

Electoral Commission response to the Department for Communities and Local Government (DCLG) consultation – Moving the date of English Local Government elections to the date of the European Parliament elections in 2009

Introduction

1. The Commission welcomes the opportunity to respond to the DCLG consultation on moving the date of the English local government elections (currently scheduled for 7 May 2009) to the same date as the European Parliament elections (4 June 2009). That said, we are disappointed that this consultation was not undertaken early enough to enable any Order providing for combination to be made at least twelve months in advance of the 2009 local elections, as we recommended during the passage of the Local Government and Public Involvement in Health Act.
2. In summary, we recommend that the local government elections should be moved from 7 May 2009 to 4 June 2009 so that they can be combined with the European Parliament elections scheduled to take place on that day.
3. We believe that the decision as to whether parish elections should also be combined is a local matter. However, we recommend that the interests of the electorate are prioritised by those involved in making these decisions, and that the Government should seek the views of relevant county branches of the National Association of Local Councils (NALC) as well as the affected local authorities in order to determine which course of action is preferable.
4. Our response set out below repeats our call for the Government to undertake comprehensive research into the relative merits of separate, combined and simultaneous elections and their impact on electors.
5. Commission staff would be happy to discuss further any of the points raised below. The Commission would welcome a formal response from the DCLG and Ministry of Justice (MOJ) (as appropriate) to the comments and issues raised in this paper.

General principles

6. The Commission has made clear its position that any consideration of combining elections (or referendums with elections) by governments should begin with a consideration of the interests of electors. These interests were most recently brought to the fore at the combined 2007 Scottish Parliamentary and local government elections. The problems which arose led Ron Gould to conclude in his subsequent report that 'combined elections are not only a disservice to the local councils and

candidates but also to the electorate as well'.¹ The Commission supports Ron Gould's view that Scottish Parliamentary and local government elections in Scotland should be decoupled, as is already the case for National Assembly and local government elections in Wales. The Commission set out its formal position on decoupling the Scottish elections in its response to the March 2008 Scottish Government consultation on this issue.²

7. The Commission believes that the balance of the argument is usually against combination of statutory elections, and we therefore wish to see such instances minimised. However, we recognise that this is a complex issue and that our preference may not always be the best option – not least due to ongoing concerns about voter fatigue and reduced turnout, and the difficulty of reconciling with the cycles of local government elections the five-year term of the European Parliament and absence of a fixed term for the UK Parliament.
8. We therefore believe that each case of potential combination must be considered on its own merits. However, any decision to combine elections must not be taken lightly and should only be made after serious consideration has been given to the advantages and disadvantages of combination in each case.

Practical considerations

9. In this case, the key question will be to consider the disadvantages of having combined local government and European Parliamentary elections in June 2009, against the disadvantages of holding the two elections just four weeks apart. An additional factor for some areas is that parish elections are also currently scheduled for May 2009. It should be noted that the Commission's comments in this response are based on the assumption that there will not be a UK Parliamentary General Election on or near 4 June 2009. Some of the key factors to consider here are:

Voter confusion

10. Ron Gould suggested that combination can lead to voter confusion about the methods of voting for the different elections and that local government issues can be overshadowed by those surrounding the higher tier election.
11. While this argument can be applied to the 2009 elections, holding two elections four weeks apart would not be in keeping with the Gould report's overarching theme of putting the elector first, especially as Gould recommended that the decoupled Scottish Parliamentary and local government elections be held two years apart, fearing voter fatigue if the elections were any closer together.

¹ Ron Gould on behalf of the Electoral Commission (2007) *Scottish elections 2007 – The independent review of the Scottish parliamentary and local government elections*, p. 115.

² The Scottish Government (2008) *Decoupling the Scottish Parliamentary and Local Government Elections: Consultation Paper*.

12. Our conclusion is that holding two elections only four weeks apart could present more opportunities for voter confusion than combined elections would. For example, since some local authorities dispatch poll cards about five weeks in advance of elections, European Parliamentary election poll cards could arrive shortly before the currently scheduled polling day for the local elections. It is therefore conceivable that an elector receiving the European Parliamentary election poll card will assume that it supersedes the previous local government election poll card, with the potential risk that they will not realise that they can still vote on 7 May.
13. Our report on the 2004 European Parliamentary election did not find any similar problems due to combination. More recently, we do have anecdotal evidence that electors found the proximity of the Cheshire East unitary elections (1 May 2008) and the Crewe & Nantwich UK Parliamentary by-election (22 May 2008) confusing.
14. It has been suggested that one of the main causes of confusion at the 2007 combined Scottish elections was the use of different voting systems on the same day (the additional member system and the single-transferable vote system). However, Ron Gould was not of this opinion, stating that the main problem was the combination of the constituency Member of the Scottish Parliament (MSP) and regional MSP ballots onto a single sheet.
15. While it is the case that two voting systems – i.e. first-past-the-post and closed-list proportional representation – would be in use on the same day if the 2009 elections were combined, unlike for the May 2007 elections in Scotland, both systems require the voter to mark their ballot paper with a cross. We do, though, recognise the additional complication that some county divisions and most parish council elections will be multi-member, thereby requiring voters to make more than one cross. In these cases, it would be important that the local Returning Officers and polling staff highlight to voters where it is possible to vote for more than one candidate.
16. The Commission's conclusion is that, provided separate ballot papers are used and effective local public awareness work is undertaken to explain that some voters will be able to mark more than one candidate, the risk of confusion as a result of using different voting systems on the same day in 2009 should be minimised.

Excessive pressure on electoral administrators and political parties

17. Two overlapping timetables would also put undue pressure on electoral administrators and political parties, some of whom could be required to split their resources between the local election count and the European Parliamentary elections close of nominations, both of which would fall on 7 May 2009 (assuming the timetable for the European Parliamentary elections in 2009 is the same as in 2004).

18. Therefore it is unlikely that electoral administrators and political parties would wish there to be two elections within four weeks of each other, although independent candidates and candidates from parties not competing in the European Parliamentary elections may hold a different view.

Apportioning of election expenditure

19. With respect to political parties and candidates, there is the further issue that two separate regulated periods for election campaign expenditure will be running concurrently, whether the elections are combined or held separately. This raises difficulties for the political parties (and the Commission in regulating) in terms of apportionment. In 2004 there were questions about how political parties apportioned expenditure between the combined elections - a political party's campaign for the European Parliamentary elections being also beneficial to its local election candidates. When elections are combined, the end of the regulated period is the same, meaning that accounting is more straightforward. Where the dates of the two elections are a month apart, it will compound the difficulties of political parties and candidates in properly accounting for their election expenditure for the two sets of elections as well as for the Commission in effectively regulating that expenditure.

Cost savings

20. Public awareness campaigns and initiatives explaining the two elections would need to be undertaken whether or not elections are combined. However, combining the elections would minimise the cost to electoral administrators, local and central government, political parties and the Commission. For example, we have estimated that combining the elections would save the Commission at least £0.5m from its public awareness campaigns budget.

New unitary authorities

21. The creation of new unitary authorities on 1 April 2009 also needs to be considered. It is important to point out that Electoral Services departments at the newly formed councils would be required to run local elections in their area. Combination would allow them an extra month to prepare.

Turnout

22. We recognise that turnout is an important factor for many when considering the merits of combination. In this context, it should be noted that our research at the 2004 combined European Parliamentary and local elections showed that combination can result in improvements in turnout.

Commission views on specific questions

Q1. Do you believe that Government should seek to move the date of the local elections in 2009 from 7 May to 4 June, so that they are held on the same day as the European Parliamentary elections?

23. As outlined above, we believe that the decision as to whether or not to combine elections needs to be taken on a case-by-case basis, considering the advantages and disadvantages for electoral administrators, political parties and candidates and especially electors. The proximity of the two scheduled sets of elections – local government and European Parliamentary – makes this a special case.

24. Notwithstanding our call for the Government to undertake comprehensive research into these matters (see below for more details), we believe that, on balance, fewer risks attach to the option of combining the European Parliamentary and local government elections than holding the elections very close together; and on these grounds combination is our preference. This recommendation is made on the basis that combination would:

- (a) in this case, be less confusing for electors than holding two (or possibly three) elections very close together;
- (b) facilitate greater administrative efficiency and, by avoiding two election timetables overlapping, reduce the risk of maladministration;
- (c) potentially reduce costs incurred by local authorities, Returning Officers, central government, political parties and the Commission in distributing election and public awareness material, contacting electors, canvassing and administering the polls themselves.
- (d) facilitate the proper accounting for election expenditure by political parties and candidates.

Q2. If we move the elections to principal authorities (as listed at Annex B of the DCLG consultation paper) should we also move the date of parish council elections where they are scheduled to take place on 7 May 2009?

25. In Wales in 2004, elections to the European Parliament, County Councils and Community Councils took place on the same day. Our 2004 report on the local elections in Wales stated that the main problem with combined County Council and Community Council elections was the increased workload for electoral administrators because of the higher number of candidates. In this respect, the addition of the European Parliamentary elections was only an issue for the Regional Returning Officer. Other areas highlighted in the 2004 report, which would be issues for local returning officers were elections to be combined in 2009, relate to the additional work generated by the increased number of postal votes (including verification in 2009), the combined poll and counting of votes.

26. We note that the DCLG is undertaking a separate consultation with the Implementation Officers for the new unitary authorities about the date of the next parish elections in these areas. Many of these parish councils last held elections in 2007 and so are scheduled to hold their next elections in 2011. However, in order for future parish elections to be held at the same time as the unitary authority elections it would be necessary to change the date of the next election to either 2009 or 2013. Implementation Officers are therefore being asked which year they would prefer. If they prefer 2009, and on the assumption that the local government and European Parliamentary elections are combined, they also need to consider whether the parish election should also be held in June or if they should be held on the original polling day, 7 May.
27. Ultimately we believe that the decision as to whether parish elections should be combined is a local matter. However, we recommend that those involved in making these decisions should ensure they put the interests of electors first wherever possible.
28. The Government should seek the views of relevant county branches of the National Association of Local Councils as well as the affected local authorities in order to determine which course of action is preferable.

Q3. What practical issues do you foresee in combining effectively local (and where applicable, parish) elections with the European Parliamentary elections?

and

Q4. What action do you think should be taken to address these practical issues (whether by local authorities, Government or the Electoral Commission)?

Public awareness work

29. If multiple elections are to take place on the same day there needs to be an explanation of whom and what electors are voting for. The design of the European Parliamentary ballot papers will also be relevant: if, for example, candidate names are not to appear on European Parliamentary ballot papers, each postal voter should be sent a list of the names on each party's list and copies should also be displayed in every polling station so that electors can see the rankings of candidates according to party preferences, so that they may take this information into account when casting their vote.
30. Following the 2004 European Parliamentary elections we recommended that an election information booklet be produced and sent to all registered electors at future European Parliamentary elections. Such a booklet could list the parties and candidates for that region, give an overview of the role of the European Parliament, explain how to vote in the election and

include a list of areas with local government elections (including a phone number and website address for where contact details for Regional Returning Officers and local Returning Officers can be found).

31. The London Elects election information booklet, which was produced for this year's Greater London Authority elections and contained information on each Mayoral candidate and on how to vote, appears to have been successful. However, there were a number of logistical difficulties in producing this owing to the short amount of time between close of nominations and polling day. If a similar exercise were to be considered for the 2009 European Parliamentary elections, it would be essential for it to be well planned and coordinated.

Election timetable

32. The Commission's view is that if the 2009 elections are combined they should be run on the same timetable, so that key dates are consistent. Legislative measures should therefore be put in place to ensure that the different timetables are effectively aligned.
33. In the long term the Government should aim to consolidate electoral legislation in order to provide a consistent timetable for all elections, preferably one that is longer than the current local government election timetable.

Electoral areas on which elections are conducted

34. It is possible for the local administration of a European Parliamentary election to be undertaken using either local authority areas or UK Parliamentary constituencies. As there are local government elections in England, it is likely that electoral administrators in England would prefer to use local authority areas.
35. For political parties, one of the main motivations for using UK Parliamentary constituencies as the basis for administering European Parliamentary elections is that it enables them to use the polling data to predict their performance at the next UK Parliamentary General Election. However, as the legislation requires that the old UK Parliamentary constituencies from the previous election be used and the next UK Parliamentary General Election will be contested on new boundaries this advantage would be reduced. It should also be noted that local authority areas were used in the 2004 European Parliamentary elections in England and Wales.
36. Therefore, the Commission sees no reason not to use local authorities as the basis for administering the 2009 European Parliamentary elections and recommends that this be the case.

Combination of ballot papers

37. Of course, the two ballot papers for local government and European Parliamentary elections should be separate. The elections in Scotland in 2007 demonstrated the potential for voter confusion if ballot papers are combined. Each type of ballot paper should be of a different colour to aid voting and the count.

Combination of the postal voting process

38. Where elections are combined, postal ballots for each election can be sent either together or separately. If they are sent together then only one postal voting statement is required, whereas postal ballots dispatched separately would require a separate postal voting statement for each election. If two separate postal ballot packs were used, it is possible that these may not arrive on the same day. On balance, we believe that sending one postal voting statement rather than two separate ones would be preferable as this option will be more straightforward and intelligible for electors. However, this is an issue which requires further research and which should be examined in the light of the experience of the 2009 elections if they are combined.

Need for comprehensive research

39. In broader terms, although combination is increasingly a part of the UK electoral landscape, there is no thorough understanding of the effect of combination on electors – either in regard to marking ballot papers or appreciation and understanding of what institutions are being voted for and what their respective roles and responsibilities are. In our report on the European Parliamentary elections in 2004 we called on the Government to give further consideration to the impact of the combination of elections. Subsequently our response to the Gould report called for a comprehensive research study to be undertaken into these matters. This research should include consideration of the different types of combination that can occur anywhere in the UK – we estimate that almost 100 different types of combination could occur.
40. It is also the case that, as with the 1999 Scottish Parliament and Scottish local government elections, elections can be held simultaneously – that is, on the same day but without the processes being combined. Many of the concerns raised about combined elections would also arise with simultaneous elections, so the research programme must consider simultaneous elections as well.
41. Whatever decision is taken on the question of combining the 2009 elections, we again call upon the Government to undertake this research as a matter of urgency.

42. We would also like to see a commitment from governments across the UK to review the legislative rules for combination, so that where combined elections are pursued the rules are both clear and flexible. Again, voters' interests should take precedence. In particular, principles and processes for the combination of postal voting and the taking of the poll merit careful scrutiny.
43. The Commission does not consider that there is enough evidence to say with certainty that combination is always in the best interests of electors; nor is it possible to say it is never in their best interests. The decision about whether to combine elections should therefore be made on the basis of a consideration of the advantages and disadvantages for electoral administrators, parties and candidates and especially electors in each particular case. With regard to the 2009 elections, we believe that the balance of the argument is in favour of combination.

The Electoral Commission
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