and publish the report which must be submitted in September 2018. It is expected that the bulk of this work will be complete by early Spring 2018. While there continues to be some debate about the legislation surrounding the Review, current requirements would mean the next Westminster Review would start in 2021 and report in 2023. If a decision were taken that resulted in the 2018 Review being re-run in time for the 2022 election then that would have serious resource implications. A Private Members Bill which would amend the legislation is scheduled for 2nd Reading in December 2017 but its text is not yet available.

Islands

16. The Islands (Scotland) Bill is expected to complete its passage and receive Royal Assent by late Spring/early Summer 2018. Preparatory work can commence in Spring 2018 and the review itself needs to complete by May 2021. The Commission has not yet considered its approach to the review. However, if the Commission pursues Option 1 then it will need to commence the Review in advance of the Islands legislation coming into force and will therefore be unable to take account of the proposed statutory protection to be given to the Na h-Eileanan an Iar Scottish parliamentary constituency.

Interim reviews

17. The Commission will need to consider its criteria for Interim Reviews and whether that points to conducting a further review of Dundee and Scottish Borders council areas before the 2022 local government elections.
18. Future pressures will arise principally, therefore, in balancing the work needed on the Scottish Parliament review and the work needed for the Islands review. While the Secretariat has not undertaken overlapping reviews before, and this would be a potentially significant challenge, it would help the process that both reviews would be conducted by LGBCS who, subject to legislative requirements, would be able to make decisions to help smooth any resource challenges. Either Option 1 or Option 2 will result in an overlap of reviews, with option 1 overlapping the 2018 Westminster Review and the forthcoming Islands Review and option 2 overlapping the Islands Review and the next Westminster review.

Resources

19. In terms of budget for the Review, if Option 1 is pursued it is not expected to have resource implications until 2018-19. The Secretariat is in discussion with Scottish Government over likely resource requirements and at this stage have no reason to think these will not be met. However, pursuing Option 1 may necessitate the announcement of the Review preceding confirmation of the budget position.
20. As part of the restructuring of the Secretariat, a new Review Manager post has been created and filled. The remaining B2 post is being downgraded to B1; recruitment for this post is underway and expected to be complete by November. The existing staff complement is maintained therefore but with a different grading structure. The possible

need for a further B1 review officer has been flagged with Scottish Government with a view to filling the post by April 2018. Any further increase in staff complement is likely to require more significant change ie office relocation with potential consequences for existing staff retention.

Conclusion

21. The legislation requires completion of the next review between 2018 and 2022 and both Options 1 and 2 would allow that target to be met. All three options cause resource pressures as it is now inevitable that the previous assumption that reviews, for both BCS and LGBCS, could be conducted without overlap is unworkable.
22. Option 1 ensures that any new constituencies and regions can be in place for the 2021 election but causes the more immediate resource pressure, principally because the Review must complete by 2020, because work on the Islands Bill must commence in 2018 and because of the on-going recruitment of staff to the Secretariat. This may necessitate Commission decisions which support tighter timescales and a "light touch" approach. The Review would need to be announced in advance of budget allocation decisions by Scottish Government.
23. Option 2 would extend the window within which the Review can be conducted and allow more time for the restructuring of the Secretariat to bed in and resource planning to be undertaken. However, it would result in the 2021 election being conducted with existing constituencies, around 30% of which might be expected to be more than 10% from the electoral quota.
24. Option 3 would result in the same 2021 electoral disparities as option 2 but would enable use of more timely data to inform a review completing in time for the 2025 election. It is not certain, however, that necessary legislative change would be implemented.
25. The Commission is invited to decide its preferred option for timing of the next Scottish Parliament review.

Secretariat
August 2017