

EAST RENFREWSHIRE COUNCIL30 October 2019Report by Chief ExecutiveSCOTTISH ELECTIONS (REFORM) BILL**PURPOSE OF REPORT**

1. To seek approval of comments in relation to the Scottish Elections (Reform) Bill.

RECOMMENDATION

2. That the proposed comments be approved.

BACKGROUND

3. The [Scottish Elections \(Reform\) Bill](#) was introduced in the Scottish Parliament on 2 September. The Parliament's Standards, Procedures and Public Appointments Committee is the Bill's lead committee and on 18 September issued a call for views on the Bill. The deadline for comments to be submitted to the committee is 7 November.

REPORT

4. The Scottish Government are proposing a number of changes to the laws governing elections in Scotland. In summary the Bill is seeking to make the following changes:-

- To change the standard term length for both Scottish parliamentary elections and local government elections from four years to five years
- To give greater flexibility to set the size of all council wards by allowing for two or five member wards, as well as three and four member wards (one member wards will continue only to be possible in island communities)
- To restrict electors to voting in only one local authority area in Scotland at local government elections held on the same day
- Enabling provisions to help to facilitate pilots that include some form of electronic voting or other digital processing to be undertaken at a future date
- To allow people to apply to be added to the electoral register from 14 years of age
- To allow the Presiding Officer to re-schedule a poll for a Scottish general election in certain circumstances after dissolution, and to require the Presiding Officer to consult the Electoral Commission before setting the date for a Scottish Parliament election that has been postponed
- Various reforms in relation to the Electoral Commission, to support the use of the new powers relating to elections devolved to the Scottish Parliament under the Scotland Act 2016
- To provide for the Electoral Commission to prepare Codes of Practice to help candidates, campaigners, observers and on issues like expenses and donations at devolved elections
- Extending the functions of the Electoral Management Board for Scotland to cover Scottish Parliamentary elections
- Changes to the way the Local Government Boundary Commission for Scotland carries out its work

5. Comments have been restricted to those sections of the Bill relating to local government.

To change the standard term length for both Scottish parliamentary elections and local government elections from four years to five years

6. The standard term of office of both MSPs and councillors is 4 years. However as Members will be aware the current and preceding terms of office of MSPs and councillors were extended to 5 years. In the case of MSPs the change was made to avoid a clash with the UK Parliament elections in 2015 leading to MSPs' term of office being extended to 2016 with a further extension to that term of office until 2021 made to take account of the fact that a UK Parliament election was scheduled to take place in 2020. As a consequence of these changes and to prevent clashes with other elections the terms of office for councillors were similarly extended: 2012-2017 and 2017-2022.

7. This proposed change to the legislation extends the standard term of office of MSPs and councillors from 4 to 5 years. By extending the term of office of both to 5 years it removes the potential for both elections to be scheduled to take place on the same day at some future stage, and therefore removes the need for further legislative changes. This change is supported.

To give greater flexibility to set the size of all council wards by allowing for two or five member wards, as well as three and four member wards (one member wards will continue only to be possible in island communities)

8. Until the next review takes place it is difficult to see how this change will, if at all, impact on East Renfrewshire. Notwithstanding, any moves which enable the Commission to more accurately reflect the representative requirements in a particular area are to be welcomed, although it should be noted that allowing wards with fewer councillors sees a further dilution of Single Transferable Vote principles.

To restrict electors to voting in only one local authority area in Scotland at local government elections held on the same day

9. Currently, it is possible in some circumstances to register and vote at a local government election in more than 1 local government area. The proposed change will restrict electors to voting in only 1 local authority area in Scotland at any polls held on the same day. It will still be possible for an individual to be on the electoral register for more than 1 local authority area. In effect this will mean that people who are on the electoral register in 2 different areas, for example students with a home and term-time address, or people with a second home in another area, and who are currently able to vote in both areas will no longer be able to do so, and will need to choose in which area they want to cast their vote.

To provide for the Electoral Commission to prepare Codes of Practice to help candidates, campaigners, observers and on issues like expenses and donations at devolved elections

10. Two of the proposed changes in this area introduce provisions to enable the Electoral Commission to prepare codes of practice for candidate expenditure for local government elections and in respect of controlled expenditure of third parties. Both Codes would be required to be approved by the Scottish Parliament

11. Notwithstanding that the Electoral Commission already produces guidance on expenditure as part of the candidate information that they prepare, experience has shown that expenditure by candidates and whether or not they can accept funding from others is an area that can be challenging for candidates at local elections. Any additional mechanisms to make it clearer to candidates what is legitimate election expenditure, and to third parties what is allowable expenditure, is to be supported.

Changes to the way the Local Government Boundary Commission for Scotland carries out its work

12. Under current arrangements any proposed regulations giving effect to proposals which abolish or alter the boundaries of any local government area or electoral ward or increase or decrease the number of councillors to be returned in an electoral ward require negative procedure for changes to the boundaries of local government areas, and no procedures for changes to electoral wards. This was the process in place during the last review when despite the Council's representations the number of councillors was reduced by 2 and the number of wards reduced by 1.

13. The proposed changes will require any proposals to abolish or alter the boundaries of a local government area or electoral ward, or increase or decrease the number of councillors to be returned in any electoral ward, to be the subject of an affirmative procedure. This will require such changes to be the subject of debate/vote in the Scottish Parliament as a matter of course and will therefore afford greater parliamentary scrutiny of the whole boundary review process, and bring the process for approving boundary changes into line with that in place for reviewing Scottish Parliament constituency boundaries. These proposed changes are welcomed. Although the outcome of any future review cannot be predicted at this stage, in the event any proposals drawn up by the Commission were not supported by the Council, there will be greater opportunity for the Council to make representations to the parliament and for those representations to be taken into account when the proposals are being debated before a final decision is made. However it is suggested that the process for changes be further strengthened by the requirement for the parliamentary super-affirmative procedure to be used. This would require any draft legislation to go through a "pre-legislative" scrutiny period involving formal consultation on a draft (or other additional requirements) followed by approval by a vote in the Chamber. This would mean that the draft SSI containing the proposed changes would be the subject of consultation and in the event that the Council did not agree with the proposals, afford an opportunity to comment directly to the parliament.

CONCLUSIONS

14. The proposed changes will harmonise the period between elections, end the anomaly of voters being able to vote in 2 different places on the same day, provide greater clarity around expenditure by candidates and third parties at local government elections, and provide greater parliamentary scrutiny of any proposals to alter council area or ward boundaries or to change the number of councillors in a ward. The proposed changes are seen as positive and should therefore be supported, subject to the additional requirements for the super-affirmative procedure to be used in relation to local government boundary changes or changes to councillor numbers.

RECOMMENDATION/...

RECOMMENDATION

15. That the proposed comments be approved.

Local Government (Access to information) Act 1985

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