

ELECTORAL REFORM: ROLLING REVIEWS

Purpose

1. Following on from the Commission's consideration of Paper 2457 on interim reviews, this paper considers the implications of the planned electoral reform legislation for the scheduling of the Commission's work, in particular possible transition to what have been termed "rolling reviews".

Background

2. At its meeting on 30 October 2018, the Commission discussed Paper 2457 which focussed on interim reviews and the methodology that might be adopted to trigger an interim review. The Secretariat will prepare a further paper on this for discussion but before revisiting how interim reviews might be used in future, consideration of how rolling reviews might be established is an important preliminary step.
3. An oral update on electoral reform will be given at the meeting. In summary, following the Scottish Government's consultation into electoral reform in 2018, legislation is expected to be introduced to the Scottish Parliament before summer recess 2019 and it is anticipated that this will make provision for the Commission to move away from conducting all 32 electoral reviews every 8–12 years. The consultation did not set out how this would be achieved through legislation.

Existing duty and power

4. The 1973 Act sets out the Commission's duty to review the electoral arrangements of all local government areas every 12 years (s.16(2)) and its power to review areas at any time (s.16(3)):

s.16 (2) It shall be the duty of the Boundary Commission not less than eight nor more than twelve years after the submission of the report on the first review of electoral arrangements for a local government area under section 4(1) of the Local Governance (Scotland) Act 2004 (asp 9) and thereafter, so far as is reasonably practicable, at intervals of not less than eight nor more than twelve years from the submission of the last report of the Commission under this subsection in relation to that area, to review the electoral arrangements for that area for the purpose of considering whether to make proposals to the Secretary of State for a substantive change in those arrangements and what proposals, if any, to make, and the Commission shall formulate any such proposals accordingly.

(3) Without prejudice to subsection (2) above, the Boundary Commission may at any time, whether at the request of a local authority or otherwise, review the electoral arrangements for a local government area for the purpose of considering whether to make proposals to the Secretary of State for a substantive change in those arrangements and what proposals, if any, to make and the Commission shall formulate any such proposals accordingly.

5. The Commission previously conducted the 5th Reviews of Electoral arrangements between 2014 and 2016. Under the current legislative requirement the next reviews would require to be submitted no earlier than May 2024 and no later than May 2028. The 1973 Act does not require all 32 areas to be reviewed simultaneously but historically the Commission has chosen to do so. The 4th reviews were submitted in 2006 for the 2007 local government elections and the 5th Reviews in 2016 for the 2017 elections. With an election expected in May 2026 the Commission would normally have expected to submit the next 32 review reports in May 2025 having commenced the reviews in late 2022.

Islands Reviews

6. It is expected that provision will be made via the electoral reform legislation so that the 6 reviews conducted under the islands legislation will count for the purposes of the Commission's duty to review. At present the 2018 Act explicitly discounts them.

Possible option for conducting rolling reviews

7. One option for a rolling review schedule is attached at Appendix A. This shows how reviews might be grouped, ensuring all 32 are complete by 2028 (12 years after the 5th Reviews' submission). Retaining the 12 year backstop without any flexibility to allow for transition to a new schedule does mean there will be pressures. The size and overlap of the groups will make completion in 18 months challenging and one round of consultation may become the only option. The Islands Reviews will be completed within 18 months with one round of consultation but the Islands Reviews are only 2 groupings of 3 council areas.
8. The Commission will wish to think about how to prioritise council areas within any schedule. While analysis of ward data and identification of measures of variation from parity may be the basis for this prioritisation, similar to that considered for interim reviews, other factors may be relevant too, for example a request from a council for an early or late review. It is also worth noting that electoral administrators would be keen to explore whether council areas within the same Joint Valuation Board could be reviewed simultaneously.
9. It would be possible to undertake more of a continuous roll by disregarding election periods. For example, the Commission could simply undertake 4 reviews every 18 months and so complete all 32 in 12 years. However, this would result in consultation being undertaken during elections and possible review recommendations being submitted at the time of an election when they would not come into force for 4 years. This would be likely to cause confusion and the option in Appendix A assumes submission one or at most two years before an election is the norm (NB

one year before will not be possible for the 2030 election as all reports must be submitted by 2028 in line with the legislation)

Interim Reviews

10. Once the Commission has agreed its approach to rolling reviews and how council areas are prioritised within its schedule it will better placed to consider how in future the interim review power can best be used. It is expected that the electorate data for 1 December 2018 will be published on 21 March and after this the Secretariat will prepare analysis in order to inform further discussion on the relationship to a rolling review approach and possible triggers for review.

Other reviews conducted before 2022

11. If the Commission were to conduct any reviews other than those specified under the Islands (Scotland) Act 2018 before the 2022 local government elections then they would be conducted under the s.16(3) power. It would not be possible at present to conduct them under s.16(2) because the review would be within 8 years of the reports which were submitted in 2016. Any council area reviewed under s.16(3) would still need to be reviewed again before 2028 under s16(2).
12. Notwithstanding the proposed future discussion about interim reviews, the Commission may wish to consider conducting an interim review of the 2 council areas where 5th Review recommendations were not accepted by Scottish Ministers and which are not being reviewed under the 2018 Act. These were Dundee City and Scottish Borders. However, as discussed previously, interim reviews are generally used to correct ward anomalies. It was also noted previously that use of a 5 member ward might have helped resolve some of the challenges in both areas. Awaiting the expected electoral reform legislation which may introduce use of 2 and 5 member wards would place considerable time pressures on the reviews which might be anticipated to be complex. For those reasons, it is suggested that review of Dundee and Borders be left until after the 2022 election but thereafter be considered as a priority.

Consultation

13. At this stage there is no need for the Commission to reach a final position on how a rolling programme might be established and work in practice. Once the legislation is introduced to the Scottish Parliament better consideration can be given to the details of our approach. Meantime, the Commission may wish to consider the benefit of consulting those with an interest in our work. CoSLA and SOLACE are likely to have views on how to prioritise a rolling programme, and others such as the Electoral Commission and the Association of Electoral Administrators or Scottish Assessors Association may also be worth

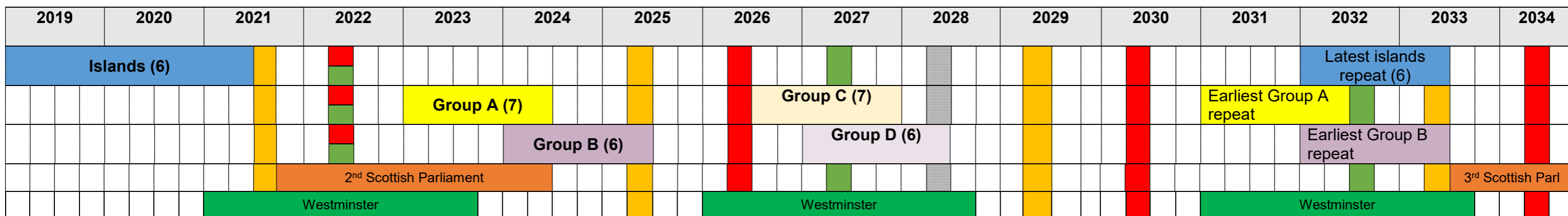
consulting, to ensure there are not unforeseen consequences of any move to rolling reviews and any potential negative impacts are minimised.

Conclusion

14. The Commission is invited to consider the issues set out in this paper and:

- note that a further paper on interim reviews will be prepared for a future meeting
- agree a broad approach to rolling reviews
- note that further consideration can be given to the issues once the detail of the electoral reform legislation is known
- decide whether it wishes to consult stakeholders and when it would wish any discussions to take place.

Secretariat
February 2019



	Local government election
	Scottish Parliament election
	Westminster election
	May 2028 "backstop"

The timetable illustrates one option for delivering all 32 reviews by 2028. The numerical splits and overlaps between Groups could be altered but there is little room to manoeuvre – if reviewing during an election period is avoided then in effect 26 council areas need to be reviewed between May 2022 and May 2028. There is little flexibility to minimise clashes with Westminster and Scottish Parliament reviews

Assumptions:

- SP reverts to 4 year terms and 3rd review conducted 12 years after 2nd (it could be conducted earlier ie to submit in 2032 in time for the 2033 election)
- Electoral Reform Bill retains requirement to review all 32 council areas by May 2028
- Islands Review (6) – complete by 2021. Next review reports 12 years later in 2033
- That only exceptionally would an area be re-reviewed earlier than 8 years
- A small group of council areas could be done in 18 months if there is only one round of consultation:

activity	months
pre-review	2
prepare initial proposals	3
consult councils	2
consider responses	2
prepare for public consultation	2
public consultation	3
consider responses	1
finalise	2
publish	1
Total	18

NB Westminster reviews are highly likely to change but are included on current requirements

NB Date of submission of report is the date from which the current 8-12 runs. Submitting reports early may over time be a way of increasing the roll