

Scottish Elections (Reform) Bill 2019

Purpose

1. This paper updates the Commission on the progress of the Scottish Elections (Reform) Bill 2019.

Background

2. The Scottish Government consulted on electoral reform in 2017 and undertook to introduce legislation to take forward that work. The Scottish Elections (Reform) Bill 2019 was introduced into the Scottish Parliament on 3 September 2019. The lead Committee within the Scottish Parliament is the Standards, Procedures and Public Appointments Committee (“the Committee”). Meeting Paper LGBCS 2498 was considered in September 2019 and set out the issues within the Bill that are of interest to the Commission.
3. The Committee called for written evidence between 18 September and 7 November and then took oral evidence from witnesses at 4 sessions between 14 November and 5 December. The Commission submitted written evidence to the Committee and gave oral evidence on 21 November¹. The Commission also gave oral evidence to the Local Government and Communities Committee on 6 November².
4. The Minister for Parliamentary Business gave evidence on 5 December³ and subsequently wrote to the Committee on 20 December. In that letter the Minister said:

“Rolling Reviews of Boundaries

It is proposed in the Bill that the LGBCS should conduct reviews of electoral wards within a local government area at least once every 12 years, removing the requirement for this to be done between 8 and 12 years. This is to offer more flexibility around the timing of reviews and deliver a more locally focussed approach than the existing system of a single nationwide review.

The LGBCS have indicated that, if the Parliament agrees to move to five year terms for Scottish Parliament and Scottish local authorities, the Bill should be amended so that the next local government reviews would be completed by May 2031 rather than December 2028, and then every 15 years thereafter. Following the same principle, the next Scottish Parliament reviews would be completed by May 2025, and then every 15 years thereafter.

As I indicated in my evidence to the Committee, I believe the LGBCS have made a strong case for the benefits of moving towards a 15-year review cycle, provided the Parliament does elect to move to five year terms for the Scottish Parliament and for local government. I am sympathetic to the LGBCS’ view that this would maximise the benefits of moving to a phased programme of reviews. I will write to the LGBCS shortly to confirm our next steps and provide an update to the Committee as soon as possible.”

¹ <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12390>

² <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12349>

³ <http://parliament.scot/parliamentarybusiness/report.aspx?r=12417>

5. Having taken written and oral evidence on the Bill between September and December 2019, the SPPA Committee published its Stage 1 report on 14 January⁴. The report sets out the SPPA Committee’s recommendation that the general principles of the Bill be agreed to. Its view on specific issues relating to the work of the Commission is summarised below. The full report is attached at Appendix A.

Standards, Procedures and Public Appointments Committee Stage 1 Report

6. **Term lengths/Review periods** – the Committee supports the proposed move to 5 year terms (sections 1 and 2 of the Bill) and recommends the Bill is amended to provide for a review period of 15 years. While the report is not explicit, the proposal for 15 years would seem to apply to both local government and Scottish Parliament reviews and would require amendments to sections 29 and 32. Such change would mean local government electoral arrangements as well as Scottish Parliament constituencies and regions being in place for up to and including three elections.
7. **Numbers of councillors (section 4)** – the Committee supports the proposal to allow use of 2 and 5 member wards but believes 2 member wards should only be used in exceptional circumstances. The report notes the trade-off between recognition of community boundaries and proportionality of representation. It also notes the Scottish Government acknowledgement that it had not considered the proportionality issue and that it would write with more detail.
8. Against that background, the report sets out the Committee’s support for a review of multi-member wards during the next session of the Scottish Parliament to “allow an assessment of how well the STV electoral system is working and whether there is any scope for improvements”. The Minister for Parliamentary Business appears to be broadly supportive of such a review. The Commission may wish to consider this in the context of its planning for a seminar considering multi member wards and effective and convenient local government.
9. It is not clear how “exceptional circumstances” might be defined for use of 2 member wards. There is currently no guidance or legislative requirement on how the Commission should use its existing powers in relation to ward size, other than the requirement that one and two member wards may only be used where they comprise wholly or partly of an inhabited island. Any statutory constraints may unhelpfully restrict the Commission’s approach which remains to deliver wards designs that meet the Schedule 6 rules contained in the Local Government (Scotland) Act 1973. It is possible that nothing further will develop on this issue during the passage of the Bill but it should be expected that it will feature during any review of multi-member wards and proportionality.

Other issues

10. The Stage 1 Report is silent on some issues:

- name change of the Commission to “Boundaries Scotland” (section 28)

⁴ <https://digitalpublications.parliament.scot/Committees/Report/SPPA/2020/1/14/Stage-1-Report-on-the-Scottish-Elections--Reform--Bill>

- the procedure for approval of Commission proposals for local government and Scottish Parliament (sections 30 and 31)
- removal of the requirement for the Commission to publish notices concerning proposed changes to Scottish Parliament constituencies in local newspapers. (section 33)

11. This may be because the Committee views these issues as points of detail or procedure rather than principle. The Committee office confirmed that the Committee had no position on any issue not covered in the report.

Next steps

12. A letter from the Minister for Parliamentary Business to the Chair was received on 27 January and will be circulated separately. It supports a move to a 15 year deadline for reviews for local government but does not suggest any other changes to the legislation as currently drafted.

13. The Secretariat have raised with Scottish Government officials concern over the submission date for the next Scottish Parliament review remaining as set out in the Bill, ie 2024, if 5 year terms are introduced and the next election is 2026. This would require unnecessary submission of recommendations two years before the relevant election and have implications for overall scheduling of the Secretariat's work under current resources. The Commission may wish to consider if it feels a reply to the Minister is necessary on this or the other issues raised. The Minister offers a further meeting with the Chair in the next few months and the Secretariat suggests this might be best held before Stage 3 rather than after Bill implementation.

14. The Stage 1 debate in the Scottish Parliament is scheduled for 6 February 2020. Assuming the Bill passes Stage 1, Stage 2 is likely to be March 2020 although that remains subject to confirmation.

Recommendation

15. The Commission is invited to note progress of the Bill and the issues raised in the Stage 1 Report published by the Standards, Procedures and Public Appointments Committee. It is open to the Commission to consider writing to the Committee highlighting any issues. These would then be known to the Committee before the Scottish Parliament's stage 2 consideration of the Bill. The Commission may also wish the Chair to reply to the Minister's letter.

**Secretariat
February 2020**