



Electoral administration in Scotland

August 2008

Translations and other formats

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Contents

Summary	1
1 Introduction and background to this review	3
Our review	3
About this report	4
2 Drivers for change	5
The context in Scotland	5
The changing electoral context	8
The wider context	9
3 Consultation responses	11
Key findings from consultation	11
4 Key requirements and principles for electoral administration	14
Purpose of electoral administration	14
Core functions of electoral administration	14
Supporting functions of electoral administration	15
Principles for electoral administration	15
5 The agenda for change for electoral administration in Scotland	17
Where we start from	17
The case for changes to structures for electoral administration in Scotland	17
Improving the delivery of electoral administration in Scotland	20
6 Recommendations for change in Scotland	26
Recommendation 1 – Establish an Electoral Management Board for Scotland	26
Recommendation 2 – Provide the Convener of the Electoral Management Board with statutory powers to direct local officers	28
Recommendation 3 – Develop the Electoral Commission’s role in driving and monitoring performance improvements for electoral administration in Scotland	30
Recommendation 4 – Consolidate and simplify the legal framework for electoral administration in Scotland	32
Recommendation 5 – Take steps to address structural causes of funding shortfalls for electoral administration in Scotland	33
Recommendation 6 – Consider the potential for and implications of a coordinated electoral registration service across the UK	34

Appendices

Appendix A – An Electoral Management Board for Scotland: proposed remit	35
Membership	35
Role	35
Convener	35
Process and procedures	36

Summary

Our review and this report

In late 2007 the Electoral Commission published its initial response to the Gould report on the 2007 elections in Scotland. We also issued a status report summarising our views on the key challenges for the administration of elections and referendums across the UK as a whole, informed by our experience reviewing and reporting on elections across the UK since 2001. In both documents, we highlighted significant concerns that in many areas the current structure for the delivery of electoral administration was stretched almost to breaking point, illustrated by the experience of the 2007 Scottish elections.

Over the nine months since then, there has been a significant public debate about the future framework for electoral administration in Scotland. We have engaged in that debate with interested groups and individuals, and like all those we have spoken to, we have sought to identify changes that need to be made to improve the service provided for electors.

This report outlines our analysis of the direction of change for electoral administration in Scotland, and makes recommendations for governments, Returning Officers and Electoral Registration Officers and the Electoral Commission itself. We have published a companion report on the wider implications of our review for electoral administration in the UK.

Consultation

During this review we have spoken to electoral administration professionals, including Returning Officers, Electoral Registration Officers and electoral administrators. We have met and received submissions from the major professional associations. We have also discussed this work with government ministers and officials, elected representatives and political party officials. Reviews and debates have been held by a number of other bodies and groups, and we have sought to reflect those views in our review.

We have heard a wide range of views during this exercise. There was broad agreement that there is a need for significant change in Scotland to improve the capacity of those responsible for electoral administration to provide a consistently high quality of service for electors. We found little consensus, however, about whether changes to the management and accountability arrangements for Returning Officers and Electoral Registration Officers are required.

The case for change

Given the complex electoral and strategic context in Scotland, it seems unlikely that the current fragmented arrangements for electoral administration would be considered as a serious option if designing a new framework or set of structures from scratch.

Significant changes are needed now, from Returning Officers and Electoral Registration Officers, governments and legislative bodies and the Electoral Commission itself, to improve the delivery of electoral administration in Scotland and address the important issues highlighted following the 2007 elections. These changes are required to clarify roles and responsibilities for the delivery of elections, improve coordination of Returning Officers and Electoral Registration Officers, and strengthen leadership and accountability for electoral administration professionals.

We do not believe, however, that there is currently a compelling case for removing responsibilities for the administration of elections and electoral registration from local authority control and re-configuring them under a single officer or body in Scotland. Although support for the proposal for a Chief Returning Officer has been expressed by some in Scotland, particularly elected representatives, we have seen no detailed proposals as to what such a post would be responsible for or how it would be structured to carry out its tasks. We believe, however, that it will be necessary in the next five to 10 years to consider more fundamental changes to management arrangements for electoral registration, in light of more significant potential policy changes.

Recommendations for change

We are confident that the proposals outlined in this report build on suggestions made by others during the last nine months in a practical and constructive way, and reflect the particular needs of Scotland. In some instances, they reflect changes that are either planned or already under way.

We have made six recommendations for change for electoral administration in Scotland, which are outlined in detail in this report:

1. establish an Electoral Management Board for Scotland, including all Returning Officers and Electoral Registration Officers in Scotland
2. provide the Convener of the Electoral Management Board with statutory powers to direct Returning Officers and Electoral Registration Officers
3. develop the Electoral Commission's role in driving and monitoring performance improvements for electoral administration in Scotland
4. consolidate and simplify the legal framework for electoral administration in Scotland
5. take steps to address structural causes of funding shortfalls for electoral administration in Scotland
6. consider the potential for and implications of a coordinated electoral registration service across the UK

We recognise that these recommendations may not be welcomed universally. We do not accept, however, that change can be avoided or postponed. If progress towards the goals of improved coordination, enhanced leadership and more effective accountability for electoral administration cannot be agreed, we believe it will be necessary to consider again the fundamental question of operational responsibility and accountability for electoral administration in the UK, including whether a unified electoral administration body for Scotland would present a feasible option for change.

1 Introduction and background to this review

1.1 Over the last nine months, the Electoral Commission has engaged in a debate with a wide range of interested groups and individuals about the future framework for electoral administration in the UK. We have paid particular attention to the future of delivery structures for electoral administration in Scotland, following the 2007 Scottish Parliamentary and local government elections.

Our review

1.2 In October 2007 we published the report of the independent review by Ron Gould of the combined Scottish Parliamentary and local government elections of 3 May 2007. The Gould report considered a number of issues of public concern surrounding the Scottish Parliamentary elections, including the high proportion of rejected ballot papers for the Scottish Parliamentary elections, problems with the electronic counting system used, and issues with the printing and delivery of postal ballot packs. The report made a series of recommendations for Returning Officers, the UK and Scottish governments and the Electoral Commission itself to ensure the problems which occurred at the 2007 elections were not repeated. The experience of the 2007 elections in Scotland and the conclusions of the Gould report have provoked a substantial and detailed debate in Scotland about the structures in place for the administration of elections.

1.3 In November 2007 we published our initial response to the Gould report, and in December 2007 we published a status report summarising our views on the key challenges for the administration of elections and referendums across the UK as a whole. In both documents, we highlighted concerns that in many areas the current structure for the delivery of electoral administration was stretched almost to breaking point.

1.4 Our views were informed by our experience reviewing and reporting on elections in Scotland and across the UK since 2001, as well as those highlighted in the Gould report. Our response also reflected concerns about the capacity and effectiveness of current structures for electoral administration which had been expressed by other organisations including the Committee on Standards in Public Life (CSPL), the Association of Electoral Administrators (AEA), the Society of Local Authority Chief Executives and Senior Managers (SOLACE) and the Society of Local Authority Lawyers and Administrators in Scotland (SOLAR).

1.5 We therefore committed to undertake a detailed examination of the structure for electoral administration in Scotland and the rest of the UK, to identify the fundamental principles and requirements for electoral administration and to explore how they might best be delivered.

1.6 In March 2008 we published an issues paper which presented a more detailed analysis of the key challenges facing those responsible for electoral administration in the UK, and sought views on a series of questions and

possible options for electoral administration. We have also sought opportunities to discuss these issues directly with interested groups and individuals since December 2007.

About this report

1.7 When we stated our intention to carry out this review, we indicated that we expected to publish our findings in summer 2008. This report summarises the key points to emerge from discussions with interested groups and individuals in Scotland, as well as the wider continuing debate about the administration of elections and electoral registration in the UK.

1.8 It outlines our views on the drivers for change in electoral administration (including electoral registration) in Scotland and our analysis of the direction of that change, and makes recommendations for the next steps to achieve the changes that we believe are needed, including recommendations for governments, Returning Officers and Electoral Registration Officers. It also sets out the steps that the Electoral Commission itself plans to take. A companion report on the broader implications of our review for electoral administration across the UK will be published separately.

1.9 We are conscious that the debate in Scotland has developed significantly since May 2007, and that electoral administration professionals, governments and parliamentarians, political parties and the wider public are all looking for options to improve the delivery of elections before the next Scottish Parliamentary elections in 2011. We, like many others in Scotland, have sought to put the interests of electors at the forefront of our thinking in relation to electoral administration, and the conclusions of this report aim to achieve the objective of improving the delivery of elections for electors. We have chosen to publish this dedicated report to reflect the specific structures currently in place for electoral administration in Scotland and also to do justice to the additional electoral and political dimensions of the debate in Scotland which have arisen directly from the 2007 election experience.

1.10 Our recommendations, in chapter 6 of this report, are aimed at identifying improvements for the administration of elections in Scotland, based on the particular factors and circumstances that exist in Scotland, and in many respects are unique within the UK.

2 Drivers for change

2.1 Our starting point for this review was a concern that in many areas the current structures for the delivery of electoral administration in the UK are stretched to breaking point, and that these structures are insufficiently robust and coordinated to meet the challenges of delivering effective elections in the twenty-first century. The May 2007 elections in Scotland provided a specific illustration of concerns held and expressed by many electoral administration professionals and others involved in the delivery of elections.

2.2 At the root of these concerns, we identified three particular issues which we believe risk undermining the delivery of a consistently high quality of service to electors:

- the confusing and fragmented legal framework for elections and electoral registration
- complicated, opaque and inconsistent funding arrangements for electoral administration
- inappropriate and inadequate accountability mechanisms for electoral administration

2.3 The Electoral Commission's analysis was echoed by a report from the Joseph Rowntree Reform Trust, published in April 2008, assessing the robustness of electoral processes and procedures throughout the UK. That report expressed concern about how well UK election procedures measure up to international standards, and its key conclusions included concern that systems of electoral administration may have reached breaking point as a result of pressures imposed in recent years.

The context in Scotland

2.4 In Scotland, perhaps inevitably, the specific experience of the 2007 Scottish Parliamentary and local government elections has been the focus of debate. The discussions and debates which have followed those elections have highlighted concerns about risks associated with the current structure of electoral administration, including fragmentation of decision making, and confusion about roles, responsibilities and accountability. The main reviews and debates that have taken place in Scotland since May 2007 are summarised in Table 1 on page 6.

Table 1: Summary of debates and reports on electoral administration in Scotland, 2007–8

Date	Author	Debate or report
October 2007	Independent review team, led by Ron Gould, on behalf of the Electoral Commission	<i>Scottish elections 2007: The independent review of the Scottish Parliamentary and local government elections 3 May 2007</i>
October 2007	Secretary of State for Scotland	Statement in the House of Commons in response to the Gould report
October 2007	First Minister of Scotland	Statement in the Scottish Parliament in response to the Gould report
November 2007	Electoral Commission	<i>Taking forward the Electoral Commission's independent review of the 2007 Scottish Parliamentary and local government elections</i>
December 2007	Scotland Office	<i>Sorting the Ballot</i> , consultation paper which sought views on a number of recommendations in the Gould report relating to the conduct of Scottish Parliamentary elections
January 2008	Scottish Parliament	Debate on the findings of the Gould report
March 2008	Scottish Government	<i>Scottish Elections 2007: Scottish Government Response To The Independent Review Of The Scottish Parliamentary And Local Government Elections 3 May 2007</i> , including consultation on decoupling the Scottish Parliamentary and local government elections
May 2008	House of Commons Scottish Affairs Committee	<i>Experience of the Scottish Elections</i> , report of its inquiry into the experience of the 2007 elections and recommendations, focusing primarily on the Scottish Parliamentary elections
June 2008	Scottish Parliament Local Government and Communities Committee	<i>Elections 2007</i> , 8 th report 2008, focusing primarily on the Scottish local government elections
June 2008	Secretary of State for Scotland	Written Ministerial Statement on outstanding recommendations from the Gould report, including ballot paper design, timing of the count and creation of a Chief Returning Officer for Scottish Parliamentary elections
June 2008	Scotland Office	<i>Formal response to the report by the Scottish Affairs Committee: Experience of the Scottish Elections</i>

2.5 As Table 1 illustrates, the debate in Scotland has often focused on the recommendations made in the Gould report in October 2007. They included:

- exploring options for assigning responsibility for elections in Scotland to a single legislative body
- rationalising and consolidating electoral legislation, and ensuring that changes to legislation are not applied to any election within six months of the new provisions coming into force
- establishing a Chief Returning Officer for Scotland, with responsibility for issuing directions, coordinating and overseeing all aspects of the electoral process for Scottish Parliamentary and local government elections
- professionalising the selection of Returning Officers and considering whether other electoral administration functions (including electoral registration) could be included within their responsibilities
- rationalising the roles and responsibilities of other stakeholders, including the Electoral Commission in relation to any Chief Returning Officer
- strengthening the role and status of future elections steering groups
- decoupling future Scottish Parliamentary and local government elections
- printing constituency and regional ballot papers for future Scottish Parliamentary elections on separate sheets
- moving away from overnight counts while polls close at 10pm
- discontinuing the use of electronic counting for Scottish Parliamentary elections where they are not combined with local government elections

2.6 Two further consultations on issues arising from the 2007 Scottish elections are expected in autumn 2008 and spring 2009, when the Scottish Government consults on proposals for a Chief Returning Officer for local government elections in Scotland, and on other administrative matters to assist in the revision of the local government election rules.

2.7 The debate in Scotland since May 2007 has also reflected the specific existing infrastructure for electoral administration in Scotland, including the administration of elections and the delivery of electoral registration functions, which is not directly comparable to that currently used in other parts of the UK. While the different structure for the administration of elections and electoral registration in Northern Ireland – where the statutory office of the Chief Electoral Officer for Northern Ireland is responsible for all electoral administration functions – is relatively widely understood, it is less widely recognised that Scotland has developed its own distinct operational approach to electoral administration. Key features that already distinguish the Scottish approach to electoral administration from Wales, Northern Ireland and England include the following:

- In Scotland, Electoral Registration Officers are appointed and funded by each local authority, but in all but one instance the role is carried out by the same officer who performs the role of assessor for that authority and who is also responsible for property valuation for council tax (Dundee City Council has appointed one of its own officers as Electoral Registration Officer).

- In many instances in Scotland the delivery of electoral registration functions for several authorities has been combined, via joint boards or committees, providing a degree of cross boundary working which is unseen in other parts of Great Britain.
- The Scottish Parliament has responsibility for legislative and administrative matters (other than legislation relating to the franchise) pertaining to Scottish local government elections, while the UK Parliament has responsibility for all other matters. Scotland therefore has two legislative bodies which make laws relating to the administration of its elections.
- Unlike in England, Wales and Northern Ireland, the Electoral Commission does not have a formal role in Scotland in relation to local government elections. Responsibility is devolved to the Scottish Parliament, and the functions equivalent to the Commission's role elsewhere are carried out by the Scottish Government. The Commission has on occasion been asked to assist the Scottish Government in fulfilling such roles.
- The Commission's performance standards powers do not currently extend to local government elections in Scotland, although they do include electoral registration and all other elections in Scotland.
- Scotland is unique in the UK in the range of electoral systems that voters are required to understand and use. In administrative terms, the use of the single transferable vote (STV) electoral system was the primary driver for the introduction of electronic counting in 2007 – which in turn drove a degree of cross-council working on procurement and testing that is unprecedented elsewhere in Great Britain.

The changing electoral context

2.8 Much of the current system of electoral administration in Scotland, as in the rest of the UK, dates from a different era, one in which elections were a relatively simple and localised matter: an emphasis on electoral registers built up by household; the predominance of the first-past-the-post voting system; voting in person at polling places with Returning Officers and their staff as well as candidates and their agents preventing fraud and malpractice through personal familiarity with the electorate; and the counting of ballot papers by hand.

2.9 In contrast, the administration of elections today has increased in complexity, particularly during the last 10 years: rolling electoral registration has been introduced across Great Britain, while individual and continuous registration has been introduced in Northern Ireland; postal voting has been introduced on demand in Great Britain, and personal identifiers for absent voters are collected and checked by Returning Officers in all parts of the UK (although the provisions have not yet been brought in to force for the European Parliamentary elections, or for local elections in Scotland); a requirement for voters to provide photographic identification when voting at polling stations has been introduced in Northern Ireland; there are new requirements for Electoral Registration Officers and Returning Officers to promote participation as well as administer election processes; the use of technology to support processes is now a key element of electoral

administration, as is the increasing need for Returning Officers and Electoral Registration Officers to outsource administrative activities to external suppliers.

2.10 The number and frequency of elections, including to new elected bodies, have also increased: in addition to elections to the UK Parliament and the European Parliament, there are now also elections to the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly; in England and Wales, local authority elections may now also include directly elected mayors; and in London, the Mayor of London and members of the London Assembly are elected every four years. Future additions to this complex pattern could include elections of members of the House of Lords or an alternative second legislative chamber, as well as more directly elected positions on police authorities, health boards,crofting boards and other local bodies.

2.11 The pattern of voting systems in use has also increased in complexity, with five different systems currently in operation across the UK. In Scotland, four different electoral systems are used: first-past-the-post for elections to the UK Parliament; the additional member system for elections to the Scottish Parliament; the closed party list system for elections to the European Parliament; and the single transferable vote system for elections to local authorities.

2.12 As noted in our December 2007 status report, the legal and administrative arrangements for running electoral services – including electoral registration and the conduct of elections – vary considerably across the UK. The specific differences between Scotland and the rest of the UK are outlined in more detail earlier in this chapter. At the same time there is an expectation that electors and other participants including candidates will have access to the same quality of service wherever they are, and that the service will be efficient in its use of resources.

The wider context

2.13 It is also important to consider the wider challenges that are likely to face those responsible for electoral administration in the medium to long-term. Over the next five to 10 years, the Commission believes that public policy in the field of elections management should focus on:

- Strengthening the integrity of the electoral register by introducing a system of individual electoral registration in Great Britain, and considering how such a change might be supported with improved management and coordination of electoral registration.
- Reviewing electoral law, with a view to simplifying and consolidating the legal framework for elections.
- Ensuring, through improved planning, that all legislation for significant changes is in place at least six months before the election (or registration event) at which it is intended to take effect, other than in limited circumstances in which changes may be beneficial, including instances

where electors' interests are clearly at issue or where minor technical amendments are required.

- Developing the professional capacity of Returning Officers, Electoral Registration Officers and their staff.
- Developing the current approach to voting in polling places, including further consideration of advance or weekend voting.¹

2.14 Until detailed plans are agreed for implementation of individual elector registration in Scotland and the rest of Great Britain, it is difficult to predict its impact on the current electoral administration profession and infrastructure. The changing context for the administration of electoral registration in Great Britain, however, is likely to have significant implications for the systems and structures in place to ensure the effective delivery of key aspects of individual elector registration, which are likely to include the following:

- Sufficient identifiers should be included in electoral registers for them to become, in effect, a national database for cross-checking purposes.
- There must be equal access to the electoral registration process for all to ensure that everyone who is entitled to be included in an electoral register is registered, and the service provided should not depend on the priorities of individual local authorities which control the funding available for the functions of the independent Electoral Registration Officers.
- Electors (and candidates) need to know that all those who are on the register are entitled to be there and that there are no fraudulently registered electors.

¹ On 23 June 2008 the UK Government issued a consultation paper on proposals for weekend voting, *Election Day: Weekend Voting Consultation Paper CP 13/08*.

3 Consultation responses

3.1 Since we published our status report in December 2007, we have invited discussion of our analysis of the challenges for electoral administration in the UK, and have discussed these issues with a wide range of interested groups and individuals. We also sought views in response to an issues paper published in March 2008. We received written responses or held face-to-face meetings and discussions with the following organisations and individuals in Scotland:

- electoral administrators in Scotland – written responses and feedback from three seminars with electoral administrators
- professional associations – a joint Society of Local Authority Lawyers and Administrators in Scotland (SOLAR), Scottish Assessors Association (SAA) and Association of Electoral Administrators (AEA) response for Scotland, and a separate AEA response for the UK as a whole
- political parties across Scotland, including discussions with the Scottish Parliament Political Parties Panel and further discussions with party officials
- meetings with a number of MSPs and MPs
- meetings with ministers and officials from both the UK and Scottish governments
- other stakeholders including the Electoral Reform Society (ERS), academics and suppliers of electoral administration management software

3.2 We also received feedback and responses from a number of stakeholders in England, Wales and Northern Ireland, which are summarised in the companion report considering structures for electoral administration elsewhere in the UK.

Key findings from consultation

3.3 Much of the debate during the consultation focused on the nature and extent of the problems identified in our issues paper. Discussions also included consideration of possible options for structural reform. The key findings from the wider debate are set out below, but we have also highlighted particular issues that have arisen during the course of this review in Scotland that merit more detailed discussion.

3.4 In Scotland, consultation responses and discussions with key stakeholders focused closely on the findings of the Gould report (summarised in chapter 2) which outlined options for changes to the structures for the management and administration of elections that included establishing a Chief Returning Officer for Scotland to coordinate and oversee the work of individual Returning Officers.

3.5 Some of those working in the field have seen the proposals for a Chief Returning Officer as an implicit and, in their view, unfounded criticism of existing Returning Officers. In particular, there has been concern expressed about the management relationship between any Chief Returning Officer and

existing local Returning Officers. Others have expressed support for establishing a centralised coordinating role – although with less clarity as to the precise responsibilities and authority the post would carry.

3.6 Since we published the issues paper in March 2008, both the UK Parliament Scottish Affairs Committee and the Scottish Parliament Local Government and Communities Committee have published reports which support the establishment of a Chief Returning Officer for Scotland to secure a coordinated and unified approach to elections held in Scotland. Neither report, however, contains substantial analysis of what role and responsibilities a Chief Returning Officer would have or how that role would be legally and administratively structured, although the Scottish Government has committed to further consultation in autumn 2008 as to how this might be achieved for local government elections in Scotland.

3.7 In June 2008, the Scotland Office issued its response to the recommendations of the Gould report, in which it indicated its view that the possible role of a Chief Returning Officer merited further consideration in conjunction with the Scottish Government and the Electoral Commission. The Scotland Office statement also suggested that it was unlikely to be possible to make the necessary policy and legislative changes that would be required to develop the role of a Chief Returning Officer before the 2011 Scottish Parliamentary elections.

3.8 During consultation across Scotland and the UK more widely, we identified the following areas where we believe some consensus exists:

- It was generally accepted by all respondents that there are inconsistencies in the way in which elections are delivered, not least because of the different structures for electoral administration that exist across and within the UK.
- It was largely accepted by those working within, or with, electoral administration that there is a need for some change to improve the capacity of those responsible for electoral administration to provide a consistently high quality of service.
- There was agreement that the fragmented legal framework and complex funding arrangements are critical issues for electoral administration.
- Respondents accepted that consistency in structures for administration between the different parts of the UK is not essential to delivering consistent outcomes for electors and that diversity in underlying structures for delivery of electoral administration may be both necessary and beneficial.

3.9 There was less agreement, however, on how proposals for reform might help to address these issues:

- There was no consensus on whether fundamental structural change, including changes to the management and accountability arrangements for Returning Officers and Electoral Registration Officers, is required to address inconsistencies in the delivery of electoral administration.

- Among those who agreed that change may be required to improve electoral administration service delivery, there was no clear agreement on the exact form that this change should take or the degree of change that is necessary.
- Although there was agreement that the current complex funding arrangements are a critical issue for electoral administration, there is no recognised solution that would deliver improved funding.
- There was no broad agreement on whether current performance accountability mechanisms are appropriate or adequate.

3.10 Among those who expressed support for structural change there was no clear agreement about what form it should take. In particular, the case for a power of direction (whether for the Electoral Commission or for any other coordinating body) over Returning Officers and Electoral Registration Officers has been contested in discussions during this review – some consultees saw a power of direction as an essential lever for improving consistency and quality of electoral administration, while others expressed doubts as to the likely impact of any power of direction (whoever exercised it) in the absence of any sanctions for non-compliance.

4 Key requirements and principles for electoral administration

4.1 Although there was no broad agreement during consultation about the nature of the changes required to support improvements for electoral administration in Scotland, we have found a high degree of consensus across the UK about the overall purpose of electoral administration, and clear evidence of a shared vision of the desired outcomes.

4.2 The issues paper we published in March 2008 sought feedback on what we considered to be the key functions and principles for electoral administration. We argued that any consideration of structural arrangements for the administration of elections should be underpinned by, and ensure delivery of, these principles. Through the discussions and debates over the last few months, we have sought to challenge and validate this analysis.

4.3 Some important points were raised with us during discussions, which had not been captured fully in the original statements. We set out the revised principles and requirements below. The broad consensus that has emerged following the 2007 Scottish elections around the need to place the voter at the centre of electoral administration has underscored the importance of what was expressed in the issues paper as the first proposed principle, and is now characterised as the overriding purpose.

Purpose of electoral administration

- To serve electors' interests, and support the role of political parties and candidates in the electoral process.

4.4 An election is, at its core, a transaction between citizens and their prospective representatives, and the fundamental reason for the existence of an electoral administration system is the effective conduct of that transaction. Any electoral administration system must put electors' interests at the heart of its approach, and must also respect and support the rights of political parties and candidates to play their part in the electoral process.

Core functions of electoral administration

4.5 Certain functions are required to be delivered for elections to be conducted effectively, regardless of the specific administrative structures that are in place. These include those which are generally considered the 'core' administrative tasks relating to the registration of electors and the conduct of the poll:

- the registration of electors
- arrangements for the conduct of the poll, including the administration of postal voting
- the counting and tabulation of votes
- the declaration of results

Supporting functions of electoral administration

4.6 Certain additional functions fall outside this definition of core electoral administration functions, but assist in the effective conduct of elections:

- making regulations governing the electoral process
- the delimitation of electoral boundaries
- the registration of political parties
- the delivery of information and education programmes for electors and others
- investigation and prosecution of electoral offences
- accreditation of electoral observers
- research, evaluation and audit

Principles for electoral administration

4.7 No matter which model of electoral administration is used, the institutions or individuals responsible for the delivery of electoral administration functions must be able to ensure the credibility and legitimacy of the process for which they are responsible. To do so, any structure selected or proposed for the delivery of electoral administration functions should be founded on fundamental guiding principles.

Conform with and respect the rule of law

4.8 An electoral administration system exists to implement electoral legislation on behalf of electors. To do so successfully, and to produce results that are accepted as legitimate and binding, electoral legislation must be implemented accurately, equitably and consistently. By the same token, electoral legislation should reflect clearly and accurately the administrative policies that have been approved by the relevant legislative bodies.

Carry out duties in a non-partisan and neutral fashion

4.9 The credibility and integrity of an electoral administration system depends on its ability to demonstrate conclusively that it has acted in a non-partisan and neutral fashion. To leave any doubts about the basis for any administrative decisions or policies may raise questions about the legitimacy of the results produced by the electoral administration system. Electors and political parties or candidates – on whose behalf the election has been conducted – may be less likely to accept the result if they doubt that it has been conducted impartially.

Ensure transparency and accountability for actions and decisions

4.10 To ensure public confidence in its integrity, all bodies involved in the administration of elections should provide clear and transparent explanation and justification of decisions made and actions taken. Appropriate and effective processes for challenging those decisions should also be available to

electors and political parties or candidates, to ensure proper oversight of the electoral administration function.

Meet existing standards of equality of access

4.11 As a public service, electoral services must meet agreed and expected standards of accessibility and usability. In their role of safeguarding a core human right, electoral administration bodies must actively ensure that there are no barriers to full and equal participation of all potential electors and candidates.

Help to meet international obligations in respect of elections

4.12 The UK is a party to many international agreements and commitments related to democratic rights and processes. While the structure of an electoral administration is not detailed in most instruments, the administration clearly has a fundamental role in delivering genuine elections and in safeguarding rights that are detailed in such instruments.

5 The agenda for change for electoral administration in Scotland

Where we start from

5.1 Given the complex context described in chapter 2 of this report – with several hundred independent officers each sovereign under the law (including 32 Returning Officers and 15 Electoral Registration Officers in Scotland), and providing a level of service largely dependent on the resources that are made available from individual local authorities – it seems unlikely that the current fragmented arrangements for electoral administration in Great Britain would be considered as a serious option if designing a new set of structures from scratch.

5.2 Instead, if an administrative structure was designed from first principles, it would probably involve a centrally organised and dedicated professional service, designed to ensure equal access to electoral registration and voting, consistent delivery and optimum exploitation of technology and economies of scale. It would also be designed with a clear understanding that electors' interests would be at the heart of the administrative and decision-making process. That is broadly equivalent to the independent non-governmental electoral administration model currently used in Canada and Australia.

Where we start from

We began this review with no preconceived views about what scale or kind of change might be required to support effective electoral administration in Scotland or the rest of the UK, only that some change was likely to be required. In particular, we recognise that in Scotland there is a widespread view held by both the public and elected representatives that there is a need for change. The following chapters of this report summarise our analysis and conclusions and our recommendations for change.

The case for changes to structures for electoral administration in Scotland

5.3 Over the course of our discussions during this review, it has become clear that there is no agreement about the extent to which changes to re-organise the underlying management responsibilities and structures for electoral administration across the UK are required. Although the debate in Scotland has included discussion of more radical change than elsewhere in the UK, including the establishment of a Chief Returning Officer for elections in Scotland, there is a significant divergence of views among politicians and electoral administrators about the extent of change required.

5.4 In Scotland, our discussions with interested groups and individuals considered how various models for electoral administration, including the creation of a Chief Returning Officer and a strengthened elections steering group, might best deliver not only the functional requirements and underlying

principles identified earlier in this report, but also address the specific concerns raised in the Gould report:

- a greater focus on accountability in organising and implementing Scotland's elections
- improved capacity for coordination and planning for elections
- reconsidering the roles and responsibilities of stakeholders, and strengthening the role of Returning Officers and Electoral Registration Officers

5.5 Across the UK there has been agreement that a 'one size fits all' approach is not necessarily required or desirable. For instance, the clear message from our consultation in Northern Ireland is that there is no pressing need for major reform of the current administrative structures there. By contrast, we have heard little enthusiasm for extending to England and Wales the Northern Ireland model of a permanent, full-time Chief Electoral Officer, responsible for central management of electoral registration and the administration of all types of elections.

5.6 In Scotland there has been more sustained interest in proposals to create a single responsible Chief Returning Officer for Scottish Parliamentary and local government elections, although there is no consensus among politicians and electoral administrators about precisely how this officer would be appointed or held accountable, and how they would exercise their responsibilities.

5.7 Our review has led us to conclude and agree with views expressed during consultation that a more coordinated and unified approach to electoral management in Scotland would help to address concerns highlighted in debates following the 2007 elections. There is general agreement, which we support, both specifically in Scotland and more broadly across the UK, that change is needed to achieve the important outcomes summarised in paragraph 5.5 above. We believe that significant changes are needed to the current approach to delivering electoral administration in Scotland, to ensure that there is a sound basis for independent, effective and properly accountable administration of elections and electoral registration.

5.8 We do not believe, however, that a compelling case has yet been made for removing responsibilities for the administration of elections and electoral registration from local authority control and re-configuring them directly under a single body or officer. Although support for the proposal for a Chief Returning Officer has been expressed by some in Scotland, particularly elected representatives, we have seen no detailed proposals as to what such a post would be responsible for, or how it would be structured to carry out its tasks. This would involve fundamental changes to the management arrangements for existing Returning Officers, and would require new mechanisms for local and centralised accountability to be established. It would also require a sensitive appointment process to ensure an appropriate balance between an authoritative central officer or body and the operational accountability of individual local Returning Officers.

5.9 In particular, there is little confidence among electoral professionals that such change would deliver the improvements sought by all those interested in the effective administration of elections in Scotland. The logistical and operational changes that would be required to implement such change have not yet been given detailed consideration, but we believe it is likely that any centralised responsibility for the management of elections and electoral registration would almost certainly continue to rely on local government officers to deliver the administration of election activities in an effective manner. Given the benefits of the existing local infrastructure for the administrative aspects of electoral registration and elections management – including local knowledge and readily available administrative resources – we believe that it continues to provide an effective basis for the development of an improved structure for electoral administration.

5.10 At the same time, we believe it is highly likely that structures for the delivery of electoral registration functions, in Scotland and in the rest of Great Britain, will be subject to further change within the next five years. In particular, there would need to be a more comprehensive review of the relationship and structure for the administration of electoral registration functions within the next two to three years, to support moves towards delivering individual electoral registration in Great Britain. The development of the UK Government's Coordinated Online Record of Electors (CORE) project is also likely to have significant implications for the delivery of electoral registration functions. We believe that it will be necessary to consider a more centralised electoral registration system, although not necessarily taken out of local administrative control and being run with whatever degree of decentralised delivery best guarantees the required balance of efficiency and access.

5.11 We set out below our view of the agenda for change and the opportunities that exist for improving the delivery of electoral administration in Scotland, and in chapter 6 we set out conclusions and recommendations for a number of practical steps that can be taken both in the short and longer term to address the specific concerns that have been articulated in Scotland and elsewhere in the UK since the May 2007 elections.

The case for changes to structures for electoral administration in Scotland

Given the complex electoral and strategic context in Scotland, it seems unlikely that the current fragmented arrangements for electoral administration would be considered as a serious option if designing a new set of structures from scratch.

Significant changes are needed now, from Returning Officers and Electoral Registration Officers, governments and legislative bodies and the Electoral Commission, to improve the delivery of electoral administration and address the important issues highlighted following the 2007 Scottish elections.

We do not believe, however, that there is currently a compelling case for removing responsibilities for the administration of elections and electoral

registration from local authority control and re-configuring them directly under a single body or officer.

We believe that it will be necessary to consider more fundamental changes to management arrangements for electoral registration functions, in the context of the future implementation of individual electoral registration in Great Britain and the development of the CORE project.

Improving the delivery of electoral administration in Scotland

5.12 Over the course of our discussions since December 2007 we have identified other significant opportunities for reform and improvements for electoral administration, short of fundamental structural re-organisation. This agenda for change comprises three inter-related strands:

- clarifying roles and responsibilities for the delivery of elections
- improving coordination of Returning Officers and Electoral Registration Officers
- strengthening leadership and accountability for electoral administration professionals

5.13 These complementary proposals seek to build on and enhance the current Scottish structures for administration rather than fundamentally re-shape them. Nevertheless, we believe they represent a significant and positive change to the management and coordination of electoral administration in Scotland. In chapter 6 of this report, we set out specific recommendations for change to deliver this agenda.

Clarifying roles and responsibilities for the delivery of elections

5.14 A clear message from the Gould report on the 2007 Scottish elections was that the process of planning and delivering the administration of the elections, including developing electoral policy and legislation, was hindered by a fragmented and confusing approach to decision making.

5.15 Moving forward, towards the next elections in Scotland, it will be essential to clarify and assert the separation of roles between those responsible for developing policy and legislation and those responsible for the delivery of administrative activities within the legal framework:

- development of the policy (and funding) framework for electoral administration is the responsibility of the UK and Scottish governments
- development of the legal framework for electoral administration is the responsibility of the UK and Scottish governments, subject to the approval of the UK and Scottish Parliaments
- planning and delivery of election activities in accordance with the legal framework is the responsibility of Returning Officers and Electoral Registration Officers

- setting standards and monitoring performance by Returning Officers and Electoral Registration Officers, is the responsibility of the Electoral Commission

5.16 Returning Officers and Electoral Registration Officers should not isolate themselves from the government-led process of developing policy and legislative proposals, but the aim should be to clarify the independent delivery role of electoral administration professionals. Governments and legislative bodies should take account of professional advice offered by Returning Officers and Electoral Registration Officers on policy and legislative proposals, and by the same token electoral administration professionals should always seek to provide such advice to ensure the legal framework for elections reflects practical administrative issues. It should be clear, however, that the ultimate responsibility for ensuring that the legal framework for elections is appropriate and effective lies with governments and legislative bodies.

5.17 Legal and administrative structures for the administration of elections should, as far as practicable, also reflect the division of these responsibilities appropriately. In particular, the independence and professional status of Returning Officers and Electoral Registration Officers must be maintained.

5.18 In practice, this might mean, for example, that governments would take the lead in establishing planning groups to develop policy and legislative proposals during the period leading up to six months before any scheduled election. They should invite input and advice from Returning Officers and Electoral Registration Officers, as well as other relevant representative and stakeholder groups, to that planning group, but its remit and responsibilities should extend only to the development and enactment of legislation.

5.19 Separately, Returning Officers and Electoral Registration Officers must take responsibility for establishing their own planning and delivery group, to coordinate activities and decisions relating to the administration of the legal framework. Although legislatures may wish to scrutinise and question this group, its remit should preclude active participation in its decision making by government ministers or officials to ensure the operational independence of Returning Officers and Electoral Registration Officers.

5.20 The Gould report also proposed reinforcing the professional role of Returning Officers by establishing such positions on a full-time basis from the call of an election until all required activities are completed. We agree that Returning Officers (and Electoral Registration Officers) must have at their disposal appropriate skills and resources to ensure they are able to discharge their duties in an appropriately professional manner. Given the relatively short period of time between the announcement of an election and polling day itself, most notably in relation to UK Parliamentary elections, we have not been persuaded that these proposals would necessarily lead to the improvements in the 'professional' status of Returning Officers that we and many others believe are desirable.

5.21 Rather, we believe that the broader package of changes recommended in this report – including the creation of an Electoral Management Board,

establishment of the role of the Convener with a power of direction, clarification of the roles, responsibilities and independent status of electoral administrators, and improved accountability for the performance of Returning Officers and Electoral Registration Officers across all elections – will support improvements in the professional administration of elections and electoral registration without requiring potentially disruptive fundamental changes to the detailed line management arrangements for individual statutory officers.

Improving coordination of electoral administration professionals

5.22 Although we do not believe there is currently a compelling case for re-organisation of the existing management and delivery structures for electoral administration in Scotland, there is broad agreement, which we support, that better coordination among those responsible for electoral administration would be beneficial.

5.23 The principle of coordination and oversight at a level above the local Returning Officer position is already widely accepted and recognised in the legal and administrative framework for many elections within the UK. These have involved the creation of a number of statutory roles with specific coordination responsibilities and powers:

- Chief Counting Officer for UK referendums held under the Political Parties, Elections and Referendums Act 2000 (PPERA) – a Chief Counting Officer is required to be appointed to be responsible for the conduct of any referendum held under PERA, and would have powers to direct local counting officers.
- Acting Returning Officers and Returning Officers for UK Parliamentary elections – Acting Returning Officers in England and Wales and Returning Officers in Scotland are responsible for the conduct of Parliamentary elections, often in constituencies that straddle one or more local authority areas.
- Regional Returning Officers for European Parliamentary elections – Regional Returning Officers are appointed for each electoral region across Great Britain, who have responsibilities for accepting nomination papers and for declaring the results of the allocation of seats within each constituency. Local Returning Officers remain responsible for conduct of the poll, but may be directed by the Regional Returning Officer in the discharge of their functions.
- Scottish Parliamentary elections – Regional Returning Officers have responsibilities for receiving nominations for the regional contests for the Scottish Parliamentary elections, and for calculating and declaring the results of the poll. Constituency Returning Officers are responsible for the conduct of the poll within each constituency area.
- National Assembly for Wales elections – Regional Returning Officers have responsibilities for receiving nominations for the regional contests for the National Assembly for Wales elections, and for calculating and declaring the results of the poll. Constituency Returning Officers are responsible for the conduct of the poll within each constituency area. Several constituencies span local authority boundaries.

- Election of the Mayor of London and members of the London Assembly – Constituency Returning Officers are appointed to coordinate the election of constituency members of the London Assembly, and the Greater London Returning Officer is responsible for the conduct of the election of the Mayor of London and the London-wide members of the London Assembly. The Greater London Returning Officer may issue directions to Consistency Returning Officers relating to the discharge of any of their functions.
- Chief Electoral Officer for Northern Ireland – the Chief Electoral Officer for Northern Ireland is Electoral Registration Officer and Returning Officer for all elections in Northern Ireland, including local government elections.

5.24 We believe that there would be value in extending and formalising arrangements for oversight and coordination at a level above local government Returning Officers and Electoral Registration Officers for all statutory elections in Great Britain. Benefits would include more clearly defined responsibilities for decision-making and delivery, with the authority to carry out those responsibilities, strengthening consistency in interpretation of legislation and decision-making.

5.25 Effective coordination also requires a consistency of approach for all statutory elections in Scotland, rather than event-specific structures organised by three separate government bodies for different elections (the Scotland Office, the Scottish Government and the Ministry of Justice).

5.26 We believe that there are opportunities for more effective coordination of electoral administration in Scotland and which would represent a significant change. Most importantly, this must include creating a permanent Scotland-wide coordinating body of Returning Officers and Electoral Registration Officers which would take forward the suggestion of the Gould report to provide integrated election plans and timetables, and also support wider professional coordination between Returning Officers and Electoral Registration Officers across Scotland.

5.27 As well as supporting more effective integration of planning and delivery of elections, the coordinating body must also develop an effective leadership role, particularly in providing support and direction among Returning Officers and Electoral Registration Officers, and also in managing relationships with both the UK and Scottish governments and legislatures. Greater coordination should aim not only to deliver improvements in consistency of electoral administration, but also to bolster and strengthen the independent professional status of Returning Officers and Electoral Registration Officers.

Strengthening leadership and accountability for electoral administration professionals

5.28 As we have noted earlier, there is broad consensus among those we have talked to during this review on the overarching goals of providing consistent access to high-quality electoral services, regardless of the specific structures in place to do so. A common theme in discussions has been the

challenges of effectively ensuring consistent performance and holding independent statutory officers accountable for their performance.

5.29 The statutory independence of Returning Officers and Electoral Registration Officers in delivering elections and electoral registration is an essential element of the arrangements for ensuring trust in the integrity of electoral administration. Effective leadership and confidence from Returning Officers and Electoral Registration Officers in asserting their independent professional status is also essential, particularly to ensure effective and appropriate relationships with governments and legislatures.

5.30 Again, we believe that there are a number of opportunities to enhance leadership and accountability for the delivery of electoral administration in Scotland which would represent a significant change from current arrangements.

5.31 Firstly, the leadership role of any coordinating body should be formally established within the legal framework for electoral administration to ensure the professional expertise of Returning Officers and Electoral Registration Officers is appropriately recognised and respected. Identifying a single lead officer from among the membership of the coordinating body, to exercise authority both within and on behalf of the group, would provide improved visibility and accountability for electoral administration decisions and actions.

5.32 Secondly, coordination among Returning Officers and Electoral Registration Officers should be further strengthened and improved by providing a lead officer with powers to direct the other members of the body in the execution of their responsibilities.

5.33 Thirdly, although we do not envisage the Electoral Commission assuming a more involved role in relation to the delivery of electoral administration, we believe that our independent role in monitoring performance, providing advice and guidance to statutory officers and evaluating the administration of electoral administration is a key element of the approach required to ensure effective delivery of services for electors. It should be further strengthened to help ensure that electoral administration performance issues are both identified and properly addressed in a suitably timely manner. Specifically, the Commission's formal role (including responsibility for monitoring performance standards) should be extended to include Scottish local government elections, to support a more consistent and coordinated approach to performance accountability across all elections in Scotland. We will also review opportunities to develop the Commission's approach to providing advice to Returning Officers and Electoral Registration Officers – within the powers currently provided under PPERA – to ensure the Commission can effectively support electoral administration professionals while also holding them to account for their performance. We would also expect to work closely with the Electoral Management Board and its equivalents in England and Wales to support the development and monitoring of strategic plans for the electoral administration sector.

5.34 None of these developments should compromise the independence of Returning Officers and Electoral Registration Officers, nor dilute their direct legal accountability for decisions and actions within the legal framework for electoral administration. Recommendations to improve coordination and leadership among Returning Officers and Electoral Registration Officers could easily build on the approach already in place for coordinating administration activities for European Parliamentary elections.

6 Recommendations for change in Scotland

6.1 Throughout this review we, like all those we have spoken to, have sought to identify changes that need to be made to improve the service provided for electors, and we have put forward in the previous chapter of this report our view of the agenda for change for electoral administration in Scotland. To support an enhanced system of electoral administration in Scotland that puts electors at the centre of all its work and delivers a consistently high-quality service, we believe strongly that a significant change in approach will need to be made by those involved in the administration of elections, including Returning Officers and Electoral Registration Officers, governments and the Electoral Commission itself.

6.2 We are confident that the proposals outlined in this report build on suggestions made by others during the last nine months in a practical and constructive way. In some instances, they reflect changes that are either planned or already under way.

6.3 This new approach will require changes from Returning Officers and Electoral Registration Officers to take responsibility for improving the service provided for electors; from governments to give electoral professionals the tools and powers to deliver an improved service; and from the Electoral Commission to ensure we identify where action needs to be taken to deliver an improved service and provide practical support for improvement.

6.4 We believe that these recommendations represent the right way forward at the current time, but we recognise that they may not be welcomed universally. We do not accept, however, that change can be avoided or postponed – it will not be acceptable simply to fall back to an approach to electoral administration the limitations of which have been exposed as recently as the 2007 elections in Scotland. If progress towards the goals of improved coordination, enhanced leadership and more effective accountability for electoral administration cannot be agreed, we believe it will be necessary to consider again the fundamental question of operational responsibility and accountability for electoral administration in the UK, including whether a unified electoral administration body for Scotland or Great Britain as a whole would present a feasible option for change.

Recommendation 1 – Establish an Electoral Management Board for Scotland

6.5 In Scotland, we believe that there is a strong case for taking steps towards a more coordinated approach to electoral administration, but that coordination must be led by Returning Officers and Electoral Registration Officers. Returning Officers and Electoral Registration Officers in Scotland have already moved towards more coordinated election planning, and we believe they should take this opportunity to define for themselves a more effective coordination body that can provide leadership, support and challenge for the professional community.

6.6 We recommend that:

- An Electoral Management Board should be established in Scotland, comprising all Returning Officers and Electoral Registration Officers.
- The members of the Electoral Management Board should select one of their number through an open and transparent process to be appointed as Convener, to provide leadership, support and direction among Returning Officers and Electoral Registration Officers, and also to manage relationships with both the UK and Scottish governments and legislatures.
- The Convener of the Electoral Management Board should be a senior serving Returning Officer, with the necessary electoral administration experience and support to ensure they can exercise leadership and authority within the membership of the Board.
- A management board should be established to progress the work of the Electoral Management Board, and a small but dedicated and funded Secretariat function should be established.
- Both the Electoral Management Board and the position of the Convener should be recognised in statute.

6.7 The remit and status of the Electoral Management Board should be substantially different from and stronger than the previous Elections Steering Group. A simple change of name will not suffice, and the Board will need to be able to exercise authority to ensure that the administrative implications of policy proposals are effectively considered, acting in the interests of efficient and effective elections management. Executive responsibility for issues best dealt with at the Scotland-wide level should also be exercisable through the Board, and we make further recommendations below about how these responsibilities might be exercised.

6.8 Although we emphasise the importance of clearly distinguishing between the separate roles and responsibilities of governments and Returning Officers and Electoral Registration Officers, we would expect the Electoral Management Board and Convener to be capable of operating effectively alongside, and in conjunction with, existing planning groups, contributing the views and advice of electoral administration professionals to support the development of policy and legislation.

6.9 The detailed practicalities of management arrangements for the Electoral Management Board will need to be considered further, but we have set out a proposed remit for the key elements of the approach that we recommend in Appendix A of this report. This includes:

- Scope – the Electoral Management Board should cover elections to the UK Parliament, Scottish Parliament, European Parliament and local government elections in Scotland, and should also take in electoral registration activities in Scotland.
- Membership – the Electoral Management Board should include all Returning Officers and Electoral Registration Officers in Scotland.
- Responsibilities – the Electoral Management Board should develop coordinated election plans and timetables for all elections in Scotland, and

also promote and support wider coordination between Returning Officers and Electoral Registration Officers across Scotland.

- Accountability – individual Returning Officers and Electoral Registration Officers should remain legally accountable for the delivery of their responsibilities, but should be subject to a power of direction from the Convener of the Electoral Management Board. The Convener should be jointly accountable for any actions undertaken by Returning Officers in accordance with a direction from the Convener. Neither the Electoral Management Board nor the Convener should be subject to any direction by ministers.
- Reporting – the Convener should make reports on election planning and delivery progress to relevant committees of the UK and Scottish Parliaments as required, and should also provide expert professional advice on legislative proposals.

6.10 To ensure that the Electoral Management Board can act effectively to coordinate and manage relationships as envisaged, we also recommend that a small but dedicated Secretariat function should be established, funded directly by the UK or Scottish governments, rather than through individual local authority budgets.

6.11 An Electoral Management Board comprising elections professionals would place those with operational responsibility clearly at the heart of the administrative process. We would expect the Convener of the Board to develop their leadership role further by contributing to the development of long-term plans for the electoral administration sector. The Commission regularly brings together a small group of senior Returning Officers from across the UK to consider strategic issues for electoral administration, and we would expect the Commission to continue to support such a group (including the Convener of the Electoral Management Board) to shape the future direction of electoral administration. By making clear the professional status of its membership, the Board should ensure that it is independent, impartial and places the interests of electors at the centre of its thinking.

6.12 This recommendation could be implemented initially by Returning Officers and Electoral Registration Officers in Scotland within the next 12 months, and progress towards establishing an Electoral Management Board could begin immediately. This should be followed up by statutory recognition of the Electoral Management Board and Convener.

Recommendation 2 – Provide the Convener of the Electoral Management Board with statutory powers to direct local officers

6.13 We expect that a key role of the Electoral Management Board will be to support and encourage greater coordination and a more consistent approach to electoral administration among Returning Officers and Electoral Registration Officers in Scotland. We believe that the leadership role of the Convener of the Electoral Management Board is an essential element of the

improvements that are required in Scotland and elsewhere in Great Britain, and that the position should be statutorily recognised and supplemented with powers that would enable them to issue directions to Returning Officers and Electoral Registration Officers relating to the discharge of their functions.

6.14 We recommend that:

- The position of Convener should be established in statute, and should be recognised for all of the four sets of elections in Scotland – UK Parliamentary elections, European Parliamentary elections, Scottish Parliamentary elections and local government elections.
- The Convener should be empowered to direct Returning Officers and Electoral Registration Officers in Scotland in the delivery of their administrative duties, similar to the powers already held by Regional Returning Officers in relation to European Parliamentary elections.
- The Convener should be required to consult the membership of the Board and the Electoral Commission before making a direction.
- The Convener should be appointed as the Regional Returning Officer in Scotland for European Parliamentary elections.

6.15 Although formal statutory recognition of the Convener's position and powers will be important, we stress that they would not be a Chief Electoral Officer in the sense of the Northern Ireland model. Specifically, the Convener would not have direct responsibility for managing the administration of elections at a local authority level (other than in relation to their own authority), nor would they employ staff with responsibilities for managing electoral events at local level. We expect the Convener would fulfil the role of overseeing the delivery of those aspects of the electoral process where central coordination would be beneficial.

6.16 We recognise that the case for providing a Convener with powers to direct local Returning Officers and Electoral Registration Officers has not been supported by all those with whom we discussed these issues during consultation. In some cases, there was perceived to be no current need for such an extension of control and accountability, while in others stakeholders expressed doubts about the effectiveness of such powers in the absence of appropriate sanctions for non-compliance.

6.17 In considering these recommendations, our aim has been to identify changes to the current structural arrangements for the administration of elections that would provide improved assurance that elections are well-run and that risks to the successful delivery of elections are properly managed. We believe that such powers would provide a reserve or backstop capacity and would provide assurance that some additional influence could be brought to bear in relation to specific issues. Similar to the powers held by Regional Returning Officers for European Parliamentary elections or the Greater London Returning Officer for elections for the Mayor of London and London Assembly, we expect in practice such powers would be exercised only in extreme circumstances, and where other options for resolving issues have been explored and exhausted.

6.18 In the absence of additional powers to direct local Returning Officers or Electoral Registration Officers – even where circumstances in which such powers might be required have not yet arisen – the risk remains that there would be no clearly defined authority or responsibility to address any specific issues where they arise.

6.19 We expect that the relevant minister in either the UK or Scottish Government, on the recommendation of the Electoral Management Board, would be responsible for formally recognising the position of the Convener in relation to the specific elections for which the minister has policy responsibility. However, as we have recommended above, the decision on who should assume the position of Convener should be the responsibility of the members of the Electoral Management Board, following an open and transparent selection process.

6.20 We do not believe that it would be appropriate for the Convener to be formally accountable to either UK or Scottish government ministers, given the need for independence in delivering the administration of the legislative framework for elections. It would be entirely appropriate, however, to ensure that the relevant UK and Scottish Parliamentary committees could scrutinise the work of the Convener and request reports from them on behalf of the Electoral Management Board.

6.21 Individual Returning Officers and Electoral Registration Officers should remain accountable through the courts for their decisions and actions in administering the legal framework for elections, but the Convener would also be jointly accountable where actions carried out under their direction were at issue.

6.22 This recommendation would require amendments to primary legislation by the UK and Scottish Parliaments, and may require longer than 12 months to be implemented.

Recommendation 3 – Develop the Electoral Commission’s role in driving and monitoring performance improvements for electoral administration in Scotland

6.23 Since its establishment in 2000, the Commission has taken a lead role in shaping and driving the performance agenda for electoral administration in the UK. We have provided guidance and advice for Returning Officers and Electoral Registration Officers to support consistent high-quality administration and have reported extensively on electoral administration. We will continue to drive performance improvements in electoral administration across the UK, and are in the process of developing and implementing standards for electoral administration professionals against which performance can be monitored.

6.24 When the Electoral Commission was established in 2000, its role and responsibilities in relation to local government elections in Scotland were limited, reflecting the devolution of responsibility for local government matters to the Scottish Parliament. Provision was made in the Political Parties,

Elections and Referendums Act 2000 (PPERA) for Scottish ministers to establish a formal role for the Commission by regulations in the Scottish Parliament. To date, no such regulations have been made, which means that Scottish local government elections are the only set of elections in Great Britain in which the Commission does not have a formal role.

6.25 The Commission does not have explicit powers to provide advice or guidance in relation to local government elections in Scotland, nor does it have powers to report on those elections other than by request from the Scottish Government. Legislation enacted since 2000, including the Local Electoral Administration and Registration Services (Scotland) Act 2006, has also restricted the Commission's role in relation to local government elections in Scotland. Neither the performance standards framework that we are currently developing for Electoral Registration Officers and Returning Officers, nor the registration of electoral observers in accordance with our statutory scheme, extends to local government elections in Scotland.

6.26 To ensure effective and consistent oversight for electoral matters both within Scotland and across the rest of the UK, we believe that the Commission's unique independent role should be extended to encompass local government elections in Scotland and Northern Ireland. The bodies representing electoral administration professionals in Scotland have also expressed their support for the extension of the Commission's role in relation to local government elections in Scotland.

6.27 We recommend that:

- Scottish ministers should make an order under Section 10 (8) of PPERA to include Returning Officers for local government elections in Scotland among the officers to whom the Electoral Commission may provide advice.
- Section 6(6) of PPERA should be amended to include local government elections in Scotland among the elections on which the Electoral Commission may report.
- Section 9A of PPERA should be extended to ensure that Returning Officers for local government elections in Scotland are included among the categories of officers that the Electoral Commission may direct to provide assessments against performance standards published by the Commission.
- Section 29 of PPERA should be amended to include local government elections in Scotland among the elections to which the Electoral Commission's observers scheme applies.

6.28 This recommendation would require amendments to legislation by the UK and Scottish Parliaments.

6.29 We also recognise that our role in supporting Electoral Registration Officers and Returning Officers has evolved since 2000, and will in future involve monitoring and reporting on performance as well as providing advice and assistance. We will review opportunities to develop the Commission's approach to providing advice to Returning Officers and Electoral Registration

Officers, within the powers currently provided under PPERA. We will aim to ensure the Commission can provide support for electoral administration professionals while also holding them to account effectively for their performance, including providing targeted advice and guidance that reflects the performance standards agenda, and monitoring and reporting clearly on areas where performance issues are of particular concern.

Recommendation 4 – Consolidate and simplify the legal framework for electoral administration in Scotland

6.30 Evidence and views that we have heard during this review have confirmed our concerns that the complex and fragmented legal framework for electoral administration across the UK continues to impede the effective delivery of elections, and was identified as a key factor in the problems explored by the Gould report of the 2007 Scottish elections.

6.31 We welcome moves already undertaken by the UK Government towards consolidation of electoral law, but we would welcome further commitments from all governments with legislative responsibility for electoral administration to not only consolidate but also simplify and rationalise the legal framework for elections. We also recognise that the Scotland Office and the Scottish Government have accepted the recommendation of the Gould report that changes to electoral legislation should not be applied to any election held within six months of a new provision coming into force.

6.32 We recommend that:

- Both the UK and Scottish governments should ensure that changes to legislation that has an impact on the administration of elections are not applied to any election or electoral registration event held within six months of the new provision coming into force, other than in limited circumstances in which changes may be beneficial, including instances where electors' interests are clearly at issue or where minor technical amendments are required.
- The UK Government should take the opportunity of any future legislation on individual electoral registration to produce a clear legal framework for the registration of electors, aiming for rationalisation as a minimum and simplification wherever possible.
- The UK Government should also undertake to rationalise and consolidate existing legislation relating to election management, ensuring that the legal framework focuses clearly on articulating electoral policy rather than micro-managing the delivery of elections.

6.33 This recommendation would require amendments to primary legislation by the UK and Scottish Parliaments.

Recommendation 5 – Take steps to address structural causes of funding shortfalls for electoral administration in Scotland

6.34 For many working in the field of electoral administration in Scotland and the rest of Great Britain, ring-fenced funding appears to be the ‘golden ticket’ that would improve performance, allow greater innovation and boost the status and independence of election professionals. We must acknowledge the political reality, however, that electoral services are no more likely than any other hard-pressed part of local government, or public services more generally, to be able to secure a dedicated fund of resources. We must also acknowledge that the clear trend more generally in local government across Great Britain is to move away from ring-fencing in favour of more flexible local settlements.

6.35 Moreover, we have found only limited evidence (although it should be stressed that there are certainly some examples) of funding intended to support core electoral services being diverted into other local priorities. Where this does occur, we suggest that some of the strands of reform above should boost the capacity of those responsible for delivering electoral services to secure the appropriate level of resources needed to deliver their responsibilities effectively.

6.36 Nevertheless, it is clear that securing appropriate and adequate funding remains a significant priority for electoral administrators in all parts of the UK. Responsibility for ensuring that electoral administration is funded appropriately lies clearly with governments, including both the UK and Scottish governments.

6.37 We recognise that some efforts have been made in recent years to review and rationalise the complex funding arrangements for electoral administration in the UK, but note that no clear progress has yet been made. Following recommendations that we made in 2003 for reform of the funding arrangements for electoral administration, the main UK government departments with responsibility for funding began discussions aimed at identifying options for improvements, but we understand those discussions reached no conclusion and came to an end.

6.38 We recommend that:

- The relevant UK government departments, including the Ministry of Justice and HM Treasury, together with the Scottish Government and representatives of Scottish local government, should resume discussions around alternative, rationalised, funding mechanisms for electoral administration in Scotland, as a matter of priority.
- The cost-benefit analysis for a coordinated UK-wide electoral registration service proposed below should consider the implications for current funding mechanisms in Scotland of introducing individual electoral registration and the development of the Coordinated Online Register of Electors (CORE) project.

6.39 We believe that the UK and Scottish governments could begin to implement this recommendation within the next 12 months.

6.40 The Electoral Commission was given powers in the Electoral Administration Act 2006 to collect information on the expenditure of Electoral Registration Officers and Returning Officers, and the first survey of expenditure has been carried out for the 2007/08 financial year. We will continue to request and monitor information about levels of funding and expenditure on elections and electoral registration, and will use that information to identify areas where funding arrangements present particular barriers to performance.

Recommendation 6 – Consider the potential for and implications of a coordinated electoral registration service across the UK

6.41 We have discussed earlier in this report the wider strategic context for electoral administration, including the potential implications of any move towards individual electoral registration in Great Britain and the development of the UK Government's CORE project. We believe that it will be necessary to consider a more centralised elector registration system, not necessarily taken out of local administrative control but being run with whatever degree of decentralised delivery best guarantees a balance of efficiency and access. However, we do not make any assumptions at this stage about the future role of the Electoral Commission in relation to any coordinated electoral registration service.

6.42 The UK Government has responsibility for the development of policy and legislation relating to electoral registration across the UK.

6.43 We recommend that:

- The UK Government should consider, in planning for the implementation of the CORE project and the possible introduction of individual electoral registration, undertaking a full cost-benefit analysis of introducing a coordinated electoral registration service across the UK.
- Analysis should commence immediately, in line with the UK Government's commitment to examine the practicalities of individual electoral registration, with open consultation on underlying assumptions and costs modelling.
- Alternatives to be considered should include (but not necessarily be limited to) the status quo of local administration of electoral registration; regional management; a single service each for England, Scotland, Wales and Northern Ireland; a single Great Britain-wide electoral registration service; and a single UK-wide service.

6.44 We believe that progress towards implementing this recommendation could be commenced by the UK Government within the next 12 months.

Appendix A – An Electoral Management Board for Scotland: proposed remit

Membership

Membership of the Electoral Management Board should include all statutory officers with operational responsibility for the administration of elections and electoral registration in Scotland, including Returning Officers and Electoral Registration Officers.

Representatives from the UK and Scottish governments, the Electoral Commission or relevant professional associations would not be members of the Board, but may be invited to provide information or advice to the Board.

Role

The role of the Electoral Management Board would be to provide a forum for the coordination of all aspects of electoral administration in Scotland, including the following:

- Establish a project plan for the delivery of all elections held in Scotland other than local by-elections. This would provide the strategic plan from which local operational plans would be developed.
- Develop and deliver any centralised aspect of an election e.g. procurement of e-counting solutions.
- Advise government on new legislation and policy development regarding elections.
- Establish training levels provided to election staff locally by Returning Officers and Electoral Registration Officers.
- Establish requirements for documentation/forms based on Electoral Commission guidance, implemented by local Returning Officers and Electoral Registration Officers.
- Advise the Electoral Commission on required public information nationally and Returning Officers and Electoral Registration Officers locally.
- Develop plans for the continued professional development of Returning Officers, Electoral Registration Officers and their staff.
- Support the development of performance standards for electoral administration in Scotland.

The Electoral Management Board would be a statutory consultee and adviser to all relevant ministers with the responsibility for electoral administration in Scotland. All formal advice offered by the Board should be made public.

Convener

The Electoral Management Board should select a Convener from among its membership, following an open and transparent appointment process. The Convener would provide leadership both within the membership of the Board and externally among other relevant stakeholders, including the UK and

Scottish governments. In exercising these responsibilities, the Convener would be obliged to consult and take account of the views of the Election Management Board.

The Convener should be empowered (through statutory recognition and appointment by ministers) to issue directions, coordinating and overseeing all aspects of the electoral process, whilst the delivery of the election locally remains with the relevant local Returning Officer.

The Convener's power to issue directions should be subject to a requirement to have first consulted the membership of the Board and the Electoral Commission on the nature and content of any direction.

Process and procedures

The Electoral Management Board and post of Convener should be adequately funded with a small Secretariat able to support it (and act as an interface with other stakeholder organisations) on a permanent basis. The Secretariat should be independent of the UK and Scottish governments.

The Convener might also seek to establish internal management structures and processes to ensure the effective management of the Board's activities.

To ensure public confidence, meetings of the Electoral Management Board should be open and transparent. As a minimum this would require publication of the minutes of discussions. It might also involve periodic public meetings.

Sub-groups could be established to advise the Electoral Management Board, and involve non-election bodies which have an interest in elections such as disability groups etc.

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see inside back cover for details.

We are an independent body set up by
the UK Parliament. Our aim is integrity and
public confidence in the democratic process.
We regulate party and election finance and
set standards for well-run elections.

Democracy matters