

Scottish Independence Referendum

Report on the referendum held on 18 September 2014

December 2014

This report is laid before the Scottish

Parliament in pursuance of Section 27 of the

Scottish Independence Referendum Act 2013.

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Translations and other formats

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We are an independent body set up by the UK Parliament. We regulate party and election finance and set standards for well-run elections. We work to support a healthy democracy, where elections and referendums are based on our principles of trust, participation, and no undue influence. The Scottish Independence Referendum Act 2013 gave the Commission a number of responsibilities for the referendum, for which we report directly to the Scottish Parliament.

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Foreword

As part of the legislation passed by the Scottish Parliament enabling the historic referendum on independence for Scotland on 18 September 2014, the Electoral Commission was tasked with producing a report on the conduct of the referendum and our associated expenditure. This report fulfils that duty. It provides a comprehensive overview of the issues relating to the referendum, from the passage of the legislation through to the conduct of the poll. It looks at the key issues that arose on the way to polling day, including the conduct of campaigners and our regulation of them, and provides data on the views of voters and the experience they had throughout this period.

First of all, I am pleased to report that the referendum was well run. At 84.6%, turnout at the referendum was the highest recorded at any Scotland-wide poll since the advent of universal suffrage. In addition, 10% of the voters we spoke to reported that the referendum was their first experience of voting at any statutory poll. And voters were happy with their experience of the electoral process. 94% of people who voted in polling stations, and 98% of those who voted by post, reported to us that they were satisfied with this.

The report provides an opportunity to recognise and applaud those responsible for administering the referendum, from the Chief Counting Officer, Mary Pitcaithly, to all of the Counting Officers and Electoral Registration Officers across Scotland, who all rose to the challenges posed. From registering almost 150,000 voters in the last month before the deadline, to managing the record number of votes cast on polling day, their commitment and hard work ensured that voters across Scotland took part in an effective and efficient poll.

There was of course a number of reasons why the referendum was historic, one of which was the expansion of the franchise to include 16 and 17 year olds for the first time. This referendum showed that for young people, indeed for all voters, when they perceive an issue to be important and are inspired by it, they will both participate in the debate and show up on polling day.

This is borne out by the figures. 109,593 16 and 17 year olds were included on the registers by the registration deadline and 75% of those we spoke to claimed to have voted. Importantly, 97% of those 16-17 year olds who reported having voted said that they would vote again in future elections and referendums. The voting process worked for them and thanks to the professionalism of electoral staff across Scotland their experience was positive. The challenge for political parties across Scotland is to keep them engaged and enthused. An important lesson from the experience in Scotland,

that others looking to extend the franchise should consider carefully, is that to do this well it is important time is given both for administrators to do targeted activity to register young people and for campaigners to engage with them.

The Commission itself had a number of roles at the referendum. As well as supporting the Chief Counting Officer and administrators across Scotland throughout the referendum period, we were also responsible for registering campaigners and regulating the campaign spending and reporting rules they operated under.

In total the Commission registered 42 campaigners, with 21 registering in support of a 'Yes' outcome and 21 in support of a 'No' outcome at the referendum. For the first time at any referendum, campaigners had to report their donations to the Commission before the poll. This meant that we were able to publish the details of campaign donations totalling £4.5 million, giving voters access to that information before they went to vote. We welcome the transparency this brought for voters and the overall level of compliance from campaigners in meeting this new requirement.

Stepping back to the start of the process, the crucial role played by the Scottish Parliament in passing the referendum legislation as early as possible should also be acknowledged. In sharp contrast to the referendums in 2011 where the rules were confirmed only three months ahead of polling day, the Scottish Independence Referendum Act was passed nearly nine months ahead of the poll. This ensured that there was adequate time for those administering the poll to prepare for delivering their respective roles at the referendum. It also allowed campaigners to familiarise themselves with the campaign rules and ensure they had adequate processes in place to comply with them. Future referendum legislation should be delivered to a similar timetable and standard as this Act.

There are some other important lessons that could be learned from the experience in Scotland. As well as the timeliness of the legislation, it was clear that holding a poll on such an important constitutional issue on a separate day from other elections helped both administrators and campaigners plan their activity more effectively and gave voters space to understand the issues. We have previously recommended that combining a referendum with other polls should be considered on a case-by-case basis. We believe that this remains the case, but that for issues of a similar scale, for instance about the UK's membership of the European Union, the example set in Scotland should be considered carefully.

Finally, I would like to acknowledge the important role played by the Electoral Management Board of Scotland in helping ensure the success of the referendum. The Board provided a crucial role in advising, supporting and guiding the work of all those administering the referendum. We have previously recommended that the EMB's role should be placed on a statutory footing for all parliamentary elections in Scotland and continue to believe that this is the case. We would welcome this change being considered as part of the wider electoral changes proposed by the recent publication of the Smith Commission's proposals.

We welcome the Parliamentary scrutiny of this report and look forward to discussing our findings and recommendations with the Devolution (Further Powers) Committee.

John McCormick

Electoral Commissioner

Executive Summary

About this report

On 18 September 2014, the people of Scotland voted in a referendum on whether Scotland should be an independent country. In the months leading up to the day of poll Scotland was energised by the debate and the voters engaged in the discussion around the referendum question.

The question asked, to which voters were required to vote either yes or no, was:

'Should Scotland be an independent country?'

This is a report to the Scottish Parliament fulfilling our statutory duty to report to the Parliament, under the provisions of the Scottish Independence Referendum Act 2013 (SIRA), on the conduct of the referendum. It reviews the experience of voters, the referendum campaign and the delivery of the referendum as well as how the Electoral Commission carried out its functions under SIRA. We also report on the expenditure which we incurred in carrying out our functions. We will publish a further report on campaign spending in 2015 after the registered campaigners who spent more than £250,000 have submitted their spending returns in March 2015.

The report is informed by many sources of information and focuses on the administration of the referendum. It reflects the experience of voters based on public opinion research, as well as electoral data provided by the Chief Counting Officer (CCO), Counting Officers (COs) and Electoral Registration Officers (EROs). It also reflects the feedback and views we received from campaigners, those responsible for delivering the referendum poll, as well as other participants and observers in what was Scotland's biggest electoral event ever.

The referendum was well-run by the CCO and her CO and ERO colleagues because of careful planning (in part possible because of existing administrative structures in Scotland), sufficient resourcing and careful delivery of the administrative process through much hard work by all those involved.

Who was responsible for what?

The "Edinburgh Agreement" was signed between the Scottish and UK Governments on 15 October 2012. Under the Agreement, the respective Governments agreed to work together to ensure that a referendum on independence for Scotland would take place. An Order was subsequently made in both the Scottish and UK Parliaments under Section 30 of the Scotland Act 1998, enabling the Scottish Parliament to legislate for the referendum. SIRA, the Act subsequently passed by the Scottish Parliament, provided for the roles undertaken by the various bodies in Scotland, with regard to the referendum, to be slightly different to a referendum run under the Political Parties, Elections and Referendums Act 2000 (PPERA). SIRA gave the following roles which are outlined below.

The Chief Counting Officer

SIRA required Scottish Ministers to appoint the Convener of the Electoral Management Board for Scotland (EMB), Mary Pitcaithly, as CCO for the referendum. She appointed Sue Bruce, Chief Executive of The City of Edinburgh Council, as Deputy Chief Counting Officer. The CCO also appointed COs for each of the 32 local government areas in Scotland, who in turn were entitled to appoint deputies to carry out some or all of their functions as appropriate. The CCO was responsible for:

- The proper and effective conduct of the referendum, including the conduct of the poll and the counting of votes.
- The appointment of COs for each of the 32 local government areas.
- The provision of guidance and, where appropriate, direction to COs and EROs on the exercise of their functions.
- Encouraging participation in the referendum.
- Certifying the overall outcome of the referendum in Scotland.

¹ Agreement between the United Kingdom Government and the Scottish Government on a referendum on independence for Scotland (http://www.scotland.gov.uk/About/Government/concordats/Referendum-on-independence)

² Order under Section 30 of the Scotland Act 1998 (http://www.legislation.gov.uk/uksi/2013/242/pdfs/uksi 20130242 en.pdf)

The Electoral Commission

The Electoral Commission was responsible for:

- Advising, registering and regulating campaigners in the referendum where appropriate, including in relation to campaign spending and donations.
- Assessing applications from campaign groups wishing to be appointed as the designated organisation campaigning for each referendum outcome.
- Promoting public awareness in relation to the referendum.
- Administering an accreditation scheme for individuals and organisations wishing to act as observers at key proceedings in relation to the referendum, including the preparation of a Code of Practice specific to the event.
- Reporting on the conduct of the referendum
- Advising on the referendum question and campaign spending limits,
 before SIRA was introduced into the Scottish Parliament

Key facts and figures

The referendum result

Voting in the referendum commenced in late August 2014 with the dispatch of postal votes prior to polling day on 18 September 2014. Levels of voting were high and steady throughout polling day, with many polling staff experiencing queues at the door when voting opened at 7am, such was the engagement of the electorate keen to express their preference on the referendum question. The atmosphere in polling places was reported by police, staff and observers to be good natured throughout the day. There were some reports of incidents during the campaign and on polling day but the prospect of a widespread air of intimidation, which had been raised prior to polling day, did not materialise. The count commenced shortly after the close of poll at 10pm on 18 September and continued throughout the night. The result was declared by the CCO at approximately 9am on 19 September 2014.

 There were 3,623,344 (representing 84.6% of the electorate) votes counted

- 2,001,926 people (55.25% of all voters) voted No
- 1,617,989 people, (44.65% of all voters) voted Yes

Some key statistics

- 4,283,938 registered voters for the referendum
- 109,593 16 and 17 year olds registered
- 796,835 (18.6%) postal voters
- 3,429 (0.1%) ballots rejected at the referendum count
- 5,579 polling stations within 2,608 polling places
- Maximum 800 electors per polling station
- 42 campaign groups or individuals registered with the Commission (21 campaigning for a Yes vote and 21 for a No vote)
- 2.5 million EC Voting Guides delivered to Scottish households

Key issues and lessons learnt

This report contains recommendations for the conduct of any future referendum legislated for by the Scottish Parliament on any issue. Although we are not aware of any such future plans, we consider it proper that the lessons learnt from this event are brought to the attention of the Parliament so they can be recorded and considered in the future. Some of the lessons learnt are of course also relevant to future elections for which the Parliament is responsible and they should be considered in that light.

There are also lessons that are relevant to legislation for future referendums and elections, not only in Scotland but also those held across or in other parts of the UK. Where appropriate these lessons are directed at the other legislatures across the UK, including the UK Parliament.

In this summary we highlight, in particular, the issues detailed below.

Early legislation

Following the May 2011 referendums on additional powers for the National Assembly for Wales and the Parliamentary Voting System for the House of Commons, we recommended that, for future referendums, detailed rules

should be in force at least 28 weeks in advance of polling day (or by 6 March 2014 in the case of the Scottish Independence Referendum). SIRA and the Scottish Independence Referendum (Franchise) Act 2013 (the Franchise Act) were commenced on 18 December 2013 and 8 August 2013 respectively, giving clarity to all. For the Commission this meant we could provide guidance on the campaign rules nearly nine months ahead of the poll, as opposed to three months which was the case for both 2011 referendums. The CCO also had additional time to develop and provide guidance and direction on matters relating to registration and the conduct of the poll.

The benefit of this additional time was passed on to campaigners, EROs and COs in preparing for their respective roles at the referendum. Campaigners were able to engage constructively with the legislative process and had time to develop an understanding of the relevant guidance and rules, before they came into force. EROs and COs benefitted from sufficient time to put robust plans in place for the delivery of their responsibilities under the legislation, from targeted public awareness activity to the booking of polling places and the training of staff.

While the provisions relating to many aspects of the referendum were commenced some nine months before the event, those relating to the franchise, contained in the Franchise Act, were not. The provisions which allowed for the compiling of the Register of Young Voters were not commenced until two months before the start of the canvass of 16 and 17 year olds. In addition, similar timing considerations are also relevant when developing a public awareness strategy and political literacy initiatives, both at the national and local level, when introducing votes for 16 and 17 year olds.

We believe that the experience of legislating for the Scottish Independence Referendum provides, in the main, a model for the future development of referendum and electoral legislation. Sufficient time was allowed by the Scottish Government to consult on the proposed legislation, followed by the Scottish Parliament having sufficient time to properly scrutinise proposals and legislate, with Royal Assent for the primary pieces of legislation being in place nine months before 18 September.

We recommend that in planning for any future referendums, not only in Scotland but also those held across or in other parts of the UK, governments should aim to ensure that legislation (including any secondary legislation) is clear at least six months before it is required to be implemented or complied with by campaigners, the Chief Counting Officer, Counting Officers or Electoral Registration Officers.

This would mean that:

- Legislation for any changes to the franchise for a referendum should be clear at least six months before EROs are due to begin any scheduled annual canvass activities.
- Legislation for the regulation of referendum campaigners should be clear at least six months before the start of the regulated referendum period.
- Legislation relating to the conduct of a referendum poll, including secondary legislation such as Fees and Charges Orders, should be clear at least six months before polling day.

Extending the franchise to 16 and 17 year olds

The Commission's view was, and remains, that decisions about the franchise are for the relevant Parliament to decide. Our focus in the referendum was ensuring that, as the franchise had been extended to 16 and 17 year olds, they were able to participate fully, including being registered to vote.

As noted above, the Franchise Act did not receive Royal Assent until two months before the start of the canvass of 16 and 17 year olds. While we were aware that the Scottish Government was talking with Scotland's EROs in order to ensure the legislation was capable of being implemented in a timely manner, we would, however, have expected the legislation to be in force at least six months before the annual canvass to give EROs sufficient time to plan and effectively implement the changes.

This will also help public awareness and political literacy initiatives, both at the national and local level, when introducing votes for 16 and 17 year olds.

We therefore recommend that, when any policy maker or legislator is considering future legislation for referendums or elections with a franchise including 16 and 17 year olds, they consider the need to ensure legislation concerning the extension of the franchise is commenced six months prior to the beginning of the canvass in order to allow administrators to plan for the canvass and public awareness activities, including political literacy initiatives.

Standalone poll

The "Edinburgh Agreement" required that no other referendum legislated for by the Scottish Parliament could be held on the same day as the referendum on independence for Scotland.

The circumstances of the referendum and the campaigning tactics adopted by campaigners meant that a number of different political parties worked together to campaign for the same outcome. Both lead campaigners attracted various political parties to their cause and a large number of people who were not associated with any political party. Lots of non-party campaign groups were also established, some of whom were registered with the Commission whilst others were not.

Cross-party campaigning at referendums provides a coordinated message to voters and helps them to make an informed decision. However, had an election campaign been taking place at the same time as the referendum campaign, some parties might have been working together in one contest, whilst campaigning against each other in the other. This has the potential to be confusing for voters and to place parties in a campaign context within which it would be extremely difficult to operate. Given the intense level of campaigning in the referendum and the focus of campaigners and voters on a single issue, we believe that if an election had been held on the same day, this could have led to voter confusion.

We recommend any government introducing legislation for future referendums, not only in Scotland but also those held across or in other parts of the UK, should also publish at the same time its assessment of the implications of holding other polls on the same day. This will enable legislatures (including the Scottish Parliament and the UK Parliament) to consider the relative benefits and risks of the proposal as they scrutinise the referendum Bill.

Scotland's future electoral structures

Since its establishment in 2008, the EMB³ has supported successfully the delivery of several elections and the 2011 Referendum on Parliamentary Voting Systems. Although the EMB did not have a statutory role in the referendum on independence for Scotland, its Convener was appointed under SIRA as CCO for the referendum and it played an integral role in providing advice and support to the CCO to ensure the proper and effective conduct of the poll.

The current legislative and administrative structures for electoral matters in Scotland are part-reserved and part-devolved. Although we have recommended that the statutory role of the EMB be expanded to include elections to the Scottish, UK and European Parliaments, to date this has not happened. It remains the case that its only statutory role relates to local government elections, though it continues to undertake roles in parliamentary elections on a non-statutory basis. The EMB has again demonstrated the added-value it brings to electoral events in Scotland and is recognised by stakeholders throughout the electoral community as providing effective leadership as it seeks to develop consistency of approach. In our view, the future statutory electoral framework for Scotland should include the EMB as it supports the provision of efficient and effective electoral administrative processes in the interests of the voter.

Following the referendum, the Smith Commission on further devolution of powers to the Scottish Parliament was established and presented its proposals, referred to as 'the Smith Commission Agreement', on 27 November 2014. This proposed that the Scottish Parliament be given powers over how its members are elected, together with powers to extend the franchise to 16 and 17 year olds, allowing them to vote in the 2016 Scottish Parliamentary elections. The Parliament would also be given additional powers in relation to local government elections.

While 'the Smith Commission Agreement' envisages that the Electoral Commission will continue to operate on a UK-wide basis, it proposes that the

advised by various professional electoral bodies, both the UK and Scottish Governments and the Electoral Commission.

³ Although established on an interim, non-statutory basis in November 2008, the EMB was not created in a statutory sense until given roles in Scotland's local government elections by the Local Electoral Administration (Scotland) Act 2011, which gave the Board "the general function of co-ordinating the administration of local government elections in Scotland." Its overall aim is to promote a consistent approach to electoral administration across Scotland with the interests of voters at the fore. Members of the Board are Returning Officers (Counting Officers for the referendum), their Deputes and Electoral Registration Officers and it is led by a Convener who is currently appointed by Scotlish Ministers. It is

Scottish Parliament will have competence over the functions of the Electoral Commission in relation to Scottish Parliamentary elections and local government elections in Scotland. The Electoral Commission would report to the UK Parliament in relation to UK and European Parliamentary elections and to the Scottish Parliament for Scottish Parliamentary and local government elections.

The Commission has written to both the Scottish and UK Governments offering our assistance as they take forward the work needed to produce draft clauses implementing these proposals.

Given the continuing development of the EMB and the need to secure its long-term funding and statutory arrangements, the Electoral Commission believes that 'the Smith Commission Agreement' presents an opportunity to secure the future restructuring of electoral matters in Scotland with the EMB playing an important role, delivering services which are in the interests of the voter.

We recommend that the EMB's statutory remit is extended to Scottish, UK and European Parliamentary elections and that the Convener is given a power of direction at these elections.

We also recommend that the long-term funding and legal status of the EMB be secured and clarified so that it can undertake fully the tasks it was envisioned it would carry out when the idea of the Board was recommended and accepted by governments in 2008.

In making the above recommendations, the Commission would re-state its comment in the 2008 report 'Electoral Administration in Scotland' that it recognises that, as the EMB develops, this would impact upon our work. We said we would review our work in that light, which we continue to do.

Regulating the campaigns

SIRA contained a number of changes to the rules that applied at the 2011 referendums on increased powers for the National Assembly for Wales and the UK-wide referendum on UK Parliamentary Voting Systems. These changes were intended to clarify aspects of the regulatory controls, reduce burdens on those that wished to campaign, and ensure that voters had access to information to enable them to make an informed decision when they cast their vote.

Overall, we believe that the regulatory controls that applied at the referendum worked well. There are, however, lessons that can be learnt for further

refinement of the legal framework and for government spending during the referendum period. We discuss these in Chapter 5 of this report.

List of recommendations

We have provided a list of the recommendations made in our report below. The numbers of the pages on which the recommendations can be found are also included for ease of reference.

Recommendations: Future referendum legislation

Recommendation 1: Timing of legislation for future referendums (Page 39)

When considering proposals for any future referendum on any issue, not only in Scotland but also those held across or in other parts of the UK, governments should ensure that the timetable for developing and introducing all legislation provides sufficient opportunity for legislatures (including the Scottish Parliament and the UK Parliament where appropriate) to properly scrutinise those proposals, including considering the Electoral Commission's advice about the wording of the proposed referendum question.

Governments should also acknowledge the importance of allowing sufficient time for campaigners, the Chief Counting Officer and Counting Officers, Electoral Registration Officers and the Electoral Commission to prepare for their respective roles in any referendum. In particular, legislation should be clear in sufficient time to allow robust and detailed guidance to be developed and provided to campaigners, Electoral Registration Officers or Counting Officers.

We recommend that in planning for any future referendums, not only in Scotland but also those held across or in other parts of the UK, governments should aim to ensure that legislation (including any secondary legislation) is clear at least six months before it is required to be implemented or complied with by campaigners, the Chief Counting Officer, Counting Officers or Electoral Registration Officers. This would mean that:

- Legislation for any changes to the franchise for a referendum should be clear at least six months before EROs are due to begin any scheduled annual canvass activities.
- Legislation for the regulation of referendum campaigners should be clear at least six months before the start of the regulated referendum period.

 Legislation relating to the conduct of a referendum poll, including secondary legislation such as Fees and Charges Orders, should be clear at least six months before polling day.

Recommendation 2: Extending the franchise to 16 and 17 year olds (Page 40)

We recommend that, when any policy maker or legislator is considering future legislation for referendums or elections with a franchise including 16 and 17 year olds, they consider the need to ensure legislation concerning the extension of the franchise is commenced six months prior to the beginning of the canvass in order to allow administrators to plan, both for the canvass and for related public awareness activities, including political literacy initiatives.

Recommendation 3: Timing of polling day for future referendums (Page 40)

We have previously recommended that any proposals to hold a referendum poll on the same day as the poll for other electoral events should be considered on a case-by-case basis and this remains our view.

The priority in considering any such proposals has always been that voters and campaigners should be able to understand and easily participate in all of the polls, and that those responsible for running the polls are able to do so effectively. Governments and legislatures should take into account the anticipated level of public interest and potential for cross-party campaigning when considering proposals for the timing of any future referendum. Where significant cross-party campaigning for a future high-profile referendum is likely (such as, for example, a referendum on the UK's membership of the European Union), we would not expect the poll to be held on the same day as another set of polls. This would help ensure voters and campaigners are able to easily participate in the referendum and minimise the risk of voter confusion.

Any government introducing legislation for future referendums, not only in Scotland but also those held across or in other parts of the UK, should also publish at the same time its assessment of the implications of holding other polls on the same day. This will enable legislatures (including the Scottish Parliament and the UK Parliament) to consider the relative benefits and risks of the proposal as they scrutinise the referendum Bill.

Recommendations: Information for voters

Recommendation 4: Public awareness activity undertaken by the CCO and COs (Page 57)

The public awareness activity undertaken by the CCO and COs benefitted voters through the provision of timely and localised information about their vote. In order to enable the CCO and COs to undertake activity to promote voter registration and voter information, and following a Commission recommendation from the 2011 referendums, the referendum legislation specifically exempted the CCO and COs from the ban on public bodies producing information relating to the referendum in the last 28 days leading to polling day. This exemption had important benefits for voters and we recommend that it be applied at any future referendums.

Recommendation 5: Information for voters on count procedures (Page 80)

The Commission and others involved in the provision of public information regarding referendums and elections in Scotland and the rest of the UK need to address the issue of how we make the public more aware of count procedures.

Recommendation 6: Issuing ballot papers to voters queuing at polling stations (Page 81)

Legislation for future referendums, not only in Scotland but elsewhere in the UK, should ensure that eligible electors who are in the queue at their polling station at the close of poll are issued with a ballot paper and allowed to vote.

Recommendations: Campaign regulation

Recommendation 7: Eligibility to register as a referendum campaigner and donate (Page 115)

The legislation for future referendums, not only in Scotland but also those held across or in other parts of the UK, should ensure that the list of individuals and bodies eligible to register as a referendum campaigner and to donate to other campaigners is extended to mirror the list of eligible registered non-party campaigners under PPERA.

Recommendation 8: Responsible person (Page 116)

The legislation for future referendums, not only in Scotland but also those held across or in other parts of the UK, should ensure that the same person is not able to be the responsible person for more than one registered campaigner; and, in addition that:

- the person named as the responsible person is required to sign the application for registration as a campaigner, and
- for non-PPERA referendums, s.25 PPERA is replicated so that a political party's campaigns officer can take on the Treasurer's role of responsible person.

Recommendation 9: Grounds for rejecting applications to register as a referendum campaigner (Page 116)

The legislation for future referendums, not only in Scotland but also those held across or in other parts of the UK, should ensure that the Commission is not required to accept a declaration for registration as a referendum campaigner if the campaigner proposes a registered name which:

- Would be the same as that of a permitted participant which is already registered.
- Is obscene or offensive.
- Includes words the publication of which would be likely to amount to the commission of an offence.
- Includes any prohibited word or expression.

Recommendation 10: Approach to designation (Page 116)

We would welcome the opportunity to work with relevant governments, not only in Scotland but also in other parts of the UK, when they are considering the legislation for future referendums, to consider the implications of enabling the Commission to designate one side of the referendum debate rather than requiring designation to be on both sides or not at all (as is required under PPERA).

Recommendation 11: Early designation and the length of the referendum period (Page 117)

The legislation for future referendums, not only in Scotland but also those held across or in other parts of the UK, should ensure that designation is able to take place shortly before, rather than during the first six weeks of, the referendum period. We also recommend that consideration be given to the benefits of early designation when setting the legislative timetable.

If circumstances mean that the legislative timetable is such that early designation is not possible, then our 2011 recommendation to extend the length of the referendum period to at least 16 weeks should be adopted. This would go some way to giving designated lead campaign groups more time to plan and use the benefits available.

Recommendation 12: Pre-poll reporting (Page 117)

The legislation for future referendums, not only in Scotland but also those held across or in other parts of the UK, should ensure that pre-poll reporting of donations and loans over £7,500 received by registered campaigners (except political parties) for referendum purposes is again included as a reporting requirement.

Recommendation 13: Grants to designated lead campaigners (Page 117)

It is important that relevant governments, not only in Scotland but also those in other parts of the UK, give careful consideration to the principles of 'core funding' raised by the Committee on Standards in Public Life in its 1998 report when considering whether a publicly funded grant should be made available.

For future non-PPERA referendums, relevant governments, not only in Scotland but also those in other parts of the UK, should be aware that the Commission may wish to comment on whether a grant should be available to designated lead campaigners.

Recommendation 14: Imprints (Page 118)

We continue to recommend that there should be proportionate imprint requirements on non-printed material at referendums and elections across the UK. However, we would welcome the opportunity to work with relevant governments, not only in Scotland but also in other parts of the UK, when they are considering future legislation for referendums, to ensure that the imprint rules strike the right balance between ensuring there is transparency about who is campaigning and proportionate and modern regulatory requirements.

Recommendation 15: Restrictions on the publication of promotional material by central and local government (Page 118)

Relevant governments, not only in Scotland but also those in other parts of the UK, should publicly commit to and refrain from, in practise, any paid advertising, including the delivery of booklets to households, which promotes a particular referendum outcome for the full duration of the referendum period.

We agree in principle that a period of 28-days is an adequate duration for the restrictions on the publication of other promotional material by central and local government. However, to mitigate the risks of the relatively short period, it is important that relevant governments give careful consideration to the impact on the campaign and voters' trust in the rules of any referendum related information they publish before the restrictions come into force. It is also important that there is a clear explanation of the rules and how to comply with them for relevant public bodies to follow during that period.

Recommendation 16: Regulating campaign arguments (Page 118)

We invite relevant governments, not only in Scotland but also those in other parts of the UK to restate for each future referendum that a role in regulating the campaign arguments is inappropriate for the Commission, or any other organisation tasked with regulating the referendum.

Recommendations for the future conduct of the referendums and elections

Recommendation 17: Use of the mini-count approach to the verification and counting of votes (Page 142)

Breaking down the verification and counting of votes into areas smaller than the total electoral or referendum area is a particularly effective method in achieving an accurate, timeous result with clear audit trails. Consequently, COs and returning officers in Scotland and elsewhere in the UK should consider utilising this approach when planning their verification and count at future electoral events.

Recommendation 18: National recounts (Page 142)

The key factor in delivering a single national result for future any referendums is that high quality counts are undertaken in each counting area, so that confidence and trust in the overall result is achieved, as was the case at the independence referendum.

We do not believe that it would be necessary for legislation for any future referendum on any issue, not only in Scotland but also those held across or in other parts of the UK, to provide powers for the Chief Counting Officer to direct national recounts to be carried out across all counting areas. Legislatures scrutinising future referendum legislation will want to consider the powers provided to Counting Officers for recounts at the local counting area level.

Recommendation 19: Prohibition on appointment of staff previously involved in campaigning (Page 142)

The legislation for future referendums, not only in Scotland but also those held across or in other parts of the UK, should ensure that the prohibition on COs appointing people as polling station staff who have been involved in the campaigns for either outcome in the referendum, is extended to explicitly cover people employed by the CO at the verification and counting of votes.

Recommendation 20: Appointment of counting agents (Page 143)

Limitations on the number of counting agents who can be appointed at count centres mean that in some circumstances agents of any given registered campaigner may be unable to properly scrutinise the conduct of the counting of votes. Although a restriction on the number of counting agents who can be appointed is necessary for logistical reasons it may be that changes are required to the way in which the representation of each referendum outcome is calculated. For example, it may be that a system which prioritises the appointment of an appropriate number of counting agents acting on behalf of the designated lead campaigners would be more effective.

During the course of the referendum the Commission drew the attention of both lead campaigners and several other campaign organisations to the limitations on numbers of counting agents to ensure they were aware of a potential issue before it arose. For future referendum legislation in Scotland and elsewhere legislators may wish to consider if large numbers of registered campaigners are anticipated.

Recommendation 21: Instructions to voters on the folding of ballot papers and the Unique Identifying Number (Page 143)

SIRA required and the guidance issued by the CCO highlighted the requirement of polling station staff to inform voters to fold the ballot paper after they had made their mark and then show the Unique Identifying Number to the Presiding Officer before placing the ballot paper in the box. Counting Officers and Returning Officers at future referendums and elections in Scotland and elsewhere in the UK should ensure that at training sessions for polling station staff the requirements for how the ballots are to be presented prior to their deposit in the ballot box are be emphasised to staff.

Recommendation 22: The future of the Electoral Management Board for Scotland (Page 144)

Given the continuing development of the EMB and the need to secure its long-term funding and statutory arrangements, the Smith Commission Agreement presents an opportunity to secure the future re-structuring of electoral matters in Scotland with the EMB playing an important role, delivering services which are in the interests of the voter. We would therefore recommend:

- That the EMB's statutory remit is extended to all parliamentary elections and that the Convener is given a power of direction at these elections.
- The long term funding and legal status of the EMB must also be secured and clarified so that it can undertake fully the tasks it was envisioned it would carry out when the idea of a Board was recommended and accepted by governments in 2008.

Recommendation 23: Integrity administrative issues: a single point of contact (Page 144)

The Commission, while recognising the complexity of having many more police forces across the whole of the UK and their independence in operational terms, recommends that for future referendums at the UK level, Police Scotland, the Association of Chief Police Officers and the Police Service of Northern Ireland explore the possibility of establishing a single command structure to co-ordinate where necessary at UK level.

1 Introduction

About this report

1.1 On 18 September 2014, the people of Scotland voted in a referendum on whether Scotland should be an independent country. This is a report about the conduct of the referendum. It reviews the experience of voters, the referendum campaign and the delivery of the referendum as well as how the Electoral Commission carried out its functions under SIRA. We also report on the expenditure which the Electoral Commission incurred in carrying out our functions under SIRA. We will publish a further report on campaign spending in 2015 after the registered campaigners who spent more than £250,000 have submitted their spending returns in March 2015.

Background to the referendum

- 1.2 The Scottish National Party (SNP) in 2007 was elected as the largest party in the Scottish Parliament, but its total number of seats fell short of that required for a majority. From 2007 to 2011 the SNP operated in the Scottish Parliament as a minority government. In August 2007, the Scottish Government launched a consultation exercise referred to as The National Conversation, on Scotland's constitutional future⁴. The consultation concluded in November 2009 and led to the publication of a draft referendum bill in February 2010, although this was never brought before the Scottish Parliament.
- 1.3 At the Scottish Parliament election in May 2011, the SNP achieved an overall majority and again formed the Scottish Government. The following year, both the Scottish⁵ and UK⁶ Governments launched consultations in relation to a referendum on independence for Scotland. Both governments received a large number of responses to their consultation papers. The Electoral Commission published a single response to both of these

⁴ Choosing Scotland's Future: A National Conversation: Independence and Responsibility in the Modern World (http://www.scotland.gov.uk/Resource/Doc/194791/0052321.pdf)

⁵ Your Scotland, Your Referendum (http://www.scotland.gov.uk/Resource/0038/00386122.pdf)

⁶ Scotland's constitutional future: A consultation on facilitating a legal, fair and decisive referendum on whether Scotland should leave the United Kingdom (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/39248/Scotlands_Constitutional_Future.pdf)

consultations in March 2012⁷. In the months which followed the launch of these consultations, the campaign groups Yes Scotland and Better Together were launched to campaign for a Yes and No outcome respectively in the pending referendum. These groups were, in April 2014, subsequently to be appointed as designated lead campaigners for each referendum outcome following an assessment process undertaken by the Commission.

- 1.4 The "Edinburgh Agreement" was signed between the Scottish and UK Governments on 15 October 2012. Under the Agreement, the respective Governments agreed to work together to ensure that a referendum on independence for Scotland would take place. An Order⁸ was subsequently made in both the Scottish and UK Parliaments under Section 30 of the Scotland Act 1998, enabling the Scottish Parliament to legislate for the referendum.
- 1.5 With regard to the wording of the referendum question, part of the Edinburgh Agreement stipulated that the Commission should have responsibility for providing advice and assistance in considering the wording and intelligibility of the proposed question. The Commission published its question assessment report in January 2013⁹, following a formal request from Nicola Sturgeon MSP, Deputy First Minister, on 18 November 2012. At the same time the Commission also published its advice on spending limits for the referendum¹⁰.
- 1.6 The Franchise Act received Royal Assent on 7 August 2013, enshrining in law the right of 16 and 17 year olds to vote in a Scotland wide electoral event for the first time. Royal Assent for SIRA followed on 17 December 2013, which stipulated that the Electoral Commission should have responsibility for:
- Advising, registering and regulating campaigners in the referendum, where appropriate, including in relation to campaign spending and donations.

⁷ The Scottish Referendum: Response to Consultations (http://www.electoralcommission.org.uk/__data/assets/pdf_file/0011/146927/The-Scottish-referendum-Response-to-consultations.pdf)

⁸ Order under Section 30 of the Scotland Act 1998 (http://www.scotland.gov.uk/Resource/0040/00404790.pdf)

⁹ Referendum on independence for Scotland: Advice of the Electoral Commission on the proposed referendum question

(http://www.electoralcommission.org.uk/ data/assets/pdf file/0007/153691/Referendum-on-independence-for-Scotland-our-advice-on-referendum-question.pdf)

¹⁰ Electoral Commission advice on spending limits for the referendum on independence for Scotland

(http://www.electoralcommission.org.uk/__data/assets/pdf_file/0004/153697/Report-on-spending-limits-for-the-referendum-on-independence-for-Scotland.pdf)

- Assessing applications from campaign groups wishing to be appointed as the designated organisation campaigning for each referendum outcome.
- Promoting public awareness in relation to the referendum.
- Administering an accreditation scheme for individuals and organisations wishing to act as observers at key proceedings in relation to the referendum, including the preparation of a Code of Practice specific to the event.
- Reporting on the conduct of the referendum.
- Before SIRA was introduced into the Scottish Parliament the Commission advised on the referendum question and campaign spending limits.
- 1.7 SIRA also required Scottish Ministers to appoint the Convener of the Electoral Management Board (EMB) for Scotland, Mary Pitcaithly, as CCO for the referendum. She appointed Sue Bruce, Chief Executive of The City of Edinburgh Council, as Deputy Chief Counting Officer. The CCO also appointed COs for each of the 32 local government areas in Scotland, who in turn were entitled to appoint deputies to carry out some or all of their functions as appropriate.

1.8 The CCO was responsible for:

- The proper and effective conduct of the referendum, including the conduct of the poll and the counting of votes.
- The appointment of COs for each of the 32 local government areas.
- The provision of guidance and, where appropriate, direction to COs and EROs on the exercise of their functions.
- Encouraging participation in the referendum and facilitating cooperation amongst COs in encouraging participation.
- Certifying the overall outcome of the referendum in Scotland.
- 1.9 On 18 December 2013, the Commission commenced the registration of "permitted participants" whom we called "registered campaigners" those parties, individuals or bodies planning to spend in excess of £10,000 campaigning for a specified referendum outcome during the statutory referendum period (30 May 2014 18 September 2014). Following an assessment process, Yes Scotland and Better Together were designated by

the Commission as the lead campaigners for each referendum outcome on 23 April 2014.

1.10 The Electoral Commission's public awareness campaign started on 11 August 2014, in advance of the 2 September 2014 deadline to register to vote in the referendum.

The referendum result

- 1.11 Voting at the referendum started with postal votes being issued in late August, with polling day commencing at 7am on 18 September 2014 and the counting of votes commencing shortly after the close of polls at 10pm. The result was declared by the CCO at approximately 9am on 19 September 2014.
- 1.12 The outcome of the referendum was:
- 3,623,344 people (84.6% of the electorate) voted in the referendum
- 2,001,926 people (55.3% of all voters) voted No
- 1,617,989 people, (44.7% of all voters) voted Yes
- Turnout was highest in East Dunbartonshire (91%) and lowest in Glasgow (75%).
- Votes were counted by the 32 council areas of Scotland. In four out of the 32 counting areas more votes were cast for Yes than No; in each of the remaining 28 counting areas more votes were cast for No than Yes.
- 1.13 Detailed results for all voting areas can be found in Appendix 3 of this report and on the website of the Electoral Management Board for Scotland¹¹.

The Electoral Commission's approach to referendums

1.14 The Electoral Commission is an independent body which has specific responsibilities and functions in relation to the delivery and regulation of referendums held under the framework of the Political Parties, Elections and Referendums Act 2000 (PPERA). The referendum on independence for

¹¹ The Electoral Management Board for Scotland's Referendum Information Website (http://scotlandreferendum.info/)

Scotland was not held under PPERA and, therefore, the roles undertaken by the Commission were different, as set out above.

1.15 Our experience of involvement in previous referendums has led us to set out principles for voters, campaigners and administrators as to how these groups should be supported to ensure the effective delivery of the poll. We shared these principles, set out below, with others and they were the basis on which we undertook our work during the referendum.

Voters

Our focus is on voters and on putting their interests first. There should be no barriers to voters taking part. This means that:

- Voters can easily understand the question (and its implications).
- Voters are informed about the possible outcomes, and can easily understand the campaign arguments.
- Those eligible can register to vote.
- Voters can have confidence that campaign funding is transparent;
 distribution of any public support and access to media is fair; any rule-breaking will be dealt with.
- The voting process should be easy to take part in and well-run.
- The result and its implications should be clear and understood.

Campaigners

There should be no barriers to campaigners putting forward arguments for any of the possible outcomes. This means that:

- It is easy to register as a permitted participant and to take part in campaigning.
- The rules that govern campaign spending and fund-raising activity are clear and fair.
- The process for designating lead campaign organisations for each outcome (and consequent distribution of public funds and access to the media) is easy to understand, and accepted as fair.

Administration

The referendum should be administered efficiently and produce results that are accepted. This needs:

- A clear legal framework with clear roles and responsibilities communicated to those who are bound by them.
- Clear guidance and efficient procedures for voters, campaigners and administrators.
- Performance standards against which the performance of EROs and Counting Officers at referendums is evaluated.
- An efficient process for distributing funds to campaigners and administrators.
- Rapid and clear reporting on campaign funding and spending.
- A timely and persuasive report on how the referendum worked.

2 The referendum legislation

Legal framework for referendum

- 2.1 There is no framework legislation which exists for referendums held under the auspices of the Scottish Parliament. A broad legal framework exists for referendums held under UK Parliament legislation although individual referendums cannot currently take place unless specific legislation is passed. Even then in the case of PPERA based referendums secondary legislation may also be needed to provide for the detailed arrangements and funding for referendums.
- 2.2 This chapter provides details of how the legislation for the independence referendum was developed and sets out the Commission's recommendations for future approaches to the development of legislation.
- 2.3 In August 2007, the Scottish Government launched a consultation, commonly referred to as The National Conversation, on Scotland's constitutional future ¹². The consultation concluded in November 2009 and led to the publication in February 2010 of the Scottish Government's white paper Your Scotland, Your Voice, setting out its constitutional options and plans for a referendum on Scotland's constitutional future. However, the Bill containing provisions for a referendum to be held was never presented to the Scottish Parliament.
- 2.4 The SNP was elected in 2011 with an overall parliamentary majority in the Scottish Parliament. In January 2012 the Scottish Government published a consultation paper, Your Scotland, Your Referendum, containing its detailed proposals for the referendum. That consultation paper noted the Scottish Government's view that there were suitable questions which would be within the legislative competence of the Scottish Parliament. However, the paper also noted the UK Government's view that legislation providing for a referendum on independence would be outwith the existing powers of the Scottish Parliament. The consultation paper also indicated the Scottish Government's willingness to work with the UK Government to resolve the issue of legislative competence which was achieved in the 'Edinburgh Agreement' of October 2012.

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¹² Choosing Scotland's Future: A National Conversation: Independence and Responsibility in the Modern World (http://www.scotland.gov.uk/Resource/Doc/194791/0052321.pdf)

- 2.5 In January 2012, the UK Government published a consultation on a Scottish Referendum and offered to negotiate with the Scottish Government the terms of an Order in Council under section 30 of the Scotland Act 1998 (or to amend the terms of the Scotland Bill then going through the House of Lords) to transfer the necessary powers to the Scottish Parliament to allow it to hold a referendum on independence.
- 2.6 The Scottish Government indicated that it was ready to work with the UK Government to agree a clarification of the Scotland Act 1998 that would remove any doubts about the competence of the Scottish Parliament and put the referendum effectively beyond legal challenge. Discussions culminated on 15th October 2012, when the First Minister of Scotland and the Prime Minister signed the Edinburgh Agreement which paved the way for a referendum on independence for Scotland. The governments agreed that the referendum should:
- Have a clear legal base.
- Be legislated for by the Scottish Parliament.
- Be conducted so as to command the confidence of parliaments, governments and people.
- Deliver a fair test and a decisive expression of the views of people in Scotland and a result that everyone respected.
- Meet the highest standards of fairness, transparency and propriety and was informed by consultation and independent expert advice and that the referendum legislation would set out the date of the referendum; the franchise; the wording of the question; the rules on campaign financing and other rules for the conduct of the referendum.

They also agreed the Scottish Government:

- Would refer the proposed referendum question and any preceding statement to the Electoral Commission for the review of its intelligibility and that the Commission would report on the question which would be laid before the Scottish Parliament.
- Would have regard to the Electoral Commission's advice on campaign spending limits when developing the legislation to be considered in the Scottish Parliament.
- 2.7 Both governments agreed to promote an Order in Council under section 30 of the Scotland Act 1998 in the Scotlish and United Kingdom Parliaments to allow a single-question referendum on Scotlish independence to be held

before the end of 2014. The Scotland Act 1998 (Modification of Schedule 5) Order 2013 was approved by both Parliaments and came into force on 13 February 2013.

Scottish Independence Referendum (Franchise) Act 2013

- 2.8 The Scottish Independence Referendum (Franchise) Act 2013, introduced into the Scottish Parliament on 11 March 2013, defined eligibility to vote in the referendum on Scottish independence and put in place the arrangements necessary to enable those who would be at least 16 years old at the date of the referendum, but whose details would not appear on the local government electoral register at that date, to register to vote in the referendum. The Act was passed on 27 June, received Royal Assent on 7 August and was commenced on 8 August.
- 2.9 Both the Franchise Act and the SIRA contained provisions relevant to the participation of 16 and 17 year olds in the referendum. The Franchise Act set out who was entitled to vote at the referendum, including the requirement that voters be 16 or over; provided for the collection of data on eligible young people whose details would not otherwise be collected as part of the next annual household canvass; provided for the compilation of a register from that data to be held separately from the other electoral registers and for the maintenance of that register; and set out who would have access to it and the data held on it.
- 2.10 SIRA included provision on how that register would be used for the purposes of running the referendum. It provided for data from the register of young voters to be merged with data from the register of local government voters to create a single polling list for use at the referendum, and set out who would be able to access that list. It is our understanding that these areas were contained in SIRA rather than in the Franchise Act because they were interconnected with other issues dealt with in SIRA and further time could be given to consider their implications. The arrangements put in place across the two acts were intended to balance putting young voters on an equal footing with other voters with a desire to ensure that their data was treated sensitively and responsibly.
- 2.11 The Franchise Act provided that eligibility to vote in the referendum was based on that used for Scottish Parliament and local government elections. The following groups of people therefore were entitled to register and vote:
- British citizens resident in Scotland.

- Qualifying Commonwealth citizens resident in Scotland¹³.
- Citizens of other EU countries resident in Scotland.
- Members of the House of Lords resident in Scotland.
- Members of the Armed Forces, either resident in Scotland or who would have been resident in Scotland were it not for their service outside the UK. The spouses and civil partners of these electors were also eligible to register to vote under the same provision.
- Crown Servants and British Council employees who would have been resident in Scotland were it not for their service or employment outside the UK as well as their spouses or civil partners.
- The children/dependents of members of the Armed Forces, Crown Servants and British Council employees who would be 16 or 17 years old on 18 September 2014 and who would be resident in Scotland were they not residing with their parent(s) or guardian(s).
- 2.12 We were pleased that Scottish Government officials consulted us and the EROs on these provisions during the development and drafting of the bill.

Scottish Independence Referendum Act 2013

- 2.13 SIRA was introduced into the Scottish Parliament on 21 March 2013. The Act provided for a referendum, scheduled to take place on 18 September 2014 that invited voters to answer the question "Should Scotland be an independent country?" All those who could vote in Scottish Parliament and local government elections in Scotland were eligible to vote, as well as those aged 16 or 17 on the day of the poll.
- 2.14 The Act also required that the referendum would be conducted under the direction of a CCO appointed by Scottish Ministers, who would be responsible for appointing local counting officers reporting to her. The CCO was to be the Convener of the Electoral Management Board for Scotland.
- 2.15 The Act required that polling day was preceded by a 16 week regulated campaign period, with set limits on the amount of money any registered campaigner could spend on campaigning in the period prior to the

¹³ Qualifying Commonwealth citizens are those who have leave (permission) to enter or remain in the UK, do not need to have such leave, or are treated as having such leave.

referendum. These limits followed the advice and recommendations the Commission had made to the Scottish Government in January 2013. The Act also required that the Electoral Commission had a role informing the public about the referendum.

- 2.16 The act was passed on 14 November, received Royal Assent on 17 November and was commenced on 18 December.
- 2.17 The question to be asked, 'Should Scotland be an independent country?' required voters to vote either yes or no. The question included in the Act was that accepted by the Scottish Government following the Commission's question testing process.
- 2.18 The Scottish Government had asked the Commission on 8 November 2012 to test their proposed referendum question —Do you agree Scotland should be an independent country? This question had been included in the consultation *Your Scotland, Your Referendum.* We were asked to provide advice and assistance to the Scottish Government by considering the wording of the proposed question to be included on the ballot paper for the Scottish Independence Referendum.
- 2.19 We carried out research with members of the public to see how well the proposed question met our guidelines for intelligible questions, and whether it is easy for voters to use and understand. We also wrote to individuals and organisations, including the main political parties represented in the Scottish Parliament and likely campaigners, seeking their views on the proposed question. We also took account of the views of members of committees of the Scottish and UK Parliaments and of other individuals and groups who contacted us.
- 2.20 In the research we looked at whether or not the question was clear, simple and neutral. We found that the question was written in plain language and easy for people to understand and answer. It was clear to people what they were being asked to vote on. However, based on our research and taking into account what we heard from people and organisations who submitted their views on the question, we concluded that the proposed question was not neutral because the phrase 'Do you agree …?' could lead people towards voting 'Yes'.
- 2.21 We therefore advised in January 2013 that given the referendum result needed to be one that all voters and referendum campaigners could accept

and have confidence in, then the way the question was asked should be changed, so that it was more neutral¹⁴. Instead of asking 'Do you agree..?' we recommended the following wording:

'Should Scotland be an independent country? Yes/No'

2.22 Both the Scottish and UK Governments accepted our advice with regard to the question upon its publication in January 2013.

Assessment of the legislation

- 2.23 We provided guidance and technical advice to Scottish Government officials during the drafting of the legislation drawing on our experience of overseeing two referendums in short succession in 2011. We were pleased to note that the majority of our recommendations were included in the published Acts and we indicated that we believed that the legislation would provide a sound foundation for a referendum run to the highest standards and which produced a result which was accepted by all involved.
- 2.24 Both Acts when introduced to the Scottish Parliament contained a small number of technical issues which gave us cause for concern and we continued to discuss these matters with Scottish Government officials so that solutions could be achieved about the workability of the legislation as drafted or where we believed the provisions could be strengthened in order to improve transparency or accessibility for voters and campaigners.

Secondary legislation - fees and charges

- 2.25 As well as the referendum provisions in the Franchise Act and the SIRA a piece of secondary legislation was required which could only be made once SIRA had received Royal Assent. The Scottish Independence Referendum (Chief Counting Officer and Counting Officer Charges and Expenses) Order 2014, (the Fees and Charges Order), was laid before the Scottish Parliament on 4 April and came into force on 5 May 2014.
- 2.26 The Fees and Charges Order provided for payment by the Scottish Government of the charges and expenses incurred by the CCO and COs, in exercising their functions in relation to the referendum, and included the

¹⁴ Referendum on independence for Scotland: Advice of the Electoral Commission on the proposed referendum question - January 2013: http://www.electoralcommission.org.uk/__data/assets/pdf_file/0007/153691/Referendum-on-independence-for-Scotland-our-advice-on-referendum-question.pdf

maximum amounts that were recoverable. The Scottish Government has indicated that it will report on the costs incurred by COs in the course of delivering the Scottish Independence Referendum and has indicated that it will share their analysis of these costs as soon as possible after the accounts are settled. The Commission believes reporting on such matters is important and welcomes the Scottish Government's commitment. This is a matter which we and the National Audit Office believe should be reported on at all major polls and which we also called for following the 2011 referendums.

- 2.27 In preparing the Fees and Charges Order Scottish Government consulted extensively with COs, local authority elections teams, the Electoral Management Board for Scotland and the Electoral Commission to ensure that the estimates were as robust as possible, drawing on available information about the cost of previous polls.
- 2.28 As part of the implementation of the Franchise Act, Scottish Government provided to EROs funding for software changes and the printing and distribution of young voter registration forms and associated rolling registration cost estimates through the SIR (Franchise) Bill Financial Memorandum. Following the making of the Order, an issue developed which Scottish Government and EROs were addressing at the time of publication of this report.
- 2.29 While the financial memorandum provided in the explanatory notes to SIRA identified costs associated with the provisions of the Act and acknowledged that the costs of running the referendum would be incurred by the CCO, COs and EROs the Fees and Charges Order did not make direct reference to, or provision for, ERO activities.
- 2.30 The financial memorandum stated 'The government will reimburse EROs for any fees and expenses incurred in the course of undertaking their functions in the referendum'. EROs received no funding however under the order for their costs incurred in discharging their registration functions in the run up to the actual referendum.
- 2.31 During the referendum as noted elsewhere in this report, EROs in common with COs and their staff faced and met extraordinary demands imposed on their time by an extremely engaged electorate, requiring a reactive response that ensured that every application was considered and processed within the strict statutory timetable. The resultant cost, in terms of additional hours, printing, postages, and incidental related costs is estimated by EROs to be in excess of £700,000.

2.32 We are aware that the Scottish Government has acknowledged that an issue exists and is currently discussing this matter with EROs. Whatever the outcome of the discussions and subsequent financial settlement, this should be included in the report to be produced by the Scottish Government on the costs associated with the administration of the referendum.

A standalone referendum poll

- 2.33 The Edinburgh Agreement required that no other referendum legislated for by the Scottish Parliament could be held on the same day. However, in theory at least, elections to various bodies or a referendum under PPERA legislation could have been held on the same day.
- 2.34 The circumstances of the independence referendum and the campaigning tactics adopted by campaigners meant that a number of different political parties worked together to campaign for the same outcome. For example, as well as campaigning in their own right, the Better Together 'No campaign' was made up of the Scottish Conservative and Unionist Party, the Scottish Labour Party, and the Scottish Liberal Democrats whilst the Yes Scotland 'Yes campaign' comprised of the Scottish National Party, the Scottish Greens and the Scottish Socialist Party. Both lead campaigners attracted a number of people who were not associated with any political party and lots of non-party campaign groups were established, some of whom were registered with the Commission whilst others were not.
- 2.35 This cross-political campaigning at referendums provides a co-ordinated message to voters and helps them make an informed decision. However, should an election campaign be taking place at the same time as a referendum campaign then the fact that some parties may be working together in one context whilst campaigning against each other in the other could be confusing for voters. Given the intense level of campaigning at the independence referendum and the focus of the campaigners and the voters on the single issue we believe that if an election had been held on the same day the potential for confusion would have been realised.

Lessons learnt about the development and timing of the legislation

Development

- 2.36 A well-run poll which has the confidence of voters and campaigners is underpinned by a clear and certain legal framework. Good legislation provides absolute clarity on the roles and responsibilities of those administering the poll and sets out fair rules governing campaign spending and fundraising. Our overall view is that the legislation met this standard and reflected many of the recommendations that we made following our experience of running two referendums in 2011.
- 2.37 We are satisfied that the legislation established clear roles and responsibilities for those tasked with delivering the referendum as well as the detailed rules for the conduct of the poll. The legislation enabled the CCO, COs, EROs and the Commission to plan effectively for our respective functions at the referendum.
- 2.38 The legislation also set out the rules for campaigning at the referendum, including spending limits and reporting requirements for campaigners. The Scottish Government's timetable for bringing forward the referendum legislation allowed potential campaigners to feed into the legislative process and provide constructive engagement during the development process. It enabled the Commission to develop and prepare for the publication of its guidance in time for campaigners to understand the rules before they came into force. We were also able to meet with likely campaigners to discuss the guidance with potential users during this period which we believe added benefit to the final guidance.

Timing of the legislation

2.39 Following the 2011 referendums on additional powers for the National Assembly for Wales and the Parliamentary Voting System for the House of Commons, we recommended that for future referendums the detailed rules should be clear at least 28 weeks in advance of polling day, based on a statutory regulated referendum campaign period of 16 weeks. We have, however, reconsidered this recommendation in light of the experience of developing legislation for the Scottish Independence Referendum.

- 2.40 The provisions of the SIRA were commenced on 18 December 2013, nearly nine months ahead of polling day for the referendum (and five and a half months before the start of the regulated referendum campaign period), compared with three months before polling day for both referendums in 2011. Early confirmation of the legislation provided additional time for campaigners, EROs and COs to prepare for their respective roles at the referendum: developing and putting in place campaign plans; registering electors (including 16- and 17-year olds); and planning and putting in place arrangements for the vote.
- 2.41 The additional time also meant that the Commission was able to provide guidance for campaigners on the campaign rules significantly in advance of the start of the regulated referendum period, and the CCO also had additional time to develop and issue guidance for COs on the administration of the referendum poll. The Commission also had additional time to develop and deliver public awareness activities in advance of the poll.
- 2.42 While the provisions relating to many aspects of the referendum were commenced some nine months before polling day, those relating to the franchise contained in the Franchise Act were not. The Franchise Act, which provided for the compilation of the young person's register, did not receive Royal Assent until 7 August 2013, two months before the start of the canvass of households in Scotland.
- 2.43 We were aware that the Scottish Government was talking with Scotland's EROs in order to plan and ensure the legislation was capable of being implemented in a timely manner. Similar timing considerations were also relevant when developing a public awareness strategy both at the national and local level when introducing votes for 16 and 17 year olds. In addition, time was also necessary to allow for the development of political literacy initiatives in relation to votes for 16 and 17 year olds. These matters are further explored in this report in the next chapter.
- 2.44 If the legislation had been clear sooner, at least six months before the start of annual canvass activities, EROs would have been able to plan and prepare more comprehensively for their activities. While EROs in Scotland were engaged and involved in the development of the policy and legislation for extending the franchise for the referendum, the tight timetable meant that there remained some risk that they might not be able to deliver the necessary level of household activity during the scheduled canvass period.
- 2.45 The Fees and Charges Order setting out the arrangements for the reimbursement of COs was not in place by 6 March 2014 and it did not come into force until 5 May. While this is to be regretted we note that the Scottish

Government did make the CCO and COs aware of the contents of the Order well before it was laid and involved them in its development. No CO reported to us that the late making of the Order had an adverse effect on their planning.

2.46 We believe that the experience of legislating for the Scottish Independence Referendum provides, in the main, a model for the future development of legislation for future elections and referendums, not only in Scotland but also those held across or in other parts of the UK. It allowed the Scottish Government time to consult on the proposed legislation, and also allowed the Scottish Parliament sufficient time to properly scrutinise the legislation. It also allowed campaigners, the Convener of the EMB (who under the legislation was to be appointed as CCO), COs, EROs and the Electoral Commission time to prepare for their respective roles.

2.47 The Scottish Independence Referendum has illustrated the clear benefits of early certainty about the referendum legislation, and there is no reason why voters should not be able to benefit from the clear advantages of allowing sufficient time for robust planning at future elections or referendums, whether in Scotland or in other parts of the UK. We have set out below our revised recommendations for the timing of legislation for future referendums. Chapter 5 also considers the timing of the legislation and its specific impact on campaigners at the referendums in more detail.

Extension of the franchise to 16 and 17 year olds

Access to the register

2.48 The Franchise Act restricted the availability of the polling list (which merged the register of young voters with the register of local government voters) to designated lead campaigners. This meant that other registered campaigners did not have access to the names and addresses of those voters on the Register of Young Voters¹⁵.

2.49 We have seen no evidence that, in the circumstances of the independence referendum, restricting access to the details of young voters adversely affected either young voters or registered campaigners' ability to participate in the independence referendum. However, as a matter of

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¹⁵ Voters who were 15 years old, but would be 16 years old on or before 18 September, and 16 and 17 year olds who were not eligible to be included on the Register of Local Government Electors because of their age.

principle, it raises the issue that registered campaigners were not able to put their arguments directly to all those eligible to vote on 18 September.

- 2.50 We would also highlight that, although 16 and 17 year olds were able to vote, they were unable to donate more than £500 to campaigners because they were not included on a UK register of electors.
- 2.51 We fully support the policy intention around the security of young people's data, but note that the use of the data contained in electoral registers provided to registered referendum campaigners is already subject to certain legal restrictions. However, there are no designated organisations at elections and registers are available to a wider range of organisations than at a referendum, so specific consideration will need to be given to this issue before the franchise can be extended to 16 and 17 year olds for other polls.
- 2.52 The Commission is not expert in child protection matters but would highlight the matters noted above as needing careful consideration in the future if the extension of the franchise is considered again.

Recommendations for future referendum legislation

Recommendation 1: Timing of legislation for future referendums

When considering proposals for any future referendum on any issue, not only in Scotland but also those held across or in other parts of the UK, governments should ensure that the timetable for developing and introducing all legislation provides sufficient opportunity for legislatures (including the Scottish Parliament and the UK Parliament where appropriate) to properly scrutinise those proposals, including considering the Electoral Commission's advice about the wording of the proposed referendum question.

Governments should also acknowledge the importance of allowing sufficient time for campaigners, the Chief Counting Officer and Counting Officers, Electoral Registration Officers and the Electoral Commission to prepare for their respective roles in any referendum. In particular, legislation should be clear in sufficient time to allow robust and detailed guidance to be developed and provided to campaigners, Electoral Registration Officers or Counting Officers.

Additionally, when any government or legislature is considering future legislation for referendums or elections with a franchise including 16 and 17 year olds, it is important that sufficient time is allowed for administrators to plan and undertake targeted activity to register young people and for campaigners to engage with them.

We recommend that in planning for any future referendums, not only in Scotland but also those held across or in other parts of the UK, governments should aim to ensure that legislation (including any secondary legislation) is clear at least six months before it is required to be implemented or complied with by campaigners, the Chief Counting Officer, Counting Officers or Electoral Registration Officers.

This would mean that:

- Legislation for any changes to the franchise for a referendum should be clear at least six months before EROs are due to begin any scheduled annual canvass activities.
- Legislation for the regulation of referendum campaigners should be clear at least six months before the start of the regulated referendum period.
- Legislation relating to the conduct of a referendum poll, including secondary legislation such as Fees and Charges Orders, should be clear at least six months before polling day.

Recommendation 2: Extending the franchise to 16 and 17 year olds

We recommend that, when any policy maker or legislator is considering future legislation for referendums or elections with a franchise including 16 and 17 year olds, they consider the need to ensure legislation concerning the extension of the franchise is commenced six months prior to the beginning of the canvass in order to allow administrators to plan, both for the canvass and for related public awareness activities, including political literacy initiatives.

Recommendation 3: Timing of polling day for future referendums

We have previously recommended that any proposals to hold a referendum poll on the same day as the poll for other electoral events should be considered on a case-by-case basis and this remains our view.

The priority in considering any such proposals has always been that voters and campaigners should be able to understand and easily participate in all of the polls, and that those responsible for running the polls are able to do so effectively. Governments and legislatures should take into account the anticipated level of public interest and potential for cross-party campaigning when considering proposals for the timing of any future referendum. Where significant cross-party campaigning for a future high-profile referendum is likely (such as, for example, a referendum on the UK's membership of the European Union), we would not expect the poll to be held on the same day as another set of polls. This would help ensure voters and campaigners are

able to easily participate in the referendum and minimise the risk of voter confusion.

Any government introducing legislation for future referendums, not only in Scotland but also those held across or in other parts of the UK, should also publish at the same time its assessment of the implications of holding other polls on the same day. This will enable legislatures (including the Scottish Parliament and the UK Parliament) to consider the relative benefits and risks of the proposal as they scrutinise the referendum Bill.

3 Information for voters about the referendum

- 3.1 The availability of relevant, accessible and timeous information for voters ahead of any referendum is crucial for securing public confidence in the result. Where voters know how to register and vote and can understand the referendum question including the campaign arguments for either outcome they will be more likely to engage in the debate and cast an informed vote which is counted in the way they intended.
- 3.2 The information needed by voters ahead of any referendum falls into two distinct strands:
- Public information from an impartial source on the referendum and how to register and vote in it.
- Information from campaigners about the arguments for and against each referendum outcome.
- 3.3 These two principal strands and sources of information are supplemented by factual information and opinion gathered from traditional or social media, families and social, community or employment networks.
- 3.4 This chapter looks at the range and quality of the information which was available to voters in advance of the referendum. We set out the detail of how we planned and delivered our own voter information campaign and include the results of our campaign tracking research in order to consider the impact of our campaign on levels of understanding about how to register and vote.
- 3.5 We also detail some of the work undertaken by other groups and organisations to promote engagement in the referendum vote and the wider referendum debate. Finally, we consider public opinion results data to assess whether voters felt they had enough information on the referendum arguments to reach an informed and confident voting choice.

Public information

3.6 The Commission's statutory responsibilities at the referendum, as set out in SIRA, included a requirement for the Commission to "take such steps as they consider appropriate to promote public awareness and understanding in

Scotland about the referendum, the referendum question, and voting in the referendum".

- 3.7 We were clear from the outset that we did not interpret the scope of this duty to include any obligation on us to provide information to voters on what independence might mean, particularly as the poll's result would not mean the commencement or otherwise of an already enacted piece of legislation with the terms of independence already set out in detail. We were aware from our own experience and that of other electoral commissions that undertaking any public awareness activity on the potential consequences of a yes or no vote would pose an unacceptably high risk to public perceptions of our impartiality. We were pleased that both the Scottish Government and the Referendum Bill Committee endorsed this view and our interpretation of the limits to the scope of our public awareness activity.
- 3.8 The research we undertook for the question assessment during the winter of 2012/13 showed that, compared with similar question assessments we have carried out, people had unusually high levels of understanding of the referendum question and what it was asking, and were relatively well-informed about the subject of the referendum generally. Raising awareness of the referendum itself was, therefore, not the main focus of our work.
- 3.9 However, the independence referendum posed two specific communication challenges. Firstly, since this was the first time that 16 and 17 year olds were able to vote in a major Scotland-wide poll many were likely to be unfamiliar with the mechanics of voting, including registering to vote.
- 3.10 Secondly, our question assessment research showed that people expected to receive neutral, factual information before the referendum about what would happen after it. In our question assessment report we recommended that the Scottish and UK Governments should clarify what process would follow the referendum in sufficient detail to inform people what would happen if most voters vote 'Yes' or if most voters vote 'No'.

Our public awareness campaign

- 3.11 There were two broad aims of our public awareness activity:
- To ensure all eligible electors knew that they needed to be registered in order to vote, understood how to do so and the deadline by which they needed to register.
- To ensure eligible voters had enough information to cast their vote confidently on polling day.

Our public awareness activity took place in two main phases:

- Phase One: Specific activity aimed at 15 17 year olds to coincide with the annual canvass (from October 2013).
- Phase Two: Mass awareness campaign aimed at all eligible voters in the lead up to the referendum (from 11 August 2014).

Activity targeting 15-17 year olds

- 3.12 Registering young people was the responsibility of EROs and we provided guidance to support EROs in doing this.
- 3.13 The annual household canvass of voters took place from 1 October 2013 until 10 March 2014 when the new registers were published. Along with the usual household registration form, a 'Young Voter Registration Form' was issued to each household to collect and confirm the details of any 15 year olds in the house who would reach their 16th birthday on or before 18 September 2014.
- 3.14 As the canvass provided the first opportunity for many 15 and 16 year olds to register to vote for the referendum, it was important that the canvass be supported by effective public awareness activity to drive response and maximise the number of eligible young people who could be added to the register ahead of the referendum.
- 3.15 To support EROs' local awareness activity, we ran national advertising activity targeted at 15-17 year olds. The key message of the advertising was 'You can vote at age 16 in the Scottish Referendum but only if you have registered to vote first'.
- 3.16 Our radio advertising ran in October and November 2013 to coincide with the issuing of canvass forms across Scotland and our online advertising, including Facebook advertising, ran from 1 October and continued until the annual canvass concluded in March 2014.
- 3.17 The Commission and EROs were not alone in raising young people's awareness of registration and voting. Many teachers, youth workers and youth organisations across Scotland were also keen to support young people to develop their political literacy and participate in the referendum. We very much welcomed this local activity as it significantly increased the opportunities for young people to access voting information in a range of settings and formats appropriate to their needs.
- 3.18 While we were keen to encourage as many groups and individuals as possible to undertake local registration and voting awareness activities with

young people it also presented a challenge in how to ensure that any information provided on how to register and vote was clear, accurate and neutral. Given the high profile nature of the referendum debate, many professionals working with young people were also keen to access guidance and resources to help them ensure any referendum activities were not only balanced and impartial but also perceived to be so.

- 3.19 In order to address these challenges we worked with the Association of Directors in Education Scotland (ADES), Education Scotland and School Leaders Scotland along with the Society of Local Authority Chief Executives (Solace) and the Electoral Management Board for Scotland to develop a joint briefing 16 providing information on the range of sources of information, resource materials and guidance available to support anyone working to develop young people's political literacy around the referendum.
- 3.20 We also produced a series of resources, including posters, web banners and factsheets, which could be used by anyone working to support young people to participate in the referendum including teachers, youth workers, parents and elected representatives. These materials were available free of charge to download from our website.
- 3.21 In August 2013 Education Scotland published a briefing on Political Literacy and the Curriculum for Excellence (CfE)¹⁷. This briefing, which was circulated to all educational establishments, included guidance on the key features of effective learning and teaching in political literacy and how to use contemporary events like the Scottish Independence Referendum to promote political literacy with learners. They also developed a Scottish referendum page on their website which contained case studies, advice and resources which could be used to develop political literacy around the referendum. Education Scotland worked with the Electoral Commission to disseminate factual messages about engagement in the referendum via their communication channels with educators and learning establishments. This included facts for young people on how to ensure they were registered and able to participate in the referendum.
- 3.22 EROs undertook significant activity to ensure that as many eligible electors as possible were registered to vote ahead of the deadline. In addition

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¹⁶ Political literacy and the referendum on independence for Scotland, June 2013:
http://www.electoralcommission.org.uk/ data/assets/pdf file/0008/157328/Scottish-referendum-education-briefing-June-2013.pdf

¹⁷ Education Scotland: Curriculum for Excellence Briefing on Political Literacy
(http://www.educationscotland.gov.uk/resources/c/genericresource_tcm4813895.asp)

to the household canvass that took place over the period 1 October 2013 to 10 March 2014, councils carried out a wide range of public awareness activities, ranging from issuing press releases and placing posters in public spaces to using council vehicles to carry advertising about the referendum. Social media was also a key communication channel, with Twitter being used particularly widely.

- 3.23 We are aware that many councils organised referendum activities within and across schools in their authority area in the lead up to the poll. These included referendum debates for all schools in the council area along with hustings events for campaigners and mock referendums. In some council areas staff from the local ERO offices visited schools to register any eligible young people who had not been included by way of the autumn canvass. Other council areas hosted youth and community events at which the ERO distributed registration materials.
- 3.24 A number of schools across Scotland held debates in the run-up to the referendum. Some invited campaign groups to put the arguments directly to students, while others relied on their own pupils to make the case for each side of the debate instead. Some campaigners expressed frustration that there was not a consistent approach across councils in Scotland or even between schools within the same council area.
- 3.25 Research based on data from a survey of 16 and 17 year olds, conducted by a team of the University of Edinburgh's School of Social and Political Science, found that young people who had discussed the referendum in school reported greater levels of political confidence and understanding about the referendum than those who had not.¹⁸
- 3.26 We are aware that the Referendum (Scotland) Bill Committee are currently considering the role of schools in promoting learning about the referendum with pupils and we await the outcome of their enquiries with interest.

 $\underline{(http://politischepartizipation.de/images/downloads/dpart\ Eichhorn\ 16 Voting Age\ Briefing.pdf)}$

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¹⁸ How lowering the voting age to 16 can be an opportunity to improve youth political engagement: Lessons learned from the Scottish Independence Referendum (University of Edinburgh/Dr Jan Eichhorn)

Our public awareness campaign for all voters at the referendum

- 3.27 Our main public awareness campaign launched on 11 August and ran until polling day. It aimed to ensure that all eligible electors:
- Understood that they needed to be registered to vote.
- Knew what to expect on polling day.
- Had the information they needed to cast their vote confidently.
- 3.28 The focal point of the campaign was the Voting Guide distributed to every household in Scotland. This contained information on how to take part, including eligibility to vote, information on how to register and how to vote, as well as methods of voting, including by post and by proxy.
- 3.29 In line with the recommendation made in response to the findings of the question assessment research, the guide included a joint statement from the UK and Scottish Governments outlining the process that would follow the referendum in the event of a Yes or a No vote. The booklet also included a page of information from each of the designated lead campaigners with the arguments for a Yes and No vote.
- 3.30 The inclusion of the joint statement and information from each of the lead campaigners was the first time that any of our information booklets has included material from third parties.
- 3.31 During the development of the voting guide, in-depth interviews were held with members of the general public across Scotland to ensure that the information contained in the voting guide was not only understood by voters but that the information provided in the Commission's information section of the booklet was viewed as neutral and impartial. The research with members of the public also indicated that they found the inclusion of the information from both Governments and from the campaigners to be useful. We consulted the Plain Language Commission during the drafting of the guide to ensure the text was as accessible as possible.
- 3.32 Distribution of the voting guide took place via Royal Mail's door-drop service, which was the distribution method we had used for previous public awareness campaigns, including the May 2011 Scottish Parliament election and UK-wide Parliamentary Voting System (PVS) referendum guide and the booklet produced for the 2012 Scottish Council elections.
- 3.33 Local authorities made copies of the booklet available in public places and it was available to order via our helpline or to download from our website.

- 3.34 A mass media advertising campaign was launched on 11 August 2014 to coincide with the delivery of the voting guide. The campaign ran across television, radio, out of home (bus shelter and phone kiosk) advertising, print and online channels. The advertising materials were tested with members of the public via focus groups to ensure they were clear and relevant to the target audiences and would encourage people to take the required action.
- 3.35 A key finding from the research was that both the advertising and the voting guide would need to be distinctive enough to stand out from the high volume of information being provided by others. Consequently, the approach we took to the design of our materials was deliberately creative and bold to maximise its impact.
- 3.36 The first phase of the campaign ran for two weeks (11 August 24 August) and encouraged voters to look out for their voting guide and to register by the deadline of 2 September. The second phase ran up until the day before the registration deadline (25 August 1 September) reminding people that they should have received a voting guide, how to get one if they hadn't received one, and that the deadline to register to vote was approaching.
- 3.37 The third and final phase ran until polling day (2 September 18 September) informing people how to get a voting guide if they hadn't received one. All phases included a link to aboutmyvote.co.uk and our helpline number.
- 3.38 A second phase of the activity that had run during the winter canvass targeting young voters ran alongside the main public awareness campaign. The messaging within the advertising was updated to reflect the arrival of the information booklet rather than referencing the young voter registration form. The activity ran until the registration deadline, 2 September, online and on the online music streaming service Spotify.

Alternative formats and translations

- 3.39 We provided the information booklet in a number of accessible formats including large print, Easy Read and Braille. We also worked with EROs to establish the likely needs of their audiences and translated the booklet into a number of languages, including Gaelic.
- 3.40 The Scots Language Board published a Scots language version of the booklet which we provided a link to on aboutmyvote.co.uk.
- 3.41 The full voting guide is available in Appendix 4 of this report.

Working with partners

- 3.42 As with previous public awareness campaigns, we worked with the Ministry of Defence to provide information and voter registration packs for their 'unit registration' days held in February and March to encourage eligible electors to register. This information made specific mention of the referendum and was issued across all parts of the services.
- 3.43 We placed advertising in armed forces publications and on armed forces websites to raise awareness of the fact that people might be eligible to vote in the referendum.
- 3.44 We worked closely with a number of youth organisations to ensure that we could disseminate accessible voting information via the information channels that young people already used. This included working with Young Scot to disseminate information via their website and social media platforms and we also supported their work to produce a video resource to explain the voting process for young first time voters.
- 3.45 We also worked closely with the Scottish Youth Parliament in the months ahead of the poll to support them in the wide range of communications and outreach work they were undertaking with young people around the referendum. This included fact checking information resources and training materials which they were using in school and community settings, including in Young Offenders Institutions.
- 3.46 The Scottish Youth Parliament also co-ordinated a Young Voter Engagement Group which served as a forum to share ideas and resources for engaging young people in the referendum. This was attended by representatives of the key organisations working to support young people to participate in the referendum, including the Commission, Young Scot, Youthlink Scotland, NUS and representatives from campaign groups.
- 3.47 The Commission also partnered with Who Cares Scotland and the Centre for Excellence for Looked After Children in Scotland (CELCIS) to develop guidance for support staff on how to assist looked after young people and recent care leavers to register and vote in the referendum.
- 3.48 We worked with a range of other partners to reach specific groups with targeted information appropriate to their particular circumstances. This included working with NUS Scotland and Universities Scotland to disseminate information to students encouraging them to plan ahead to ensure they were registered to vote in time for the referendum and had applied for a postal vote if needed.

- 3.49 Other partnership activity included a joint voter registration campaign with Shelter Scotland to encourage homeless people or those in temporary accommodation to take part in the referendum. The campaign included sending information packs with leaflets, posters and voter registration forms to councils, housing associations and homeless hostels in Scotland.
- 3.50 We worked with the Scottish Prison Service to ensure that information on registration and voting was available to those on remand at the time of the referendum and those leaving prison in advance of the vote.
- 3.51 We also worked with a number of disability organisations to disseminate information on registration and voting and also the provisions in place to support disabled people to participate. This included working with the Royal National Institute for the Blind (RNIB) to provide braille and audio versions of our voter information materials to their members.
- 3.52 Many of these materials, along with FAQs and factsheets as well as digital banners and imagery, were available on the Commission's public-facing website aboutmyvote.co.uk.
- 3.53 The CCO and COs, along with EROs, also undertook public awareness activity aimed at ensuring the public had enough information to be able to cast a vote. This included activity raising awareness of the deadlines for registration and absent voting applications and to alert the public to key stages in the referendum timetable including the likely timings for the issuing of poll cards and postal ballot packs. This activity played an important role in ensuring that the public could make informed choices about the most appropriate method of casting their vote in light of their personal circumstance and helped to reduce volumes of demand placed on public helplines by voters requesting information on the dates of issue of poll cards or postal votes.

Campaign performance

3.54 Between the campaign launching on 11 August and the registration deadline on 2 September, 152,730 registration forms were downloaded from our website aboutmyvote.co.uk. To put this figure into context, during the public awareness campaign for the May 2012 local government elections in Scotland, 29,000 registration forms were downloaded by people in Scotland from aboutmyvote.co.uk.

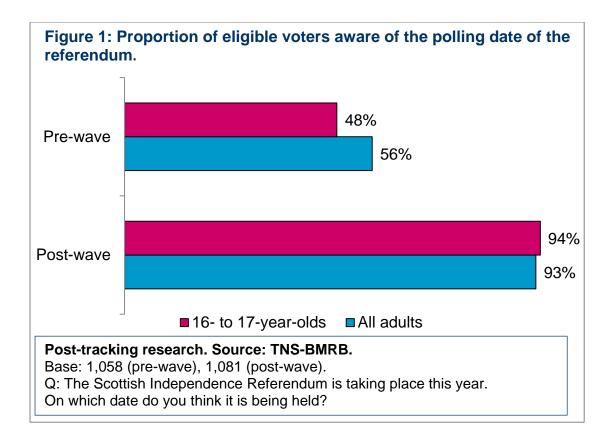
Table 1: Key performance measures – Public information campaign

Target	Result
Reach or exceed target of 50-60% of people reporting having seen at least one element of the campaign.	84%
60-70% of people agreeing the booklet provided them with enough information.	86%
25-35% recalling the booklet when prompted.	69%
25-35% of people reporting taking action as a result of the campaign, including looking out for and reading the booklet.	33%

- 3.55 There were over 183,878 visits to the Scottish referendum page during the same period, and over 128,834 downloads of the voter information guide.
- 3.56 Also during the campaign period, there were 14,116 calls to our helpline. These were handled by our helpline staff and the Commission's public information team. As a point of comparison, the 2011 Scottish Parliament and PVS referendum campaign generated 995 calls from Scotland during the five week campaign.

Levels of public awareness about the campaign

- 3.57 We evaluated levels of awareness both around the referendum and the advertising campaign by conducting public opinion research before, during and after the advertising activity.
- 3.58 The proportion of eligible voters aware of the polling date of the referendum without prompting nearly doubled from 56% in the first wave of research to 93% after the advertising campaign across all adults and from 48% to 94% for 16- to 17-year-olds.



- 3.59 A significant increase was seen in the number of people who felt that they had enough information about what they needed to do to cast their vote. Amongst adults, this rose from 54% before the campaign to 79% afterwards and from 46% to 74% amongst 16- to 17-year-olds.
- 3.60 On the advertising campaign itself, 84% reported seeing at least one element of the public awareness campaign, with 70% having seen the television advertising. This compares well to the 67% of respondents who reported seeing at least one element of the 2011 Scottish Parliamentary election advertising campaign.
- 3.61 Amongst 16- and 17-year-olds, 63% reported seeing one element of the youth advertising campaign, although 93% of the age group reported seeing at least one element of either the youth or main advertising campaign.
- 3.62 The distribution of the booklet was evaluated by an independent agency which found an estimated delivery rate of 93%. This compares well to similar-scale campaigns (the door-drop distribution that took place ahead of the 2011 Wales referendum achieved a delivery score of 91% and the distribution ahead of the 2011 Scottish Parliament and PVS referendum achieved a delivery score of 94%).
- 3.63 Aboutmyvote.co.uk received over a million visitors during the campaign and over 183,000 on the referendum page itself. More than 152,000

registration forms were downloaded from the launch up until the registration deadline, and almost 130,000 digital copies of the voting guide were downloaded during the advertising campaign.

Lessons learned

- 3.64 This was the first occasion on which we included third-party material within a voter information booklet (the pages from each lead campaigner, as well as the joint statement from both the Scottish and UK Governments). This carried with it the risk that the content of the booklet overall might not have been perceived to be neutral. However, the testing of the booklet prior to production and the subsequent public opinion research showed that the public found the inclusion of the material to be useful, and the booklet as a whole increased their knowledge of the voting process ¹⁹.
- 3.65 As on previous occasions in Scotland we included comprehensive information about the registration and voting process, including providing a mock-up of a ballot paper and details of ways in which to vote, rather than assuming any level of existing knowledge. This has continued to be helpful to voters and we believe is the right approach. We will adopt this approach in future publications.
- 3.66 The work we undertook with partners worked well to help us reach specific audiences via familiar, trusted communications channels and should be replicated and expanded ahead of future electoral events.
- 3.67 The high level of interest in the referendum brought with it challenges and opportunities for our public awareness work. As has been referenced previously, there was a considerable amount of information at the national and local level generated by numerous organisations and stakeholders promoting voter registration. While the aims of this activity were consistent with our own, it was important to ensure that our public awareness campaign was sufficiently distinctive to enable people to recognise it as being the neutral, factual information that people had asked for in the question assessment research. The post-campaign recognition scores showed that the way in which we designed our advertising and booklet helped it to stand out from the other information available and this is useful learning for future campaigns.

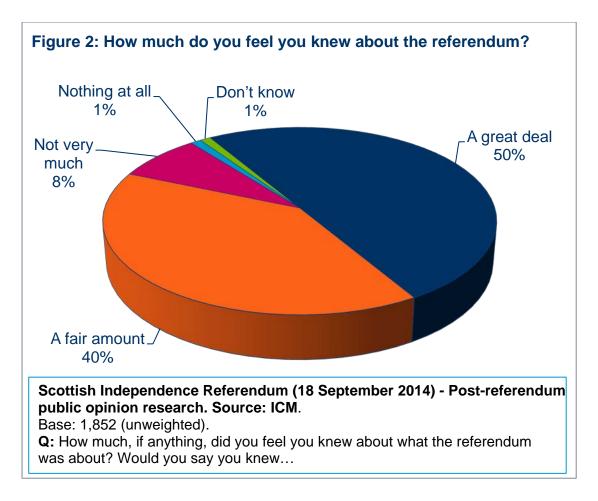
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¹⁹ Ipsos MORI (2014): The Electoral Commission Creative Development Research – Referendum on Independence for Scotland campaign – Booklet Testing and TNS (2014): Scottish Independence Referendum Campaign Tracking Research

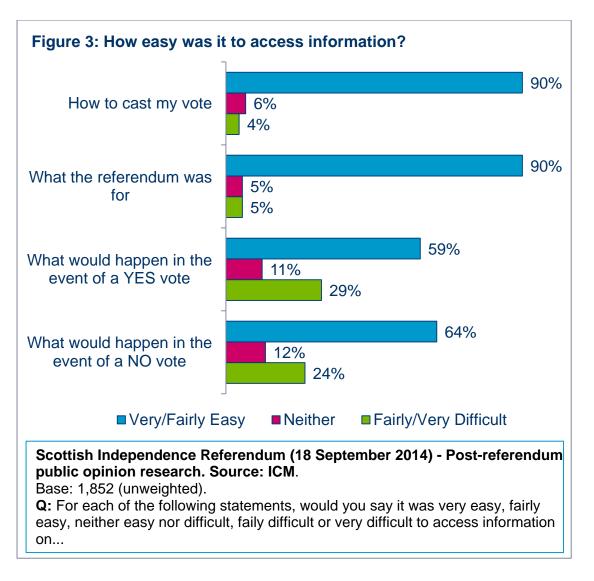
- 3.68 The voting guide proved to be a successful means of providing information to the public and was also a useful resource for others, including EROs, wishing to disseminate information about the referendum. We would recommend replicating this approach ahead of future electoral events requiring a similar level of information.
- 3.69 Furthermore, the public awareness activity undertaken by the CCO and the COs had important benefits in providing a service to voters through the provision of timely and localised information about their vote. In order to enable the CCO and COs to undertake activity to promote voter registration and voter information, and following a Commission recommendation from the 2011 referendums, the referendum legislation specifically exempted the CCO and COs from the ban on public bodies producing information relating to the referendum in the last 28 days leading to polling day. This exemption had important benefits for voters and we recommend that this exemption be applied at any future referendums.

Awareness and knowledge about the referendum subject and campaign arguments

- 3.70 Our public opinion research sought information from respondents about their levels of awareness and knowledge about the referendum in general and about the campaign arguments.
- 3.71 We found there were high levels of knowledge about the referendum with 90% of respondents claiming to know 'a great deal' (50%) or a 'fair amount' (40%) about what the referendum was about and only 1% of respondents reported knowing 'nothing at all' about the referendum. This is the highest level of knowledge recorded for all major elections since we started asking this question in our post-election/referendum surveys.
- 3.72 Those aged 35-54 (54%) and those aged 55+ (55%) were more likely to say that they knew 'a great deal' about the referendum than those aged 16-34 (40%).

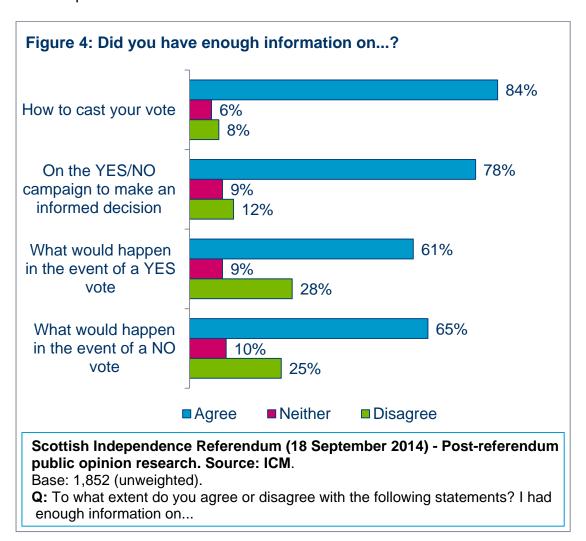


- 3.73 Nine in ten (90%) of the people we spoke to reported that they found it easy to access information on how to cast their vote at the referendum with the same proportion (90%) believing that it was easy to access information on what the referendum was about.
- 3.74 A smaller majority of people said it was easy to access information on what would happen in the event of a 'Yes' vote (59%) or a 'No vote' (64%).



- 3.75 Our public opinion research found that the large majority of respondents (84%) had enough information on how to cast their vote.
- 3.76 The majority of people reported that they had access to enough information about the campaigns to be able to vote with 78% of respondents claiming they had enough information on the 'Yes' and 'No' campaigns to make an informed decision. People were slightly less clear about what would happen in the event of either referendum outcome with 61% of respondents stating that they had enough information about what would happen in the event of a 'Yes' vote and 64% stating they had enough information about what would happen in the event of a 'No' vote.
- 3.77 For those people who reported having had enough information on the Yes and No campaigns to be able to cast their vote, the main source of their information came from TV (56%), internet (52%) and leaflets (34%). Perhaps unsurprisingly, those aged 55 and over were more likely to report that the TV

was their main source of information while those in the age bands 16-34 and 35-43 reported the internet as their main source of information.



Recommendation: Information for voters

Recommendation 4: Public awareness activity undertaken by the CCO and COs

The public awareness activity undertaken by the CCO and COs benefitted voters through the provision of timely and localised information about their vote. In order to enable the CCO and COs to undertake activity to promote voter registration and voter information, and following a Commission recommendation from the 2011 referendums, the referendum legislation specifically exempted the CCO and COs from the ban on public bodies producing information relating to the referendum in the last 28 days leading to polling day. This exemption had important benefits for voters and we recommend that it be applied at any future referendums.

4 The experience of voters

- 4.1 This chapter explores voters' experiences of the referendum. It considers how easy it was for them to take part in the referendum on 18 September including whether voters were able to register to vote, if they knew how to take part and their experience of doing so whether voting by post, proxy or in a polling station.
- 4.2 Overall the experience of voters was positive. Our opinion polling of voters shows very high satisfaction rates with the registration and voting process. Awareness levels about the referendum was, as might be expected given the high levels of engagement and turnout at the referendum, the highest we have recorded through a post-poll survey with 90% of people saying they knew about the referendum.

Registering to vote

- 4.3 A complete and accurate electoral register underpins any referendum or election, as inclusion in the register of electors is essential for people to be able to vote.
- 4.4 Registration for the referendum was carried out using the registration system that existed before the move to Individual Electoral Registration (IER). This meant that the main focus of electoral registration activity was the annual registration of electors within households (commonly known as the 'annual canvass'). Individuals could also register or amend their existing details at any time of the year, a process known as 'rolling registration', usually as a result of moving home or having missed the annual canvass. Given the impending transition to the IER system of registration (which started in Scotland on 19 September 2014) the 2013 annual canvass did not take place in autumn 2013 and commenced on 1 October and the registers were published on 10 March 2014.

Who was eligible to vote in the referendum?

- 4.5 To be eligible to vote in the referendum a person had to be aged 16 years or over on 18 September 2014, resident in Scotland²⁰ and registered to vote on either the local government electoral register or the Register of Young Voters Register. They also had to be either:
- A British citizen.
- A qualifying Commonwealth citizen²¹.
- A citizen of another European Union member state.
- 4.6 British citizens living outside of Scotland, including those living in other parts of the UK, could not vote at the referendum.

How many people were registered to vote in Scotland?

- 4.7 On 11 September 2014, there were 4,283,938 people registered to vote in Scotland. The media subsequently carried a story which was repeated on a number of occasions thereafter that 97% of the potential electorate had registered to vote.
- 4.8 The Commission is uncertain where this figure is derived from. The CCO, EROs and the Commission never stated that 97% of the electorate had registered to vote because we do not believe that it is possible to calculate a registration rate with any degree of certainty. The 97% figure appears, according to news articles, to have been arrived at by comparing the total number of entries on the electoral registers with the 2013 mid-term population estimates for Scotland.
- 4.9 The Commission believes this approach needs to be treated with some caution as the accuracy of population estimates is likely to decline each year after the census on which they are based and they do not differentiate between those eligible to vote and those who are not eligible due to their

²⁰ An exemption applied to members of the Armed Forces, Crown Servants and British Council employees resident outside Scotland if they would have been resident in Scotland were it not for their service or employment. Similar provisions existed for the spouses, civil partners, children and dependants of members of Armed Forces, Crown Servants and British Council employees.

²¹ Qualifying Commonwealth citizens are those who have leave (permission) to enter or remain in the UK, do not need to have such leave or are treated as having such leave.

nationality. Also, where someone has moved house and updated their registration details there may be a small lag between being added onto the register at their new address and being taken off the register at their old address (particularly where they have moved to a different council area as the new ERO has to notify the old ERO that they should be removed from the register at their old address). This means that the number of entries on the registers may not actually equate to the number of individuals registered as there will be some duplicate entries at any given time.

- 4.10 The number of registered electors eligible to vote on 18 September 2014 at the referendum can be said with certainty to be the largest ever electorate for a Scotland-wide poll and the first Scotland-wide occasion when those aged 16 and over could vote. Those registered to vote at the referendum included 109,593 16 and 17 year olds. The total number of electors had risen from 4,016,735 at the European Parliamentary election held in May 2014 to 4,283,938, an increase of 6.7%.
- 4.11 People could register up to midnight on 2 September 2014, 12 working days before polling day. Data collected from EROs suggests that 137,898 people, successfully applied to be included in the registers in the weeks leading up to the registration deadlines. EROs were very busy in this period leading up to and after the registration deadline processing applications and strove to ensure that they met the demands of voters placed on their processes with the resources they had available.
- 4.12 Data also suggests however that 11,373 people tried to register after the deadline up to and including polling day and some 690 people attended polling stations wishing to vote without being registered. While these figures do not give a comprehensive record of the number of people who could not vote because they were not registered, since the data was not provided for all local counting areas, it does indicate that some 12,000 people across Scotland either missed the deadline for registration or were mistaken as to whether they were registered to vote.
- 4.13 Allowing people to apply to register to vote much closer to polling day could mean that registers for elections and referendums would be more accurate and complete and more people would be able to vote. Increased convenience and flexibility for potential electors must be weighed, however, against the need to maintain the integrity of elections and referendums by allowing time for EROs to verify that applications are from genuine and

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²² These figures should be seen as approximate as not all Counting Officers kept appropriate records.

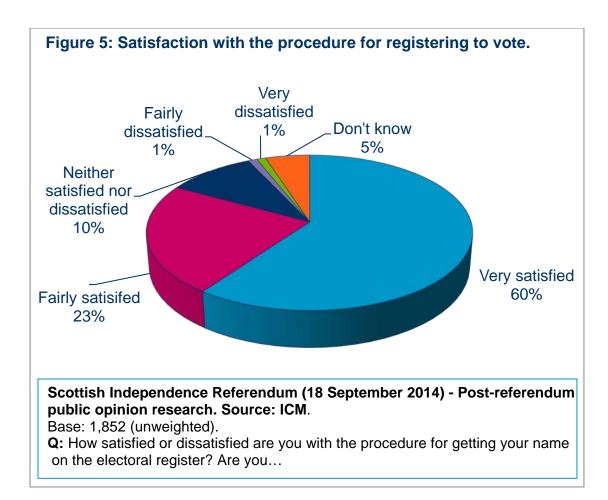
eligible electors. We will continue to work with EROs and governments to identify and explore opportunities to improve access to future elections and referendums by allowing people to register to vote closer to polling day.

16 and 17 year olds and registration

4.14 This was the first time at a Scotland-wide electoral event that 16 and 17 year olds could vote. To ensure the electoral registers were as accurate and complete as possible EROs carried out the delayed annual canvass of all households to obtain and record the details of any residents who would be aged 16 years or over on the date of the poll. As part of the delayed canvass, along with the usual household registration form, EROs issued a 'young voter registration form' to every household to collect details of all young people who would become 16 on or before 18 September 2014. The public awareness activity at national and local level which sought to drive responses to the canvass is referred to in the chapter on information for voters.

People's experiences of registering to vote

4.15 Our public opinion research shows that people are generally satisfied with the procedure for getting their name on the electoral register. 83% of all respondents said they were satisfied, with 60% saying they were very satisfied.



- 4.16 What these figures do not show, however, is the public prominence which electoral registration achieved in the days leading to the 2 September deadline. The CCO, COs, EROs and the ECs helpline took large volumes of calls and the number of applications for registration was far higher than at any recent electoral event. This was in part due to the public awareness activities of organisations such as the Commission but also registration activities undertaken by campaigners and other agencies wishing to promote participation in the referendum and in general the electorate's desire to take part in the referendum.
- 4.17 Although not overwhelmed, EROs teams around Scotland were kept very busy and the Electoral Registration Committee of the Scottish Assessors Association reported to us that, while welcome, the public engagement during the referendum was unprecedented and exceeded all expectations. It is a testament to the performance of EROs and their staff that, despite the demands placed upon them, only 2% of those surveyed in our public opinion polling said that they were dissatisfied with the procedures for registering to vote, which is in line with surveys of electors at previous polls. The demands placed on the services of EROs led to the expenditure of extra resources which, as referred to earlier, they are discussing the funding of with Scottish Government.

Voting at the referendum

Turnout at the referendum

- 4.18 Turnout in this report is defined as the percentage of those registered to vote in the referendum who did so and represents both valid votes and those which were considered but rejected at the count²³.
- 4.19 A total of 3,623,344 votes were included in the count at the referendum, which represented 84.6% of the total number of people registered. There were 2,608 polling places with a total of 5,579 polling stations open between 7am and 10pm. Of those registered to vote, 18% chose to do so by post. Across Scotland 0.92% of electors chose to appoint someone to act as a proxy²⁴ for them and vote on their behalf, although we cannot tell how many of these proxies voted on polling day.
- 4.20 Appendix 3 shows the level of turnout in each of the 32 council areas of Scotland and the numbers who voted Yes and No. Further turnout details can be found on the Electoral Management Board for Scotland website²⁵.
- 4.21 There were variations in turnout across the different council areas at the referendum. The highest turnout was in East Dunbartonshire (91%) and the lowest in Glasgow (75%).
- 4.22 Satisfaction levels in Scotland with the voting process remain high with 81% satisfied in general.

First time voters

- 4.23 With a turnout of 84.57%, it is likely that many voters had not voted before and not just in the 16-17 age group. Of the respondents to our survey who told us they voted in the referendum, 10% said they had done so for the first time.
- 4.24 45% of 18-24 year olds in our survey claimed to have voted for the first time, 17% of 25-34 year olds and 4% of the 35-44 and 44-55 age groups.

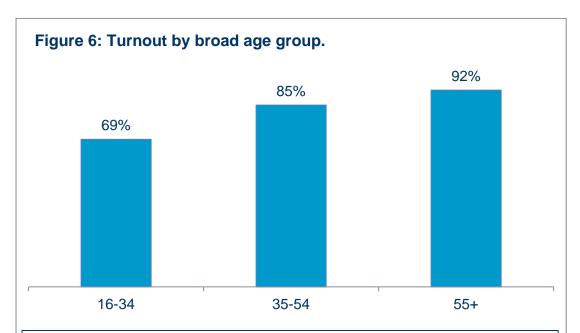
²³ Previously the Commission has primarily reported turnout based only on valid votes cast. Turnout calculated by this method for the referendum is only marginally less, at 3,619,915 (84.5%). We will continue to publish data on both types of turnout on our website.

24 Including Emergency Proxies and Postal Proxies,

²⁵ The Electoral Management Board for Scotland's Referendum Information Website (http://scotlandreferendum.info/)

Age of Voters

- 4.25 Our public opinion research explored the characteristics of those people who voted in the referendum and identified key drivers of turnout. With a turnout of 84.6% it was unusual but worthy of note that the research agency, which undertook the survey on our behalf, found it difficult to identify people who were willing to admit they had not voted at the referendum.
- 4.26 Reflecting trends at previous referendums and elections our survey found that young people were the least likely of any age group in society to report having voted. 69% of 16-34 year olds said that they voted in the referendum compared with 85% of 35-54 year olds and 92% of the 55+ age group. Claimed turnout amongst 16-17 year olds was 75%, significantly higher than amongst 18-24 year olds (54%).



Scottish Independence Referendum (18 September 2014) - Post-referendum public opinion research. Source: ICM.

Base: 1,852 (unweighted).

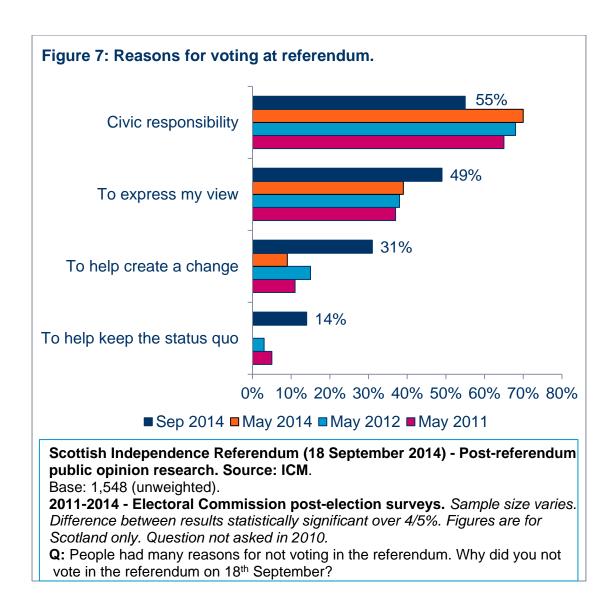
Q: As you may know, on Thursday 18th September there was a referendum on the independence of Scotland. We often find that a lot of people were not able to vote because they were sick, did not have the time or were just not interested. How about you - did you manage to vote in the referendum?

Voting from 16

- 4.27 While reported turnout from our 16-17 year old respondents was 75%, 97% of those who voted said they would vote again in the future and the remaining 3% answered 'don't know'.
- 4.28 Of all our respondents, 60% said they would support a measure that allowed everyone to vote from the age of 16, with 43% strongly supporting the idea. Support was higher amongst 'Yes' voters (85%) than 'No' voters (40%) and 75 % of 16 and 17 year olds also supported the measure.

Why people did and didn't vote

- 4.29 Reflecting previous public opinion research, the most common reasons given for voting related to a sense of 'civic responsibility' (55%) but with lower levels from past post-election surveys.
- 4.30 The results show a considerable increment of people who voted to 'express their views' (49%) and those people who wanted to 'help create a change' (31%) or 'to keep the status quo' (14%).
- 4.31 Again reflecting other post-election surveys, 38% of all non-voters said circumstances prevented them from doing so ('lack of time' 'I was busy on the day') while a higher number of non-voters than in the past said they did not vote because of 'administration issues' (28%) such as 'I was not registered'.



People's experience of voting at the referendum

The experience of people who voted at a polling station

- 4.32 2.9 million people chose to vote in their local polling station on 18 September. In our opinion research 94% of those who voted in a polling place said they were satisfied with the process. 59% of polling station voters found the assistance of staff useful, while 36% stated they did not seek assistance from staff, or need it. 78% of 16-17 year olds indicated they found the help from polling station staff useful.
- 4.33 Polling day was very busy for the staff who administered the polling stations. Observers and COs reported that it was common to find a queue

outside the polling place of 20-30 people when they opened at 7am. Polling staff experienced a steady stream of voters throughout the day, who wished to have their say in what was an important event in Scotland's electoral history. Reports from observers, COs and Police Scotland indicated that the atmosphere in the polling places was business-like and well-natured and there was no general sense of intimidation in or around polling places as had been raised in the media prior to polling day. There was one incidence of graffiti vandalism outside a polling place, which the relevant council dealt with shortly after being made aware of the situation. That should be contrasted with reports of a positive and engaged atmosphere outside polling places in some areas. Organised walks to polling places arranged in a few areas passed off peaceably and were good-natured.

4.34 The Scottish Government had included provision in the legislation to allow anyone who had arrived at their polling station before 10pm and was still waiting to vote at 10pm to be given a ballot paper and vote. Similar provisions had been introduced by the Scottish Government for local government elections in 2011 and are welcome as they have ensured voters are still able to vote if they are waiting in a queue at 10pm. In anticipation of a high turnout, the CCO also directed COs to limit the number of voters allocated to each polling station to 800 in order to lessen the potential for queues and to improve the service provided to voters²⁶. The data from COs indicates that there were very few queues at the close of poll, but at least 50 voters benefited from the close of poll provisions.

4.35 Although data from COs is not complete, as it is not recorded consistently across Scotland, we are aware of approximately 690 people who turned up at a polling station seeking to vote, but who were not registered. The reasons as to why they thought they were registered, or could vote in any event, are unknown.

4.36 Although there have been great improvements in the accessibility of polling places over recent years, we received reports from a handful of observers of polling places where access into or within them was restricted. This was particularly apparent in places which housed one or more polling station, meaning that voters could be faced with cramped and potentially inaccessible conditions. We have raised these issues with the EMB.

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²⁶ In contrast, the CCO for the referendum on the voting system for UK parliamentary elections in 2011, for which the turnout was 44.2%, directed that the number of electors to be allocated to each polling station should be no more than 2,500.

Information for voters in polling stations

- 4.37 Prior to the referendum some staff of COs suggested that the Commission's voting guide should be available in polling stations in order to provide electors with information on request about the referendum at the point at which they cast their vote. The CCO took the same view as the Chief Counting Officer for the 2011 referendums that the booklet should not be available in polling stations for voters. The purpose of this was to ensure that a decision on how to vote could be made in a neutral space, free from any influence. This approach mirrors the approach taken in an election, where no information is provided in polling stations about the position or body that candidates are being elected to. The CCO also wanted to ensure that there was a consistent provision of information to voters in polling stations across Scotland.
- 4.38 The Commission's Voting Guide contained a page of information from both Yes Scotland and Better Together. Whilst this approach was balanced and the inclusion of such information was useful to the voter in their home it could potentially have been seen as partial in a polling station, which is a neutral space in which voters cast their ballot.
- 4.39 Our public opinion survey found that 60% of voters found the written instructions (posters or guidance) on display in the polling station useful with 42% reporting that they were 'very useful'. 35% said they did not use them or did not need them, and 3% did not consider them useful. 84% of 16-17 year olds found such information helpful.

The experience of people who voted by post

- 4.40 There has been a steady increase in the number of people choosing to vote by post since postal voting on demand was introduced in Scotland in 2000. In 2003, the percentage of electors issued with a postal vote stood at 3.6% rising to 11.2% by 2010; 13.2% in 2011; 15.2% in 2012 and 15.9% by May 2014.
- 4.41 At the referendum 796,835 people, approximately 18.6 % of the total electorate, were issued with a postal vote. The highest proportion of postal votes issued in any local council area, as a percentage of the electorate, was 25.2% in Orkney and the lowest was 13.5% in North Lanarkshire.

Table 2: Percentage of electorate issued with a postal ballot by council area

Council	% of electors issued with a postal ballot	Council	% of electors issued with a postal ballot
Aberdeen City	23.60%	Highland	20.33%
Aberdeenshire	22.67%	Inverclyde	22.45%
Angus	18.13%	Midlothian	19.87%
Argyll & Bute	20.06%	Moray	21.20%
Clackmannanshire	13.82%	North Ayrshire	16.99%
Comhairle nan Eilean Siar	22.37%	North Lanarkshire	13.55%
Dumfries and Galloway	22.73%	Orkney	25.20%
Dundee	18.64%	Perth & Kinross	19.51%
East Ayrshire	16.36%	Renfrewshire	21.63%
East Dunbartonshire	17.18%	Scottish Borders	15.60%
East Lothian	20.27%	Shetland	16.23%
East Renfrewshire	22.44%	South Ayrshire	21.61%
Edinburgh	21.97%	South Lanarkshire	15.55%
Falkirk	13.67%	Stirling	15.79%
Fife	18.70%	West Dunbartonshire	13.66%
Glasgow	15.43%	West Lothian	18.78%
		Scotland	18.60%

- 4.42 As in previous referendums and elections, turnout among postal voters was higher than among polling station voters. 90.6% of all those issued with a postal vote returned them, compared with turnout amongst polling station voters of 82.8%. Of all the votes counted, 20.4% were postal ballots.
- 4.43 People who vote by post continue to be positive about their experience. Nearly all (98%) of postal voters said that they were satisfied with the experience of postal voting and 97% thought it was easy to understand what had to be done in order to return their postal vote. 94% found the written

instructions on how to return their ballot useful, with 6% saying they 'didn't use them/need them'.

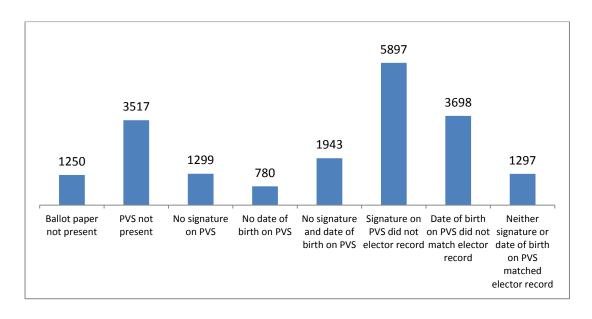
Postal votes returned before the campaign ends

- 4.44 In the final stages of the referendum campaign we received a number of enquiries from voters who were dissatisfied that they had only become aware of information that they considered significant in deciding how to vote (in particular "the vow" on the future of Scotland provided by parties campaigning for a No vote) after they had returned their postal vote.
- 4.45 Although it is evident from the nature of the process that voters using postal ballots might well have cast their vote before the final days of a referendum or election campaign, we suggest that those who undertake voter awareness activities, including campaigners, EROs and the Commission, should give consideration to whether more can be done to ensure that postal voters are made aware that they cannot change the way they have voted once they have returned their postal ballot.

Reasons for rejecting postal votes

4.46 4,767 postal ballot packs were rejected because the ballot paper or postal vote statement (PVS) was missing. 14,914 postal votes were rejected because one or both personal identifiers did not match the records held by the ERO, or the elector did not provide the identifier information on the postal voting statement.

Figure 8: Reasons for postal ballot pack rejection across Scotland



- 4.47 Feedback from COs suggests that the reasons for the rejection of postal ballot packs included:
- People giving the date on which the postal vote was completed, rather than their date of birth.
- A change of name.
- A change in the quality of signature since the specimen signature was provided.
- 4.48 The Commission's previous recommendation that EROs be able to request a refreshed identifying signature, and also be allowed to provide electors with feedback if their postal vote was rejected, was first adopted after the European Parliamentary elections in May of this year. Although this will not be done after the Scottish Independence Referendum, the ability to feed back to postal voters who had their postal pack rejected at the May polls and the refresh of signatures provided in 2013 may have helped to reduce the number of postal ballots not included in the count.
- 4.49 While it is clearly important that effective measures are in place to detect and prevent fraud, these measures should not inadvertently disenfranchise voters who simply make mistakes on their postal voting statements. In practice this means that some people are voting, but their vote is not being counted.

Checking personal identifiers on postal voting statements

4.50 COs were required to carry out checks on personal identifiers provided on statements, which were returned in ballot packs by people voting by post. The date of birth and signature provided on postal voting statements are compared with those previously provided by the elector and held on record by EROs. This requirement is intended to ensure that no fraudulently completed postal votes are included in the count. Although under SIRA only 20% of all returned postal ballot packs were required to be checked, as at all referendums and elections since the introduction of such legislation, Scotland's COs undertook to check all returned packs.

Missing or mismatching identifiers

4.51 At the referendum, 737,083 postal votes were checked against identifiers supplied with the postal vote application. Of these, 14,914 (approximately 2% of those returned) were not included in the count, because the details provided on the postal voting statement could not be successfully checked against the details previously provided by the elector, either because

the personal identifiers provided did not match, or because they had not been provided at all.

- 4.52 4,767 postal ballot packs (approximately 0.65% of those returned) were rejected because either the postal voting statement was missing or the ballot paper had not been included in the envelope.
- 4.53 The overall rejection rate of 2.7% compares favourably with the Scottish Parliamentary election in 2011 where rejection levels were 5.9% for constituency and 5.8% for the regional list. At the May 2012 Scottish council elections, approximately 3.8% of returned postal votes were not included in the count for these reasons and, more recently, 2.9% of returned postal votes were rejected because the identifiers could not be successfully checked at the 2014 European Parliamentary elections in Scotland.
- 4.54 Feedback from COs has suggested that the 2013 refresh of signatures provided as postal vote identifiers, as well as the high number of postal vote applications in the run up to the referendum may have meant that signatures were more current, resulting in a reduction in the percentage of postal votes not included in the count. Additionally, the usefulness of the written instructions, as attested by 94% of postal voters is likely to have helped to reduce the number of rejected postal votes.

Voting by proxy

- 4.55 If an elector was unable to vote in person at their allocated polling station they could appoint a proxy to vote on their behalf. The appointed proxy could either vote in person or apply to vote by post on the elector's behalf.
- 4.56 A total of 30,944 electors, representing 0.72% of the total electorate, chose to appoint a proxy prior to the deadline of 5pm on Wednesday 3 September (the cut-off date). There is no way of knowing how many proxy voters actually voted at the referendum.
- 4.57 After the deadline, registered electors could apply for an emergency proxy, in certain circumstances, up until 5pm on 18 September 2014. Applications for an emergency proxy needed to be attested if they were made on or after Thursday 11 September.
- 4.58 SIRA included provision for people who found that they were unable to vote in person after the cut-off date to appoint an emergency proxy. We welcomed the Scottish Government's decision to include provisions in SIRA for emergency proxies to be appointed in circumstances where the applicant could not reasonably be expected to vote in person at their allotted polling station for the following reasons:

- A disability suffered after the cut-off date.
- Where the voter was likely to be unavoidably absent from their qualifying address on polling day and they only became aware of that fact after the cut-off date.
- For reasons relating to the voter's occupation, service or employment, of which the voter only became aware after the cut-off date.

4.59 At the European Parliamentary elections in May 2014, 85 emergency proxies were appointed in Scotland under similar legislative provision. At the Referendum 6,690 emergency proxies were appointed, a 7,770% increase. We believe this increase reflects the desire by voters to take part in the referendum and cast their vote but, perhaps also significantly, the cut-off date after which a person needed to apply for an emergency proxy was 5 days earlier than is usual at a poll and this is likely to have been a relevant factor.

Completing the ballot paper

4.60 A key priority for the CCO and the Commission was that voters were able to vote easily and confidently, knowing that their vote would be counted in the way they intended. SIRA prescribed the form of the ballot paper and provided that the colour of the ballot paper was to be prescribed by the CCO with tendered ballot papers²⁷ also being of a prescribed colour which differed from the ordinary ballot papers. The CCO directed that ordinary ballot papers must be white and that tendered ballot papers would be pink. To ensure consistency, the CCO provided COs with the ballot paper artwork, which meant voters across Scotland received the same size and shape ballot paper, wherever they voted. A large majority of our respondents, 84%, said they had enough information on how to cast their vote compared with 62% in May 2012. 90% of respondents said it was easy to access information on how to cast their vote and what the referendum was about compared with 71% at the May 2014 European Parliamentary elections.

 $\underline{\text{(http://www.electionsscotland.info/emb/download/downloads/id/122/handbook\ for\ polling\ station\ staff))}$

²⁷ A tendered ballot paper is issued to an elector by polling station staff in prescribed circumstances in which it is not appropriate to issue an ordinary ballot paper. For example, if the polling list indicates that the elector has registered to vote by post, or has been marked to show that the elector has already voted. Further information on the process for issuing tendered votes in the referendum can be found in the Counting Officer's Handbook for Polling Station Staff

Rejected ballot papers

- 4.61 Overall the number of ballot papers that were rejected at the count, 3,429 (0.1%) represented a very small proportion of the total number of ballot papers cast. At 0.1% of all ballot papers cast, the proportion rejected was lower than the 12,370 (0.63%) rejected votes in Scotland at the UK Parliamentary Voting System referendum in 2011.
- 4.62 The following table shows by council area the number of votes rejected at the referendum for each of the possible reasons available to the Counting Officer. The vast majority (74%) were rejected as being unmarked or void for uncertainty as to the voter's intention.

Table 3: Number of Ballot Papers Rejected at Count and Reasons for rejection

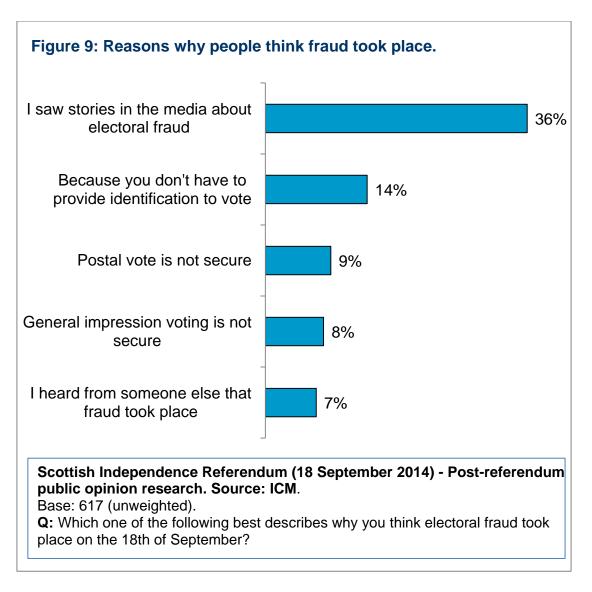
Local authority	Want of official mark	Voting for more than one option	Writing or mark by which the voter could be identified	Unmarked or wholly void for uncertainty	Total
Aberdeen City	0	38	8	134	180
Aberdeenshire	0	19	4	79	102
Angus	0	17	4	45	66
Argyll & Bute	0	9	1	39	49
Clackmannanshire	0	7	1	16	24
Comhairle Nan Eilean Siar	0	6	0	13	19
Dumfries and Galloway	0	18	9	95	122
Dundee	1	25	6	60	92
East Ayrshire	0	5	2	51	58
East Dunbartonshire	1	13	4	55	73
East Lothian	0	13	3	32	48
East Renfrewshire	0	13	4	27	44
City of Edinburgh	1	102	15	342	460
Falkirk	0	14	3	90	107
Fife	0	53	12	161	226
Glasgow	8	103	26	401	538
Highland	0	30	0	138	168
Inverclyde	0	11	1	17	29
Midlothian	0	18	2	33	53
Moray	0	16	0	22	38
North Ayrshire	0	17	1	67	85
North Lanarkshire	3	18	7	150	178
Orkney	0	2	5	13	20
Perth & Kinross	0	16	1	79	96
Renfrewshire	0	14	12	53	79
Scottish Borders	0	11	1	55	67
Shetland	0	3	2	10	15
South Ayrshire	0	16	2	49	67
South Lanarkshire	2	26	7	102	137
Stirling	0	16	2	44	62
West Dunbartonshire	0	8	6	22	36
West Lothian	0	14	17	60	91
Total	16	691	168	2,554	3,429

Electoral Integrity

- 4.63 In this section, we discuss the perceptions of voters in relation to electoral integrity. The administrative matters arising on the subject of integrity are addressed in Chapter 6.
- 4.64 The level of recorded cases of electoral malpractice in Scotland is very low; however this is in contrast to the public's perception of this issue. The Commission's May 2013 analysis of cases of alleged electoral fraud in the UK during the previous year showed there had been 25 allegations in Scotland, representing 6% of the total for the UK²⁸.
- 4.65 Notwithstanding the above, 34% of respondents to our survey thought that fraud took place at the referendum, more than in any previous post-election survey²⁹. 12% said they thought it took place 'a lot' and 22% 'a little'. Asked why they thought so, the main response was 'I heard or saw stories in the media'. 36% gave this answer compared with 19% who gave this response after the European Parliamentary elections in May 2014 and 27% who responded in this way after the Council elections in May 2012. 14% thought fraud took place because voters did not have to provide identification in order to vote.
- 4.66 Respondents who identified themselves as 'Yes' voters (42%) were considerably more likely to think fraud took place compared with No voters (21%).

²⁸ http://www.electoralcommission.org.uk/ data/assets/pdf file/0005/155336/Analysis-of-cases-of-alleged-electoral-fraud-in-2012.pdf

^{29 30%} of respondents to our post-election survey after the 2014 European Parliamentary elections believe that some electoral fraud took place. For the Scottish local government elections in May 2012, this figure was 28%.



4.67 While electoral fraud is often thought to occur we found no increase in people who had had first-hand experience of fraud. 53% of respondents thought that electoral fraud was not a problem and 26% indicated that they did not know if it was a problem. This reflects the Commission's view that confidence in the safety and security of the voting process can be strongly influenced by the wider context and in particular the reporting of alleged electoral fraud in the media.

4.68 Just under a third of our survey respondents (32%) reported knowing hardly anything about fraud relating to elections and voting, with 16% saying that they knew nothing at all about the subject. This is a similar proportion to levels in May 2014 and 2011. While 73% of respondents said that they thought voting in general was safe from fraud and abuse, this figure is lower than the 78% figure from our survey in May 2014, 82% in May 2012 and 83% in May 2011.

- 4.69 People generally think that voting in polling stations is safer from fraud and abuse (81%) than postal voting (59%). Although 82% of postal voters thought postal voting was safe.
- 4.70 The Commission and Police Scotland will continue to work together to collect data on the number of allegations reported to the police in relation to the referendum. We will publish our full analysis of this data from the referendum in February 2015, as part of our analysis of data for all electoral events in 2014. There is currently a small number of ongoing police investigations, including 10 allegations of personation offences.

Confidence and satisfaction with the way the referendum was run

- 4.71 Nearly three quarters (73%) of respondents were confident that the referendum was well run on 18 September. This is in line with results from previous surveys undertaken after referendums and elections and higher than in May 2014 after the European Parliamentary elections
- 4.72 When asked why they were confident that the referendum was well run, over a quarter of respondents said that they were confident as they thought the process of voting was quick and easy and almost the same proportion said it was because the voting process was clear, concise and easy.
- 4.73 21% of respondents said that they were not confident that the referendum was well run. Of these respondents, 40% gave a reason related to concerns around fraud or security; 20% thought the poll was badly run/organised; 18% said the counting process was not well verified; 14% attributed this to lack of information and 10% said a lack of information about what would happen in the event of a Yes or No vote was a factor.

Concerns raised by public

- 4.74 In the days following 18 September, the Commission, the CCO, COs, EROs, Police Scotland and the Scottish Government all received numerous enquiries and complaints from the public regarding various aspects of the electoral administrative process.
- 4.75 Many of these concerns arose from images appearing on TV screens and across social media which were understandably misunderstood by those members of the general public who have little understanding of the detailed processes in place for the verification and counting of votes. Accordingly, the Commission and others need to consider how we make the public more

aware of counting procedures in the future, including using social media to ensure that information is shared widely.

- 4.76 The level of complaints led the CCO to issue a statement indicating that she was aware of the content being shared on social media and speculation regarding the conduct of the count process. She indicated that all counts throughout Scotland had been scrutinised by thousands of people, including hundreds of independent observers and hundreds of counting agents representing campaigners on both sides of the referendum debate.
- 4.77 Every count in Scotland provided access for print, broadcast and online media. In addition, officers from Police Scotland were present at every count centre. As such, the count centres received an unprecedented level of observation and scrutiny and the CCO was content that, had any instances of perceived wrongdoing occurred, these would have been reported by those in attendance at the time. The CCO was not aware of any complaints having been raised by any observer or agent and none was made to her during the verification, counting and adjudication stages. The CCO concluded that she was satisfied that all counts were conducted properly.
- 4.78 The Commission also had representatives in many of the count centres throughout Scotland and had requested at our briefing of observers that they share with us their experiences of the poll and count. From the evidence we have seen and the experiences others have shared with us we have seen nothing which would lead us to disagree with the view of the CCO. We are satisfied that all counts were properly conducted.

Lessons learned about the experience of voters and recommendations

Materials for voters

- 4.79 Voters at the Scottish Independence Referendum on 18 September were provided with important information material, including poll cards, postal voting statements and polling station notices. This material was designed and produced in line with specifications issued by the CCO to achieve consistency of presentation to the voter.
- 4.80 There is evidence from our public opinion research to suggest that voters found these materials useful and, in our view, the coordination by the CCO of the design of such materials assisted in achieving a good usable product for the voter. Much of the material provided was developed by the

EMBs Forms Working Group, which itself based its work on both style guidance and previous work produced by the Commission.

Recommendation 5: Information for voters on count procedures

The Commission and others involved in the provision of public information regarding referendums and elections in Scotland and the rest of the UK need to address the issue of how we make the public more aware of count procedures.

Access to the voting process

- 4.81 Overall, our public opinion research shows that voters were confident that the referendum was well-run, although the percentage saying so was slightly lower than at previous elections. Polling station voters and postal voters were very positive about their experience of their chosen method of voting.
- 4.82 There continues, however, to be a lack of confidence that voting is safe from fraud and abuse when in reality the level of allegations of electoral fraud are low in Scotland. Work needs to continue to be done to ensure greater confidence and trust in the electoral process and we will continue to work with the Scotlish Government, Police Scotland, political parties, the EMB, EROs and Returning Officers to consider what further action can be taken to address this.
- 4.83 The provisions which allowed eligible voters who had arrived at a polling station and were waiting to vote at 10pm to be issued with a ballot paper and allowed to vote worked and, although not extensively used, they did ensure some voters who otherwise would not have been able to exercise their right to vote could do so. While similar provisions are now included in election rules as the norm, we would recommend that in Scotland and elsewhere all future referendum legislation include such provisions.
- 4.84 In many respects the lack of need to employ the close of poll provisions was due to the COs' and CCO's good planning and effective administration. The CCO, following consultation with her COs, directed that no polling station, unless with her prior agreement, would have more than 800 voters assigned to it and various administrative arrangements and contingencies were put in place to support this allocation of voters. So in a referendum with a very large turnout of 85% good planning and the backstop of close of poll provisions in the legislation delivered a good service for voters.

Recommendation 6: Issuing ballot papers to voters queuing at polling stations

Legislation for future referendums, not only in Scotland but elsewhere in the UK, should ensure that eligible electors who are in the queue at their polling station at the close of poll are issued with a ballot paper and allowed to vote.

5 Campaigning at the referendum

- 5.1 This chapter explores the experience of those who campaigned at the 2014 referendum on independence for Scotland and deals with the immediate regulatory issues arising from the referendum. Where appropriate, we make recommendations for change drawing on the experience of the referendum.
- 5.2 We will issue a further report in mid-2015 focusing on the spending and donation returns that campaigners are required to submit to us either in December 2014 or March 2015.
- 5.3 We have contacted those campaigners who registered with us to seek their views on how the rules worked in practice. To date, we have received responses from several campaigners including the designated lead campaigners Better Together and Yes Scotland and their views have been considered as we have developed our report. We will address any further feedback in our spending and donations report.

What happened?

Legislation

- 5.4 The Edinburgh Agreement signed between the Scottish and UK Governments in October 2012 gave the Commission the role, subsequently brought into legislation by SIRA, of regulating campaign spending and donations at the referendum. It was also agreed between the Governments that we would be responsible for publishing guidance for those that wished to campaign, registering campaigners and designating lead campaign organisations. The Agreement also gave us a role in providing advice to the Scottish Government on the spending limits that should apply to campaigners.
- 5.5 Both Governments agreed that the principles underpinning the existing framework for referendums held in the UK should apply to the Scottish Independence Referendum. In particular, that Part 7 of the Political Parties, Elections and Referendums Act 2000 (PPERA) should provide the framework for the referendum, including the rules about campaign finance and regulation.

5.6 SIRA received Royal Assent on 17 December 2013. It set out the regulatory controls that applied at the referendum and provided for the regulated referendum period to start on 30 May 2014 and end on the day of the poll, 18 September 2014. The referendum period was the period during which many of the campaigning rules applied, such as those concerning spending limits.

Spending limits

- 5.7 The Edinburgh Agreement gave the Commission a role in advising on the spending limits that would cover campaigning in the referendum period last 16 weeks before the referendum - as we do for spending limits at PPERA referendums in other parts of the UK.
- 5.8 Our advice on setting the limits for political parties was based on calculating the limits with reference to the actual share of the vote that the parties received at the 2011 Scottish Parliament election, and applying the share of the vote to a maximum value equivalent to the combined value of the limits of the two lead campaigners. This was intended to provide political party limits sufficiently high to enable the parties to campaign on a significant scale.
- 5.9 The Commission's advice on the spending limits was published on 30 January 2013³⁰. Our advice was accepted by the Scottish Government and the political parties and campaigners on both sides of the debate
- 5.10 The spending limits that applied at the independence referendum were ³¹:

Designated lead campaign groups	£1,500,000
Scottish National Party	£1,344,000
Scottish Labour Party	£831,000
Scottish Conservative and Unionist Party	£399,000
Scottish Liberal Democrats	£204,000
Scottish Green Party	£150,000
Other registered campaigners	£150,000

http://www.electoralcommission.org.uk/ data/assets/pdf file/0004/153697/Report-on-spending-limits-for-the-referendum-on-independence-for-Scotland.pdf

³⁰ The Electoral Commission – Key principles for Referendums

³¹ These figures are slightly different from those set out in the Commission's recommendations. This was due to the rounding provision in the Scottish Independence Referendum Act 2013

Referendum campaigners

5.11 Campaigners were able to register with us from 18 December 2013 through to polling day on 18 September 2014; 42 campaigners registered during that period, 21 indicating they supported the yes outcome to the question asked, 21 supporting the no side.

Designation of lead campaigners

- 5.12 Once registered, campaigners were able to apply to us to be designated as the lead campaigner for the outcome they supported. At the independence referendum there were two campaign groups campaigning for each side of the debate that became well-established significantly before the referendum; indeed well before the legislation formally providing for the referendum had passed. These groups were seen by both the public and the media as the lead campaigners before they had been designated as such by the Commission.
- 5.13 The period for applying to be designated as a lead campaign group opened on 20 March 2014 and closed at midnight on 16 April 2014. We were statutorily required to make the designation decision by 2 May 2014.
- 5.14 We received two applications: for 'Yes' from Yes Scotland Limited and for 'No' from Better Together 2012 Limited. Both these applicants met the statutory test and we were able to take the designation decision on 23 April 2014; three working days from the close of the application period.

Guidance and working with campaigners

5.15 As the legislation was in a settled state from early in the parliamentary process, we were able to introduce potential campaigners to the Commission's role as regulator, the main campaigning rules and the reasons for them through a series of updates³² from September 2013 onwards. We continued with these updates throughout the referendum period, including after polling day, using them to remind campaigners of key dates and responsibilities, any updates to the guidance and our role in regulating campaign spending.

³² Guidance for campaigners in referendums http://www.electoralcommission.org.uk/i-am-a/party-or-campaigners-in-referendums

5.16 We offered advice and guidance proactively in the run up to the start of, and throughout, the referendum period, offering to meet potential campaigners. We met with 24 groups before the start of the referendum period and were in contact with other potential campaigners. This included a number of meetings with the larger campaign groups such as Better Together and Yes Scotland and the political parties who intended to campaign at the referendum. We were able to discuss in detail how the rules would apply to their campaign plans, including how we intended to designate lead campaigners for the 'Yes' and 'No' outcomes.

Donations and reporting

- 5.17 During the referendum period (30 May to 18 September 2014), registered campaigners were required to submit a number of 'pre-poll reports' detailing the donations they had received and loans they had entered into that were over £7,500.
- 5.18 Registered campaigners had to submit their first pre-poll report at the end of the reporting period during which they registered; the first report contained all the donations received and loans taken out over £7,500 back to Royal Assent of SIRA. This included donations received and loans entered into both before and after they registered, and both before and after the referendum period began, provided they were given for the purposes of referendum campaigning.
- 5.19 During the statutory pre-poll reporting period:
- A total of £4,564,843 in donations was reported by campaigners in their pre-poll reports; £1,822,120 from 'Yes' campaigners and £2,742,723 from 'No' campaigners.
- A total of £37,800 in loans was reported by campaigners in their pre-poll reports; £25,000 from 'Yes' campaigners and £12,800 from 'No' campaigners.
- 5.20 Overall, 97% of pre-poll reports were submitted on time. All pre-poll reports were submitted by the date of the poll.
- 5.21 After the referendum, registered campaigners are required to submit a campaign spending return which includes details of all accepted donations and loans over £7,500 together with details of certain impermissible donations and loans. In addition, they must report the total value of accepted donations and loans that were worth more than £500 and less than or equal to £7,500. The post-referendum returns are due to be submitted by 18 December 2014 for campaigners who have spent £250,000 or less and 18 March 2015 for

those that have spent over £250,000. We will publish these returns as soon as reasonably practicable after the deadline.

5.22 We will issue a further report in mid-2015 focusing on the post-poll spending and donation returns.

Enforcing the rules

- 5.23 The Commission had investigative and sanctioning powers in respect of breaches of the rules. We had access to a range of civil sanctions from fixed fines of £200 up to £10,000 variable penalties. The Crown Office and Procurator Fiscal Service could commence criminal prosecution for more serious breaches.
- 5.24 We had an established Memorandum of Understanding with the Crown Office and Procurator Fiscal Service and worked closely with them, and Police Scotland, to ensure that we shared information and agreed on courses of action in relation to emerging issues as quickly as possible. This included a training session on the campaign rules.
- 5.25 Our approach to compliance at the referendum followed our established approach of proportionate regulation as set out in our Enforcement policy³³. We made particular efforts to work closely with campaigners to prevent noncompliance, or bring them into compliance quickly, with the intention of reducing the likelihood of retrospective enforcement action.
- 5.26 We also actively regulated potential breaches of the rules in 'real time' during the independence referendum. We contacted campaigners when our monitoring indicated that further advice would be of assistance, including where there was a risk of them breaching the rules. This ensured public confidence that the rules were being followed and, where there were issues, compliance was quickly achieved either voluntarily or through required remedial action.
- 5.27 Our post-referendum survey shows that 66% of respondents thought that the authorities would take appropriate action if a campaigner was caught breaking the rules. Only 13% disagreed. This compared with 61% and 37% respectively for the voting systems referendum in 2011³⁴.

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³³ Enforcement policy http://www.electoralcommission.org.uk/_data/assets/pdf_file/0003/106743/Enforcement-Policy-30March11.pdf

³⁴ The wording of the question asked in 2011 was slightly different to 2014, although the responses are comparable.

5.28 To date we have been able to deal with the majority of cases by way of advice and guidance. As a result of the training and working relationship we had developed with the Crown Office and Procurator Fiscal Service the referral system for those matters we have had to refer for consideration was very efficient.

Legal framework

5.29 We have approached explaining the legal framework and associated recommendations for change under the themes of:

- Timing of legislation and the impact of that on guidance for campaigners.
- Registration of campaigners.
- Funding the campaigns.
- Spending by campaigners.
- Compliance with the rules.

Timing of the legislation and the impact of that on guidance for campaigners

- 5.30 The Scottish Independence Referendum was the first referendum in any part of the UK where the legislation received Royal Assent significantly in advance of the start of the referendum period. The Scottish Government's legislative timetable resulted in a period of 39 weeks between Royal Assent (17 December 2013) and polling day (18 September 2014); this included a period of 23 weeks before the start of referendum period (30 May 2014).
- 5.31 The rules for regulating campaigners at the independence referendum were based on an established regulatory regime and were in a settled state early in the legislative process. As such, we were able to write the guidance whilst the Bill was still going through its parliamentary process and publish the final guidance the day after Royal Assent (18 December 2013).
- 5.32 Campaigners therefore had five months before the start of the referendum period to familiarise themselves with the campaign spending rules, including the approach to campaigners working together and pre-poll reporting, to plan a campaign that fell within the rules and to contact us with any questions. This early contact with potential campaigners meant that we

were able to pre-empt many of the issues that they might have had with complying with the legislation.

- 5.33 As the draft Bill was based on an established regime and because there were no significant changes to the rules close to Royal Assent, this timescale for publishing campaigner guidance worked well. However, it will not always be the case that the campaigning rules will be in such an early settled state for all future referendums.
- 5.34 A key principle of good regulation is that campaigners must be clear about their responsibilities and this means that guidance should be published in a timely manner before a referendum. As part of good regulatory practice, we aim to publish guidance three months before the start of a referendum period.
- 5.35 As discussed in Chapter 2 of this report, the experience of developing guidance for the independence referendum, and the ability to undertake early engagement with campaigners, has meant that we have reconsidered our 2011 recommendation that the detailed rules should be clear at least 28 weeks in advance of polling day (based on a statutory regulated referendum campaign period of 16 weeks).
- 5.36 When considering proposals for any future referendum on any issue, not only in Scotland but also those held across or in other parts of the UK, governments should acknowledge the importance of allowing sufficient time for campaigners to prepare for their role in a referendum; in particular, that the legislation should be clear in sufficient time to allow robust and detailed guidance to be developed and distributed to campaigners.
- 5.37 We therefore now recommend that in planning for any future referendums, not only in Scotland but also those held across or in other parts of the UK, governments should aim to ensure that legislation is clear at least six months before campaigners are required to comply with the rules (see Recommendation 1).
- 5.38 In practice, this would allow three months for the Commission to work with campaigners to develop and publish guidance in time to comply with good regulatory practice of publishing guidance three months before the rules come into force. Campaigners would then be able to use those three months to familiarise themselves with the rules and plan their campaigns accordingly before the start of the referendum period.

Registration of campaigners

- 5.39 Campaigners who intended to spend more than £10,000 campaigning at the referendum were required to register with us. The requirement to register also applied to registered political parties. Once registered, campaigners were entitled to:
- A spending limit above £10,000.
- Access to the electoral register to help them campaign.
- The right for representatives to attend postal vote opening sessions, polling stations and the counting of the votes.
- 5.40 Registered campaigners were also required to comply with the rules on spending, donations and loans before and after the referendum. These included limits on how much they could spend.
- 5.41 Once registered, campaigners were able to apply to us to be designated as the lead campaigner for the outcome they supported. In addition to the benefits of being a registered campaigner, designated lead campaigners were also entitled to the polling list (the merged registers of local government electors and the young voters list), a spending limit of £1.5m, campaign broadcasts, free mailing, and access to public meeting rooms.

Eligibility to register as a campaigner and donate

- 5.42 The rules for the independence referendum, as with other referendums held recently, only allowed certain UK-based individuals and organisations to register as campaigners and donate to other campaigners.
- 5.43 Until recently, this also mirrored the list of non-party campaigners who could register with us at elections these are individuals and organisations that campaign to influence who voters vote for at elections, but are not standing as a party or candidate. However, the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014 widened this list of eligible non-party campaigners to include:
- Charitable Incorporated Organisations (CIOs).
- Scottish CIOs.
- Bodies incorporated by Royal Charter.
- Scottish Partnerships that are carrying on business in the UK.

- 5.44 Given that these bodies are allowed to register as non-party campaigners at elections, there does not appear to be an obvious reason that they should not be able to register as referendum campaigners or be eligible to donate to other campaigners at future referendums.
- 5.45 We therefore recommend that the legislation for future referendums, not only in Scotland but also those held across or in other parts of the UK, should ensure that the list of individuals and bodies eligible to register as a referendum campaigner and to donate to other campaigners is extended to mirror the list of eligible registered non-party campaigners under PPERA.

Responsible person

- 5.46 As we noted in our previous referendum reports in 2004 and 2011, the standard PPERA rules do not place any limit on the number of campaign groups that a given individual or organisation can register to campaign at a referendum. Each registered campaigner is able to spend up to the relevant expenditure limit. Following the North East of England referendum in 2004, we recommended that provisions should be introduced to prevent people circumventing the spending limits on campaigning by setting up multiple campaigns for the same referendum outcome. This recommendation was adopted at the 2011 Parliamentary voting systems referendum which included rules around campaigners 'working together'.
- 5.47 The Scottish Government included updated 'working together' provisions in SIRA which took into account the lessons from the 2011 voting systems referendum. The updated provisions were intended to strengthen the rules and reduce the burdens on small campaigners. We will be reporting on how these rules worked in our spending report which will be published after the final spending returns have been submitted in March 2015.
- 5.48 As in 2011, to complement the 'working together' rules, SIRA also included a restriction that the same person cannot be the responsible person for more than one registered campaigner. This acted as an additional safeguard against multiple campaigns being established by the same individual or organisation to campaign for the same referendum outcome.
- 5.49 Neither SIRA nor PPERA provide for the responsible person to sign the registration application form to confirm that they understand the implications of agreeing to take on that role. It is therefore possible that an application to register as a campaigner could be submitted without the knowledge or consent of the person named as the responsible person, even though they are legally responsible for compliance and subject to personal sanctions for any breaches of the rules.

5.50 In respect of political parties, SIRA provided that, except for minor parties³⁵, when a political party registers as a referendum campaigner the treasurer is automatically appointed as the responsible person. This is the same as at PPERA referendums. During the course of the registration period we received an enquiry from a political party that had a registered campaigns officer asking if that person could take on the role of responsible person instead of the treasurer.

5.51 Section 25 of PPERA allows a political party's registered campaigns officer to be substituted for the party's treasurer in respect of compliance matters at PPERA referendums. This provision was not replicated in SIRA. Although the absence of this technical provision has not to date caused any compliance issues, for consistency, and to reduce the possibility of unintentional non-compliance, it would be a useful provision to replicate for future non-PPERA referendums.

5.52 We therefore recommend that the legislation for future referendums, not only in Scotland but also those held across or in other parts of the UK, should ensure that the same person is not able to be the responsible person for more than one registered campaigner; and, in addition, that:

- (i) the person named as the responsible person is required to sign the application for registration as a campaigner, and
- (ii) for non-PPERA referendums, s.25 PPERA is replicated so that a political party's campaigns officer can take on the Treasurer's role of responsible person.

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³⁵ A minor party is registered on the Great Britain register. It can only contest parish council elections in England and community council elections in Wales. Registration as a minor party can also protect a party's name in Scotland. Minor parties do not have to submit as much information when applying to register as a party, or be subject to the same degree of financial controls, compared with a registered political party.

Ability to remove campaigners from the register

5.53 There was a defined statutory process for making a valid application to register as a registered campaigner at the independence referendum. Once registered, campaigners were entitled to a higher spending limit, access to the electoral register, and the right for their representatives to attend postal vote opening sessions, polling stations and the counting of the votes. Registered campaigners were also subject to certain obligations including complying with rules on spending, donations and loans as well as reporting campaign spending and funding.

5.54 The Scottish Government took steps to reduce the burdens on campaigners at the independence referendum that registered but did not ultimately spend more than the £10,000 registration threshold. We were pleased that the Scottish Government adopted our recommendation from our 2013 review of the UK party and election finance laws³⁶ to amend the requirements for post-referendum spending returns (recommendation 32). We suggested that requiring a full spending return from organisations that need not in fact have registered was an unnecessary administrative burden, and may discourage campaigners who are unsure how much they will spend from registering on a precautionary basis. We therefore recommended that it would be more proportionate to require less information from those who register with us but then spend under the registration threshold.

5.55 In practice this meant that if a campaigner registered with us but then decided not to actively campaign, the only regulatory burdens on them were to submit standard form nil pre-poll donation reports (assuming they did not receive any reportable donations over £7,500) and a post-referendum declaration stating that they have spent less than £10,000.

5.56 One high profile registration issue to arise during the independence referendum concerned the Confederation of British Industry (CBI) as a campaigner for the 'No' outcome. Shortly following the CBI being placed on the register, we received representations from them requesting that they be removed from the register because their application had not been authorised.

5.57 In the case of the CBI, they did not ensure that the person who signed their application was authorised to do so. Our decision, taken after a review of the CBI's application alongside the legal requirements set out in SIRA, was

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³⁶ A regulatory review of the UK's party and election finance laws. Recommendations for change: June 2013 http://www.electoralcommission.org.uk/ data/assets/pdf file/0008/157499/PEF-Regulatory-Review-2013.pdf

that their registration was void. Applications to register as a campaigner must be signed by the secretary of the organisation or a person who acts in a similar capacity. The lack of an appropriate signature in the CBI application rendered their application void.

- 5.58 During the course of this matter we considered whether the current provisions around registering campaigners were appropriate. We are satisfied that they are.
- 5.59 A separate issue concerning the CBI's ability to register as a campaigner was the status of its registration as a company with Companies House. This also raised wider questions about the status of companies. As discussed earlier in this chapter, SIRA provides that only certain categories of organisations can register as a campaigner. One category is companies registered under the Companies Act 2006.
- 5.60 The Companies Act 2006 allows a Royal Charter company to register as a Companies Act company. However, some Royal Charter companies do not need to register under the Companies Act 2006, and so some were not eligible to register under SIRA, and would not be eligible to register under Part 7 of PPERA.
- 5.61 As the CBI were unable to register as a campaigner they were limited to the £10,000 registration threshold as their spending limit. To ensure compliance, we worked closely with the CBI to seek assurances about the intended level and scope of their referendum spending; this included seeking detailed breakdown of anticipated costs and requiring changes to plans where necessary.
- 5.62 The ability of all Royal Charter companies to register as referendum campaigners will be addressed if our recommendation to extend the list of individuals and bodies eligible to register to campaign at referendums to mirror the list of eligible registered non-party campaigners under PPERA is taken forward.

Grounds for rejecting applications to register as a referendum campaigner

5.63 Campaigners who wished to register to campaign at the independence referendum were required to submit a declaration to us which provided certain information such as their name and address and the outcome they supported. To be able to register, a campaigner had to be a 'qualifying body'; these included individuals, companies, trade unions, and unincorporated

associations. The Commission was required to maintain a register of declarations.

5.64 During the course of the referendum we received an enquiry about registering a campaigner with a name which might have been seen as potentially offensive. Although in the end the campaigner did not register, SIRA did not include a specific provision giving the Commission any discretion over whether or not to register the campaigner if the statutory declaration requirements had been met. This is the same as the registration requirements for referendum campaigners in PPERA.

5.65 In contrast, the registration requirements for political parties in section 28(4) PPERA requires the Commission to register a new political party unless the party proposes a registered name which:

- Would be the same as that of a party which is already registered.
- Would be likely to result in electors confusing that party with a party which is already reregistered.
- Comprises of more than six words.
- Is obscene or offensive.
- Include words the publication of which would be likely to amount to the commission of an offence.
- Would be likely to result in an elector being misled as to the effect of his vote.
- Would be likely to contradict, or hinder an elector's understanding of, any directions for his guidance in voting given on the ballot paper or elsewhere.
- Includes any word or expression prohibited by order made by the Secretary of State after consulting the Commission.

5.66 Referendums are clearly different from elections in that the names of referendum campaigners do not appear on the ballot paper. However, in our view there would be benefit in referendum legislation including express provision giving the Commission discretion within criteria over whether or not to register certain campaigner names. Being registered with the Electoral Commission gives campaigners an 'official' status and entitles them to additional benefits over those that have not registered. The legislative provisions should be clear in not allowing campaigners with, for example, obscene or offensive names to officially campaign as this would undermine voters trust in the system and potentially bring the referendum itself into disrepute.

- 5.67 Although the list of restrictions on registering party names is informative, in the context of registering referendum campaigners it is not necessary to replicate the restrictions in their entirety. Because the names of referendum campaigners do not appear on the ballot paper, it is not necessary to restrict names to six words or include the restrictions on confusing or hindering voters.
- 5.68 We therefore recommend that the legislation for future referendums, not only in Scotland but also those held across or in other parts of the UK, should ensure that the Commission is not required to accept a declaration for registration as a referendum campaigner if the campaigner proposes to register a name which:
- Would be the same as that of a permitted participant which is already registered.
- Is obscene or offensive.
- Includes words the publication of which would be likely to amount to the commission of an offence.
- Includes any prohibited word or expression.

5.69 It will also be important for consideration be given to the potential for overlap between the name a referendum campaigner wishes to register and the details of already registered political parties or recognised third-parties under PPERA.

Approach to designation

- 5.70 SIRA provided for the Commission to designate lead campaigners. In addition to the benefits of being a registered campaigner, designated lead campaigners were also entitled to the polling list, a spending limit of £1.5m, campaign broadcasts, free mailing, and access to public meeting rooms.
- 5.71 In these respects, designated lead campaigners at the independence referendum had similar benefits to those available to designated lead campaigners in a referendum held under PPERA. However, PPERA also enables the Commission to provide grants to designated lead campaigners. Although the Scottish Government took a policy decision that no publicly funded grant would be available, in practice both designated lead campaigners were well-funded and we have no evidence that the lack of provision for grant was an issue.
- 5.72 The underlying principle of the PPERA designation model relies on campaign groups on each side of the referendum debate applying to be lead

campaigners. If that is not the case – either because most prospective campaigners are on one side of the debate or because a campaigner sees tactical advantage in not seeking designation – the referendum campaigns and their role in putting campaign arguments to voters are likely to suffer.

- 5.73 Following the 2011 PPERA referendums we recommended that, when considering the case for future referendums, legislators should take into account whether the referendum is likely to stimulate a level of debate which would generate willing and able applicants for designation. We also recommended that steps should be taken to reduce the potential advantages of the current PPERA designation model for a prospective lead campaigner to decide against applying for designation (Recommendation 12).
- 5.74 In its response to our report on the 2011 PPERA referendums, the UK Government in 2012 commented that

'Designated organisations are important to the referendum process as they are a source of public awareness about the issues at hand. It is important that support be provided for them through the legislative framework. Clearly, it runs counter to the interests of voters if there is any incentive for campaigners to refrain from applying to become designated organisations, as this may impede the proper development of public understanding during a referendum campaign. But it is also crucial that balance in a campaign is maintained, and so a one-sided publicity campaign would be unacceptable. Ensuring that the public funds provided to these organisations are spent effectively is of similar concern.

The [UK] Government is therefore considering carefully how the designation process might be improved.'

- 5.75 The Scottish Government addressed this recommendation in SIRA by adapting the PPERA designation model to provide for us to designate for only one outcome if there was no willing or able applicants for the other outcome. If a lead campaigner were to have been designated for only one outcome then they would have been entitled to all the benefits of designation with none available to those campaigning for the other outcome.
- 5.76 In our view, this approach was appropriate in the specific circumstances of the independence referendum to reduce the risk of a tactical decision not to apply for designation. This was because there were well-established, high profile and well-funded campaigners on each side of the debate. However, in other circumstances, there may be a greater risk of those campaigning for a particular outcome being seen as having too great an advantage if they are the only ones supported by the benefits of designation.

- 5.77 The Scottish Government did take some steps to mitigate the risks of a one sided campaign should there only have been a designated lead campaigner for one outcome. SIRA provided that if only one lead campaigner had been designated then the requirement for campaigners to account for the spending of other campaigners when they work together on a coordinated campaign would have been removed. This would have meant that, in the case of one-sided designation, campaigners would have been free to coordinate their campaigns and make use of multiple limits in funding those coordinated campaign messages. The removal of the spending restrictions on campaigners working together would have applied to those campaigning on both sides of the debate.
- 5.78 Although the changes to the working together rules in the case of onesided designated were a useful technical provision, in our view, removing the spending restrictions would have had limited impact on the potential for a onesided campaign.
- 5.79 We would therefore welcome the opportunity to work with relevant governments, not only in Scotland but also in other parts of the UK, when they are considering the legislation for future referendums, to consider the implications of enabling the Commission to designate one side of the referendum debate rather than requiring designation to be on both sides or not at all (as is required under PPERA). It will be an important part of that work to consider the overall package of benefits available to designated campaigners in order to balance the reduced incentive to make a tactical decision against applying for designation, whilst not artificially creating a one-sided campaign.
- 5.80 There are also potential legal implications for broadcasters who told us of their concern that they would breach their obligation to impartiality if they were required to show a referendum broadcast for only one side of the debate. If a solution cannot be found, we would not expect campaign broadcasts to be included in the package of benefits available in the event of one- sided designation.

Early designation and the length of the referendum period

5.81 The independence referendum was the first referendum in any part of the UK using a designation model where the enabling legislation received Royal Assent significantly in advance of the start of the referendum period. In June 2013 we recommended to the Scottish Government that there would be significant benefits in taking the designation decision earlier so that

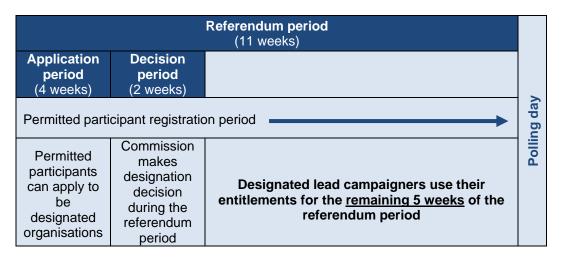
designated lead campaigners would be in place shortly before the start of the referendum period. The benefits included:

- Having more time to discuss what we or others should do to make sure that voters have the information they need to participate properly in the referendum in the event that we could not designate.
- Providing clarity to campaigners and voters about who the lead campaigners are in time for the start of the referendum period.
- Providing lead campaigners with the full duration of the referendum period to make the most effective use of the benefits available to them.
- Making it easier for lead campaigners to work with other campaigners to put arguments to voters. There are restrictions on campaigners working together to deter evasion of the spending limits, but there are different rules that apply to the lead campaigners to enable campaigners to work with them effectively. Designating lead campaigners by the start of the referendum period would make it simpler for other campaigners to work with them throughout the referendum period.
- Enabling political parties to donate to a lead campaigner throughout the
 referendum period. As political parties could only donate to registered
 campaigners who were designated, designating the lead campaigners
 before the start of the referendum period would reduce complexities and
 administrative burdens for the lead campaigners. It would not undermine
 the underlying policy objective, since the purpose of the bar on political
 parties donating to referendum campaigners was to stop them
 circumventing the spending limits on parties by donating to multiple nondesignated campaigners.
- 5.82 As well as moving the designation process to before the start of the referendum period, the Commission's statutory decision making period was also extended from PPERA's 14 days to 16 days to take into account that the Easter bank holiday(s) fell during that period. The period for applying to be designated as a lead campaign group opened on 20 March 2014 and closed at midnight on 16 April 2014. We were statutorily required to make the designation decision by 2 May 2014.
- 5.83 The diagrams below set out a comparison between the designation timetable for the independence referendum and the voting systems referendum in 2011.

Scottish Independence Referendum 2014

Application period (4 weeks)	Decision period (2 weeks)		Referendum period (16 weeks)		
Permitted participant registration period					
Permitted participants can apply to be designated organisations	Commission makes designation decision before the start of the referendum period		Designated lead campaigners use their entitlements for the full 16 weeks of the referendum period	Polling day	

Voting Systems Referendum 2011



- 5.84 Moving the designation process to take place before the start of the formal regulated referendum period worked well at the independence referendum. This approach effectively dealt with our concern following the 2011 referendums that the PPERA designation timetable used up six of the minimum 10 week referendum period before designated lead campaigners could make use of the benefits available to them.
- 5.85 There are, however, pros and cons to this approach. Although it gives the designated organisations and voters certainty about who the lead campaign groups are well in advance of the poll and allows them the whole duration of the referendum period to make use of the benefits available to them, there is also a risk that a campaigner could take advantage of that status for a period of time without being subject to any spending controls as they do not come into force until the start of the referendum period. This could potentially undermine voters' trust in the system.

- 5.86 At the independence referendum, designation of the lead campaigners took place some four weeks before the start of the regulated referendum period. Although there was some media comment on the period during which the designated lead campaigners were not being regulated, we have not seen any evidence that the spending by Yes Scotland or Better Together during that period caused any significant concern.
- 5.87 We therefore recommend that the legislation for future referendums, not only in Scotland but also those held across or in other parts of the UK, should ensure that designation is able to take place shortly <u>before</u>, rather than during the first six weeks of, the referendum period. We also recommend that consideration be given to the benefits of early designation when setting the legislative timetable.
- 5.88 Relevant governments will however need to balance the pros and cons of the early designation timetable taking into account the specific circumstances of the referendum.
- 5.89 Designating lead campaigners before the start of the referendum period means that the designation process itself does not impact on the amount of time that the designated lead campaigners can make use of the benefits available to them. As such, it is not necessary to extend the length of the referendum period to take account of the time taken to designate the campaigners. However, if circumstances mean that the legislative timetable is such that early designation is not possible, then our 2011 recommendation to extend the length of the referendum period to at least 16 weeks should be adopted. This would go some way to giving designated lead campaign groups more time to plan and use the benefits available.
- 5.90 We will also discuss detailed points regarding the designation process with relevant government(s) when the legislation for a specific referendum is being developed.

Funding the campaigns

- 5.91 From 18 December 2013, until the date of the poll, registered campaigners were required to record donations they received, and loans they entered into that were over £500. Anything with a value of £500 or less was not counted as a donation or loan for the purposes of the referendum rules.
- 5.92 Donations are money, goods or services which are given towards a campaigner's spending without charge or on non-commercial terms. Loans include loans of money, credit facilities, such as credit cards and overdrafts, and securities or guarantees for a campaigner's obligations.

- 5.93 Donations received and loans entered into by registered campaigners were subject to rules on permissibility and could only be accepted if they were from:
- An individual registered on a UK electoral register, including overseas electors and those leaving bequests.
- A UK-registered company which is incorporated within the European Union (EU) and carries on business in the UK.
- A UK-registered trade union.
- A UK-registered building society.
- A UK-registered limited liability partnership (LLP) that carries on business in the UK.
- A UK-registered friendly society.
- A UK-based unincorporated association that is based in and carries on business or other activities in the UK.
- 5.94 During the referendum period (30 May to 18 September 2014), registered campaigners were required to submit a number of 'pre-poll reports' detailing the donations they had received and loans they had entered into that were over £7,500.
- 5.95 After the referendum, registered campaigners are required to submit a campaign spending return which includes details of all accepted donations and loans over £7,500 together with details of certain impermissible donations and loans. In addition, they must report the total value of accepted donations and loans that were worth more than £500 and less than or equal to £7,500. The post-referendum returns are due to be submitted by 18 December 2014 for campaigners who have spent £250,000 or less and 18 March 2015 for those that have spent over £250,000.
- 5.96 Campaigners that are registered political parties (unless they are minor parties) are not required to report donations or loans during or after the referendum. This is because they report any donations or loans made to their campaign in their usual quarterly reports.

Pre-poll reporting

- 5.97 In 2011 we noted that at all three referendums that had taken place under the PPERA rules, the main campaigners had been formed by new organisations which were not political parties, and therefore did not have a track record of publishing information about the sources of their funding. This also applied at the independence referendum with Yes Scotland and Better Together.
- 5.98 Under PPERA, the referendum donation and loan reporting requirements mean that voters are not guaranteed access to information about who has funded the campaigners until the post-referendum spending and donation returns are submitted three and six months after polling day. We are required to publish the returns as soon as is reasonably practicable.
- 5.99 Although there was an element of voluntary disclosure by the two lead campaigners at the voting systems referendum in 2011, the information disclosed covered different periods and was therefore not directly comparable. We therefore recommended that consideration should be given to introducing a statutory pre-poll reporting of donations and loans. In its 2012 response, the UK Government agreed that as the voluntary reports were produced to each organisation's own standards they could not be easily compared and so their use to voters was limited.
- 5.100 We were pleased that the Scottish Government adopted that recommendation. The Scottish Independence Referendum was therefore the first referendum in the UK at which voters had information about the sources of significant funding received by registered campaigners before they cast their vote. Our public opinion survey showed that 41% of respondents indicated that they knew a lot or a little about the financing of the campaigns at the independence referendum, compared with 21% at the voting systems referendum in 2011.
- 5.101 During the referendum period, registered campaigners were required to complete pre-poll reports setting out the donations and loans they received over £7,500. Registered campaigners had to submit their first pre-poll report at the end of the reporting period during which they registered; the first report contained all the donations received and loans taken out over £7,500 back to Royal Assent of SIRA. This included donations received and loans entered into both before and after they registered, and both before and after the referendum period began, provided they were given for the purposes of referendum campaigning. The subsequent reports were due covering each of the remaining four week periods of the referendum period.

- 5.102 Requiring donations and loans to be reported back to Royal Assent removed the potential for campaigners to avoid their pre-poll reporting obligations by receiving referendum campaign funding before the start of the referendum period. There was also no incentive to delay registration to avoid reporting. This was an important safeguard that increased the information available for voters.
- 5.103 The four week duration of reporting periods appears to have struck a reasonable balance between transparency for voters and the reporting obligations placed on campaigners.
- 5.104 Concerns were however raised by commentators about the potential for campaigners to obtain multiple donations or loans of £7,500 or under from the same source to avoid their pre-poll reporting obligations. This is because the pre-poll reporting requirements only applied to single donations and loans over £7,500. There were no provisions requiring campaigners to report smaller donations or loans from the same source once they aggregate to over £7,500 as applies to the post-poll donation and loan reports.
- 5.105 The pre-poll reporting rules were intended to balance the availability of information about significant donations with the administrative and reporting burdens placed on campaigners. Whilst we acknowledge that the rules do result in a potential lack of transparency of multiple donations from the same source, in our view the rules provide a reasonable balance between transparency and burdens during a period when campaigners were focused on getting their campaign messages to voters. Ultimately, all donations from the same source that aggregate to over £7,500 are reportable after the poll.
- 5.106 It is also an offence for a campaigner to make an inaccurate report and it is also an offence for anyone to provide inaccurate information about a donation to a campaigner. The Commission has sanctioning powers in relation to both these offences.
- 5.107 The experience of the independence referendum has shown that there is a clear benefit both in terms of transparency of funding and improving voters' trust in the system in continuing with our recommendation for a statutory requirement for pre-poll reporting. It provides voters with information about the sources of significant funding of registered campaigners before they cast their vote whilst placing reasonable additional regulatory burdens on campaigners. However, there is a need to balance the resulting transparency with the reporting burdens placed on campaigners.
- 5.108 In the period before the start of the pre-poll reporting period, both Yes Scotland and Better Together voluntarily reported some information on the

donations they had received towards their campaign. Whilst any transparency of funding is welcome, in practice there was no set timetable for publication or standardisation of the information that was published.

5.109 We therefore recommend that the legislation for future referendums, not only in Scotland but also those held across or in other parts of the UK, should ensure that pre-poll reporting of donations and loans over £7,500 received by registered campaigners (except political parties) for referendum purposes is again included as a reporting requirement.

Grants to designated lead campaigners

5.110 SIRA provided for the Commission to designate lead campaigners. In addition to the benefits of being a registered campaigner, designated lead campaigners were also entitled to the polling list, a spending limit of £1.5m, campaign broadcasts, free mailing, and access to public meeting rooms. However, in contrast to PPERA referendums, the Scottish Government took a policy decision that no publicly funded grant would be available.

5.111 In its 1998 report 'The Funding of Political Parties in the United Kingdom'³⁷, the Committee on Standards in Public Life commented:

If a referendum is to be fair, is it essential that both sides of the argument should be funded at least well enough to enable them to put their case before the voters? Our answer to that question is an unequivocal 'yes'. We are particularly concerned that there may be referendums in which all the 'big battalions' – the Government, possibly the main opposition parties, possibly the bulk of industry and the trade unions – are on one side while there is only a mass (though it may be a very large mass) of unorganised opinion on the other. In our view, it would be quite wrong if those who were less well funded and organised did not have a proper chance to make their views known.

5.112 Under PPERA, the Commission has discretion over whether to award a grant to designated lead campaigners up to a statutory maximum of £600,000. This applies to both UK and sub-UK referendums.

5.113 Whether or not the legislation provides for a publicly funded grant to designated lead campaigners at non-PPERA referendums is a decision for the relevant Parliament when considering the legislation for each referendum.

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 $\underline{\text{https://www.gov.uk/government/uploads/system/uploads/attachment } \underline{\text{data/file/261213/volume-1.pdf}}$

³⁷ The Funding of Political Parties in the United Kingdom

In the circumstances of the independence referendum, there were wellestablished, high profile and well-funded campaigners on each side of the debate and we have seen no evidence that the decision not to offer a publicly funded grant had any impact on either Yes Scotland or Better Together's ability to get their message to voters.

- 5.114 However, we agree with the Committee on Standards in Public Life that there may be circumstances where a publicly funded grant is necessary to enable voters to have access to information about the referendum to enable them to make an informed decision. It is therefore important that the circumstances of each referendum are taken into account by the relevant legislature when consideration is being given to whether or not a publicly funded grant should be made available. The specific circumstances of the independence referendum should not be seen as setting a precedent for not providing access to a publicly funded grant for future PPERA or non-PPERA referendums in the UK.
- 5.115 It is important that relevant governments, not only in Scotland but also those in other parts of the UK, give careful consideration to the principles of 'core funding' raised by the Committee on Standards in Public Life in its 1998 report when considering whether a publicly funded grant should be made available.
- 5.116 For future non-PPERA referendums, relevant governments, not only in Scotland but also those in other parts of the UK, should be aware that the Commission may wish to comment on whether a grant should be available to designated lead campaigners.

Spending by campaigners

Spending limits

5.117 As discussed earlier in this chapter, the Edinburgh Agreement gave the Commission a role in advising on the spending limits that would cover campaigning in the last 16 weeks before the referendum, as we do for spending limits at PPERA referendums in a part of the UK.

5.118 In 2010 we set out our principles for formulating advice on spending³⁸ limits for PPERA referendums in particular parts of the UK. These are that limits should be set at a level which:

- Allows effective campaigning for all outcomes at a referendum.
- Deters excessive spending.
- Is not so low as to distort reasonable campaigning behaviour and affect transparency, for instance by giving campaigners an artificial incentive to split their spending between multiple campaigning bodies.

5.119 We considered that the principles we set out in 2010 were still valid and we applied them in the context of the independence referendum, taking into account the information we had about the likely shape and scale of campaigning, the Edinburgh Agreement and, where relevant, lessons learnt from the 2011 PPERA referendums. However, a specific consideration at the independence referendum was that the Edinburgh Agreement pointed to the need for "fairness and a level playing field" in campaign finance rules, as well as stating that the rules and standards in PPERA provide the basis for setting the limits.

5.120 We therefore recommended an alternative method of setting the limits that would apply to political parties that registered to campaign from that which was used to calculate the limits at previous PPERA referendums. This was because in the context of the independence referendum, the PPERA model would have created a structural imbalance between the cumulative limits on each side of the argument. This had the potential to affect perceptions of fairness and thus to damage voters' trust in the referendum rules.

5.121 Our alternative approach involved calculating the limits for political parties with reference to the actual share of the vote that the parties received at the 2011 Scottish Parliament election, and applying the share of the vote to a maximum value equivalent to the combined value of the limits of the two lead campaigners. In the specific circumstances of the relevant share of the vote of the parties represented in the Scottish parliament, this was intended to provide political party limits sufficiently high to enable the parties to campaign on a significant scale. It also reduced the structural imbalance between the

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³⁸ The Electoral Commission – Key principles for Referendums

cumulative limits on each side of the argument in comparison to the PPERA formula. This reduced the risk of damaging voters trust in the rules.

5.122 The Commission's advice on the spending limits was published on 30 January 2013³⁹. Our advice was accepted by the Scottish Government and the political parties and campaigners on both sides of the debate.

Regulated spending

5.123 Referendum spending is regulated if it is expenditure for certain activities that are intended to promote or bring about a particular outcome at the referendum. That spending then counts towards the registration threshold and a campaigner's spending limit. It includes items or services given to campaigners free of charge or at a non-commercial discount of more than 10%.

5.124 Activities classed as referendum spending are:

- Campaign broadcasts.
- Advertising of any kind e.g. street banners, websites or YouTube videos.
- Unsolicited material sent to voters.
- Other 'public' documents about the referendum, such as setting out a campaign's arguments.
- Market research or other methods of finding out how people intend to vote.
- Press conferences or other dealings with the media.
- Rallies and events, including the cost of people's attendance, and any goods, services or facilities provided.

5.125 However, volunteer time, certain staff costs, people's travel, food and accommodation costs while they campaign, expenses met out of public funds,

http://www.electoralcommission.org.uk/__data/assets/pdf_file/0004/153697/Report-on-spending-limits-for-the-referendum-on-independence-for-Scotland.pdf

³⁹ Electoral Commission advice on spending limits for the referendum on independence for Scotland

and expenses in respect of publication in a newspaper, periodical, and certain broadcasts⁴⁰ did not count as referendum spending.

Matters for further consideration

5.126 There are a number of issues relating to spending by campaigners at the referendum that require consideration before any recommendations for change can be made. However, until the final spending returns have been submitted in March 2015 we will not have the evidence of the actual spending by campaigners on which to base our analysis and any recommendations.

5.127 We therefore intend to address issues relating to the spending by campaigners in our spending report which is due to be published in mid-2015. These currently include matters such as:

The level of the spending limits

5.128 As discussed above, in advising on the spending limits of the independence referendum we moved away from the PPERA model for calculating the limits for political parties. However, the balance achieved between the two sides for the Scottish referendum was possible because of the particular circumstances of the vote share of the parties and would be unlikely to be repeated for other referendums, where vote share and which side parties decided to campaign on would determine the balance.

5.129 We intend to consider the issue of balance and the overall effectiveness of the spending limits with reference to our 2010 principles.

Expenses incurred as part of a common plan

5.130 SIRA contained improvements to the 'working together' provisions from those that applied at the voting systems referendum in 2011. The changes to the rules were intended to strengthen the rules that prevent multiple campaigners being established to circumvent the spending limits, whilst reducing the burdens on small campaigners.

5.131 The rules required campaigners who work together to account for certain spending by the others involved in the coordinated campaign for the

⁴⁰ Broadcasts made by the British Broadcasting Corporation, or a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990 or Part 1 or 2 of the Broadcasting Act 1996.

purposes of the spending limits. It will be important to consider the effectiveness of these rules in light of the information reported in the returns.

Access to the register: permissibility checking

5.132 We note the referendum legislation provided for individuals across the UK to be permissible donors to referendum campaigners if they were on a specified list of electoral registers. However, the duty to provide a copy of the register to enable campaigners to check the permissibility of donors was limited to EROs in Scotland and only to a copy of the register of local government electors. This was because SIRA was legislation in the Scottish Parliament and the Parliament could only legislate to impose a duty to supply the register on Scotland's EROs. This meant that registered campaigners were not provided with a copy of the registers from outside Scotland to enable them to permissibility check donations received from the rest of the UK. We will consider if this caused any issues for campaigners.

Loan controls and sanctions

5.133 The rules for the Scottish Independence Referendum and the Parliamentary Voting Systems Referendum in 2011 both included controls on loans. PPERA includes a power to introduce generic controls on loans to referendum campaigners at PPERA referendums but this has not yet been used.

5.134 Whilst we will continue to recommend that loan controls should apply at any future Scottish Parliament referendum and for all other future referendums in the UK, the level of funding campaigners received by way of loans at the independence referendum will provide additional evidence for that position.

Other issues

5.135 There are a number of other issues that we intend to address in our spending report including:

- How campaigners deal with paying invoices after the time limit for settling bills has expired.
- How the rules to reduce burdens on registered campaigners who do not actually spend significant funds campaigning worked in practice.
- The length of time after the poll that the spending and donation returns are due to be submitted.

Compliance with the rules

Imprints

5.136 The rules for the Independence Referendum required that any material which wholly or mainly related to the referendum had to include certain details in an imprint. Those details were intended to allow members of the public to identify who was responsible for the content of the campaign material and who printed and published it.

Imprints on non-printed referendum material

5.137 In our 2013 review of the rules on party and election finance, we noted that the existing imprint rules at elections and referendums only covered printed material. To take into account modern forms of campaigning, we recommended that proportionate imprint requirements should be also introduced for non-printed campaign material, such as websites, electronic communications and social media. We are pleased that the Scottish Government took forward that recommendation for the independence referendum.

5.138 Our experience from the referendum showed that, despite the intention that the rules should be proportionate, the scope of the rules meant that a potentially wide amount of campaign material had to include an imprint. This caused some confusion amongst campaigners and the public about what did and did not require an imprint. For example, there were questions as to whether an individual's personal Facebook and Twitter accounts should include an imprint.

5.139 Our interpretation of these requirements was that campaigners who used Twitter or other forms of social media in a way that was focussed primarily on campaigning for an outcome at the referendum needed to ensure they had an imprint where it was practical for them to do so, such as on the homepage of their blog or Twitter profile. However, we considered that individual members of the public or organisations with a range of other interests and activities represented who were just expressing their views on an outcome would not need to do this. We believe it is important that any future changes to the rules do not unintentionally capture such activities.

Imprints on printed referendum material

5.140 The rules stated that all printed material that wholly or mainly related to the referendum had to contain an imprint, regardless of who produced it or the cost involved in its production. This is similar to the rules on imprints at elections, where there is no link between spending and the imprint requirements.

5.141 During the referendum campaign we received a number of allegations and complaints about printed campaign material that did not contain an imprint. A number of these related to homemade campaign material, such as signs and posters. Although there was technically a requirement to include an imprint on this material, we did not consider it to be proportionate or in the public interest to require individuals to include these details when it was either obvious who had produced it or there did not appear to have been significant costs incurred in its production.

5.142 There were also questions raised about whether the rules around what details must be included on imprints should be updated. We agree that potential revisions or simplifications to these requirements should be considered.

Imprints at future referendums and elections

5.143 We continue to recommend that there should be proportionate imprint requirements on non-printed material at referendums and elections across the UK. However, the experience of the Scottish referendum indicates that further consideration needs to be given to how to make the imprint requirements on both printed and non-printed material more proportionate and relevant to modern forms of campaigning. The rules should only cover material produced by campaigners to influence the outcome of the poll, not individuals expressing their personal views on a contest.

5.144 We would welcome the opportunity to work with relevant governments, not only in Scotland but also in other parts of the UK, when they are considering future legislation for referendums, to ensure that the imprint rules strike the right balance between ensuring there is transparency about who is campaigning and proportionate and modern regulatory requirements.

5.145 Although it is too late to change the imprint rules for the 2015 UK Parliamentary general election⁴¹, we will continue to encourage campaigners to include imprints on non-printed material as good practice, and we will monitor where and how they are used on both printed and non-printed

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⁴¹ We do not think it should be made a legal requirement for these upcoming polls because the regulated periods for political parties and non-party campaigners for the UK Parliamentary General Election expected in 2015 have already started and it is not good regulatory practice to amend the rules on campaigning while they are in effect.

material. We will feed this evidence into any discussions we have with Governments about changes to the rules in this area.

Restrictions on the publication of promotional material by central and local government

5.146 The independence referendum was the first time that an issue put to a referendum in the UK saw governments on either side of the debate distributing information to voters about issues relevant to the referendum question. The Scottish and UK Governments recognised that fact in the Edinburgh Agreement signed in October 2012 said:

'The Scottish Government will set out details of restricted behaviour for Scottish Ministers and devolved public bodies in the Referendum Bill to be introduced into the Scottish Parliament. These details will be based on the restrictions set out in PPERA. The UK Government has committed to act according to the same PPERA-based rules during the 28-day period.'

- 5.147 Following the 2011 referendums, we suggested that there would be benefit in clarifying the scope of the restrictions that applied to the publication of promotional material by central and local government at PPERA referendums, including what sanctions, if any, should apply to breaches.
- 5.148 The Scottish Government addressed this recommendation by restricting the information that Scottish Ministers and certain publicly funded bodies could publish about the referendum in the last 28 days before the poll. The restrictions related to publishing general information about the referendum as well as about the issues and arguments. The restrictions also applied to encouraging people to vote. In contrast, at PPERA referendums, the restrictions apply to all organisations whose expenses are wholly or partly met by public funds.
- 5.149 The UK Government was not covered by the referendum legislation but, as set out in the Edinburgh Agreement, agreed to abide by the same restrictions.
- 5.150 SIRA, as is the case at PPERA referendums, made no provision for sanctions in respect of breaches of the restrictions, and there was no statutory basis for the UK Government's Edinburgh Agreement commitment. The Commission therefore had no regulatory or sanctioning role in respect of restrictions on government activity. In our June 2013 evidence to the Referendum (Scotland) Bill Committee we said that in our view, this was not in itself a concern, provided that both Governments explain to voters how the Edinburgh Agreement commitments would be observed.

5.151 To ensure that information was available to those who may have questions or complaints about Government activities we published a factsheet⁴² on our website providing information on the restrictions and the contact details for the appropriate departments in both the Scottish and UK Governments.

Information from the Scottish and UK Governments

- 5.152 In November 2013, the Scottish Government published a document entitled 'Scotland's Future' that set out "why the Scottish Government believes the people of Scotland, individually and collectively, will be better off with independence.'
- 5.153 In the lead up to the referendum, the UK Government also published a series of 16 documents that provided analysis on 'Scotland's place in the UK and how it contributes to and benefits from being part of the UK.'
- 5.154 Both the UK and Scottish Governments also distributed public awareness information to all households in Scotland, as well as running advertising campaigns in August 2014.

Information from the political parties in government

- 5.155 Members of both the Scottish and UK Governments also made comments in their capacity as members of their respective political parties during the last 28 day period supporting the outcome they were campaigning for, as well as their respective parties' position on the future of Scotland. Although there is a risk of voters confusing the different roles, it is important that high profile party members are able to promote a party's position as part of usual campaigning and this is allowed under the rules.
- 5.156 There were concerns raised on both sides of the debate about the activities of those campaigning for the opposing outcome made, both before and after the restrictions came into force.

⁴² Factsheet: Publicly funded bodies and the referendum on independence for Scotland http://www.electoralcommission.org.uk/ data/assets/pdf file/0003/164433/ep-ris-public-bodies-referendum.pdf

Implications of government activity

- 5.157 The underlying legislative basis for the independence referendum and for referendums held under PPERA is that campaigners will come forward to put the arguments for each side of the debate to voters. These campaigners are subject to a regulatory regime including limits on the amount that they can spend during the regulated referendum period.
- 5.158 It undermines the principle of having spending limits for registered campaigners if governments can spend unlimited funds on paid advertising during the period when campaigners are restricted in the amount they can spend. This has the potential to be particularly significant in the case of a potential referendum on the UK's membership of the European Union where there will be four governments with views on the issue being debated.
- 5.159 We therefore recommend that relevant governments, not only in Scotland but also those in other parts of the UK, should publicly commit to and refrain from in practise any paid advertising, including the delivery of booklets to households, that promotes a particular referendum outcome for the full duration of the referendum period.
- 5.160 The relatively short 28-day restriction also leaves open the risk that the use of public money could give an unfair advantage to one side of the argument or the other before the restrictions come into force. However, both the Scottish and UK Government supported a 28-day period because they argued that a longer period could impact on their ability to carry out their day-to-day duties (depending upon the subject of the referendum and the length of the referendum period).
- 5.161 We agree, in principle, that a period of 28-days is an adequate duration for the restrictions on the publication of other promotional material by central and local government. However, to mitigate the risks of the relatively short period, it is important that relevant governments give careful consideration to the impact on the campaign and voters' trust in the rules of any referendum related information they publish before the restrictions come into force. It is also important that there is a clear explanation of the rules and how to comply with them for relevant public bodies to follow during that period.

Regulating campaign arguments

5.162 SIRA required the Commission to regulate the spending of registered campaigners at the independence referendum and for the CCO to be responsible for the administration of the poll⁴³.

5.163 As we said in our 2011 post-referendum report, it would not be appropriate for the Commission to have any role in policing the truthfulness of referendum campaign arguments. It would be very likely to draw us into political debate, significantly affecting the perception of our independent role, and posing substantial operational and reputational risks. We therefore invited the UK Government and Parliament to confirm that a role of this nature would be inappropriate for the Commission (Recommendation 20). In its 2012 response, the UK Government supported and confirmed that position.

5.164 We were pleased that in her evidence session on Franchise Bill on the 28 March 2013 the then Deputy First Minister Nicola Sturgeon confirmed that it was not for the Electoral Commission to assess the arguments put forward by the Yes and No sides at the referendum. Although we did receive a number of enquires asking for the Commission to take steps to regulate the debate, the then Deputy First Minister's comments were a helpful confirmation of the scope of the Commission's role at the independence referendum. We therefore invite relevant governments, not only in Scotland but also those in other parts of the UK, to restate for each future referendum that a role in regulating the campaign arguments is inappropriate for the Commission, or any other organisation tasked with regulating the referendum.

Campaign regulation recommendations

Recommendation 7: Eligibility to register as a referendum campaigner and donate

The legislation for future referendums, not only in Scotland but also those held across or in other parts of the UK, should ensure that the list of individuals and bodies eligible to register as a referendum campaigner and to donate to other campaigners is extended to mirror the list of eligible registered non-party campaigners under PPERA.

⁴³ The Commission and its Chair (unless delegated) undertake these roles at PPERA referendums.

Recommendation 8: Responsible person

The legislation for future referendums, not only in Scotland but also those held across or in other parts of the UK, should ensure that the same person is not able to be the responsible person for more than one registered campaigner; and, in addition that:

- the person named as the responsible person is required to sign the application for registration as a campaigner, and
- for non-PPERA referendums, s.25 PPERA is replicated so that a political party's campaigns officer can take on the Treasurer's role of responsible person.

Recommendation 9: Grounds for rejecting applications to register as a referendum campaigner

The legislation for future referendums, not only in Scotland but also those held across or in other parts of the UK, should ensure that the Commission is not required to accept a declaration for registration as a referendum campaigner if the campaigner proposes a registered name which:

- Would be the same as that of a permitted participant which is already registered.
- Is obscene or offensive.
- Includes words the publication of which would be likely to amount to the commission of an offence.
- Includes any prohibited word or expression.

Recommendation 10: Approach to designation

We would welcome the opportunity to work with relevant governments, not only in Scotland but also in other parts of the UK, when they are considering the legislation for future referendums, to consider the implications of enabling the Commission to designate one side of the referendum debate rather than requiring designation to be on both sides or not at all (as is required under PPERA).

Recommendation 11: Early designation and the length of the referendum period

The legislation for future referendums, not only in Scotland but also those held across or in other parts of the UK, should ensure that designation is able to take place shortly before, rather than during the first six weeks of, the referendum period. We also recommend that consideration be given to the benefits of early designation when setting the legislative timetable.

If circumstances mean that the legislative timetable is such that early designation is not possible, then our 2011 recommendation to extend the length of the referendum period to at least 16 weeks should be adopted. This would go some way to giving designated lead campaign groups more time to plan and use the benefits available.

Recommendation 12: Pre-poll reporting

The legislation for future referendums, not only in Scotland but also those held across or in other parts of the UK, should ensure that pre-poll reporting of donations and loans over £7,500 received by registered campaigners (except political parties) for referendum purposes is again included as a reporting requirement.

Recommendation 13: Grants to designated lead campaigners

It is important that relevant governments, not only in Scotland but also those in other parts of the UK, give careful consideration to the principles of 'core funding' raised by the Committee on Standards in Public Life in its 1998 report when considering whether a publicly funded grant should be made available.

For future non-PPERA referendums, relevant governments, not only in Scotland but also those in other parts of the UK, should be aware that the Commission may wish to comment on whether a grant should be available to designated lead campaigners.

Recommendation 14: Imprints

We continue to recommend that there should be proportionate imprint requirements on non-printed material at referendums and elections across the UK. However, we would welcome the opportunity to work with relevant governments, not only in Scotland but also in other parts of the UK, when they are considering future legislation for referendums, to ensure that the imprint rules strike the right balance between ensuring there is transparency about who is campaigning and proportionate and modern regulatory requirements.

Recommendation 15: Restrictions on the publication of promotional material by central and local government

Relevant governments, not only in Scotland but also those in other parts of the UK, should publicly commit to and refrain from, in practise, any paid advertising, including the delivery of booklets to households, which promotes a particular referendum outcome for the full duration of the referendum period.

We agree in principle that a period of 28-days is an adequate duration for the restrictions on the publication of other promotional material by central and local government. However, to mitigate the risks of the relatively short period, it is important that relevant governments give careful consideration to the impact on the campaign and voters' trust in the rules of any referendum related information they publish before the restrictions come into force. It is also important that there is a clear explanation of the rules and how to comply with them for relevant public bodies to follow during that period.

Recommendation 16: Regulating campaign arguments

We invite relevant governments, not only in Scotland but also those in other parts of the UK to restate for each future referendum that a role in regulating the campaign arguments is inappropriate for the Commission, or any other organisation tasked with regulating the referendum.

6 Was the referendum wellrun?

6.1 This chapter provides an account of the approach adopted and activities undertaken to prepare for and deliver the referendum. It focuses particularly on the management arrangements in place and the approach taken by the CCO, as well as identifying lessons which the Electoral Commission believes should be learned for any future referendums and the structure of the Electoral Management Board for Scotland (EMB). We believe the referendum was well-run by the CCO and her CO and ERO colleagues because of careful planning (in part possible because of existing administrative structures in Scotland), sufficient resourcing and careful delivery of the administrative process.

Co-ordinating the delivery of the referendum

Roles, responsibilities and the management structure for the referendum

- 6.2 The accountability structure for a referendum is different from the structure in place for most elections. At most elections, each individual Returning Officer is responsible for the conduct and delivery of the election and declaring the result for a specific constituency or area. Although SIRA made the CCO responsible for ensuring the proper and effective conduct of the referendum, including the conduct of the poll and the counting of votes, it was the Counting Officer for each local government area who actually conducted the poll and the counting of votes and certified the number of votes cast in favour of each answer within their local government area.
- 6.3 The CCO was supported in the delivery of the referendum by the EMB. In existence since 2008, the EMB has supported the delivery of several elections and the 2011 Referendum on UK Parliamentary Voting Systems, but only has a statutory function currently in relation to local government elections in Scotland. Although the EMB did not have a statutory role in the referendum, it is comprised of Counting/Returning Officers, their Deputes and Electoral

Registration Officers and, therefore, played an integral role in providing advice and support to the CCO.

The Chief Counting Officer

- 6.4 SIRA designated the Convener of the EMB, Mary Pitcaithly, Chief Executive of Falkirk Council as the CCO for the referendum. The CCO appointed Sue Bruce, Chief Executive of Edinburgh City Council, as Deputy Chief Counting Officer. The CCO was responsible for:
- The proper and effective conduct of the referendum, including the conduct of the poll and the counting of votes.
- The appointment of COs for each of the 32 local government areas.
- The provision of guidance and, where appropriate, direction to COs and EROs on the exercise of their functions.
- Encouraging participation in the referendum and facilitating cooperation amongst COs in encouraging participation.
- Certifying the overall outcome of the referendum in Scotland.
- 6.5 The CCO appointed a support team to assist her with her own duties and was assisted by the Forms Working Group of the EMB, which provided a comprehensive range of resources for use by COs and EROs in relation to the referendum. The CCO also established a communications network which supported COs and EROs in promoting public awareness of the referendum.

Counting Officers

- 6.6 SIRA made the CCO responsible for the appointment of a Counting Officer for each of the 32 local government areas in Scotland. The responsibilities of each CO included:
- Preparations for the poll, including printing ballot papers, providing polling stations and training staff.
- Encouraging participation in the referendum in the local area.
- Liaising with accredited observers and various agents affiliated to campaign groups.
- Issuing and receiving absent votes.
- Managing the conduct of the poll.
- Managing the verification and counting of votes in the local area.

- Reporting local totals to the CCO.
- Certifying (and subsequently declaring) the local total.
- Transferring the relevant documentation to the proper officer of the local authority for storage and, where appropriate, inspection.

CCO Delivery

- 6.7 The CCO's stated primary objective was that the 2014 Scottish Independence Referendum would deliver a result that would be trusted. In order to achieve this, a variety of measures were put in place through planning, the issue of guidance and direction, and the use of a performance management framework, to ensure the integrity of the referendum and confidence in the processes in place to deliver it.
- 6.8 In addition to this, the CCO identified four principles to ensure that the interests of voters were central to all decisions made up to and including polling day. These principles were:
- Accessibility there should be no barriers to any voter taking part.
- Consistency voters should have the same experience wherever they are in Scotland.
- Efficiency the referendum will be administered efficiently.
- Integrity the referendum will produce results that are accepted as accurate.
- 6.9 SIRA also provided the CCO with the power of direction over COs and EROs. The CCO's approach to delivering the administration of the referendum was to use a blend of consensus where possible, building on experience and relationships across Scotland, the provision of guidance and use of direction in the delivery of the referendum where appropriate.
- 6.10 The CCO chose to limit the use of direction to matters in which consistency was considered essential to deliver a good service to voters. Her objective was to ensure confidence in the result, and she based this on an accessible, consistent and efficient electoral process operated to the highest standards of integrity. The directions issued followed a review of all the elements of the electoral process: the register, polling, absent voting and the counting of votes.

Guidance and direction

- 6.11 The CCO in delivering the administration of the referendum provided COs and EROs with a suite of guidance on each stage of the planning and delivery of the process. This guidance was developed from past Commission guidance which we shared with the CCO. The Commission and others advised on drafts throughout the process. The initial sections of the guidance were published in March, six months before the event and in sufficient time to allow COs to plan for the referendum.
- 6.12 The CCO officially issued her directions on 2 May 2014. This followed extensive consultation with COs and EROs who were aware of the areas to be directed upon well before the formal directions were issued. The CCO sought and achieved amongst COs an acceptance and understanding of why the directions were being issued and the form they took. It is our understanding that this led to a high level of compliance with the directions.
- 6.13 The CCOs directions were published on the EMB website⁴⁴ and were the product of a review of experience of recent electoral events including the 2010 UK Parliamentary Elections, the 2011 Scottish Parliamentary Elections, the 2011 UK Referendum on Voting Systems for UK Parliamentary Elections and the 2012 Scottish Local Government elections. The directions covered the following areas:
- The number of electors to be allocated to each polling station.
- Colour of ordinary and tendered ballots.
- Official Mark, Unique Identifying Mark and Ballot Paper numbering system.
- Dispatch of poll cards.
- Date of dispatch of postal ballot packs.
- Ballot Paper printing.
- Timing of the verification and counting of the votes.
- Method of verifying and counting the votes.
- A performance management framework.

 $^{44\} http://www.electionsscotland.info/emb/downloads/file/90/directions_from_the_chief_counting_officer. A property of the counting of the co$

6.14 The CCO required any CO who could not comply fully with any of the directions to provide a satisfactory explanation of why they could not adhere to the terms of the direction. Such requests were considered through a structured process in the context of the need to promote consistency and measures to assure confidence in the result. We understand that a number of such requests were made and granted relating to small variations in the maximum number of voters allocated to a polling station.

Performance management framework

- 6.15 The CCO used her power of direction to institute a performance management process, which was based on the framework used by the Electoral Commission at previous electoral events, to ensure consistency and the delivery of good administrative process.
- 6.16 Administrators were required to submit two returns to the CCO; one in mid-June and one in early August 2014, which took the form of short checklists covering all aspects of planning for the referendum. These checklists allowed administrators to indicate whether key process elements had been completed in accordance with the CCO guidance and directions and, if they had not, to provide further information with regard to the reasons for any delay and the action being taken to progress matters. As well as providing assurance to the CCO that plans were being implemented within the required timescales, the performance management framework also provided a useful prompt for practitioners with regard to actions to be taken and targets to be met.
- 6.17 A small sample group of authorities was asked to provide further information and evidence in addition to their checklist return. This sample group was primarily chosen using a risk-based approach, with additional authorities chosen at random. The CCO reviewed the information submitted and made further enquiries or provided feedback where appropriate. The CCO plans to report on the use of performance monitoring in relation to the referendum in the EMB's Annual Report.

Memorandum of Understanding between the CCO and the Electoral Commission

6.18 It was anticipated, both by the Electoral Commission and the CCO, that the differing roles of each in relation to the referendum compared with past electoral events had the potential to cause confusion for administrators and voters and that this may have been increased by the proximity of the May 2014 European Parliamentary Elections and the roles that the Commission and the CCO as Regional Returning Officer and Convener of the EMB, performed in relation to that event.

6.19 The primary responsibilities of the CCO in relation to the referendum have been set out above. The role of the Electoral Commission in relation to the referendum included:

- Advising, registering and regulating campaigners in the referendum, where appropriate, including in relation to campaign spending and donations.
- Assessing applications from campaign groups wishing to be appointed as the designated organisation campaigning for each referendum outcome.
- Promoting public awareness in relation to the referendum.
- Administering an accreditation scheme for individuals and organisations wishing to act as observers at key proceedings in relation to the referendum, including the preparation of a Code of Practice specific to the event.
- Reporting on the conduct of the referendum.
- Before SIRA was introduced into the Scottish Parliament the Commission advised on the referendum question and campaign spending limits.

6.20 SIRA included provisions allowing the Commission to issue guidance to the COs and EROs with the consent of the CCO but, to avoid exacerbating the potential for confusion, the Commission and the CCO agreed that the publication of guidance on the referendum process would be the sole responsibility of the CCO. However, in order to aid in maintaining consistency for administrators, the Commission provided its past guidance and performance monitoring resources to the CCO to be adapted for use in the referendum. In the summer of 2013, before SIRA was passed by the Scottish

Parliament, the Commission provided EROs with guidance on the Franchise Act.

6.21 While the Commission, under SIRA, also had the powers to issue guidance to the CCO, we did not exercise that power and limited our role instead to one of an adviser to the CCO, a similar role we fulfil in the CCOs other role as Convener of the EMB.

6.22 A Memorandum of Understanding⁴⁵ was agreed between the Commission and the CCO to set out the differing areas of responsibility and to clarify how to deal with areas where the CCO and Commission's responsibilities met to ensure the conduct and regulation of the referendum was carried out efficiently and effectively and in the best interests of the voters and campaigners. In practice this worked well and both the CCO and Commission teams, while working separately, kept each other informed of work progress and any developing issues which could have impacted on each other's areas of responsibility. Regular meetings were held between senior members of each team's staff and daily contact maintained at an operational level.

The referendum count

6.23 A national referendum produces one result – the total number of votes cast in favour of each referendum outcome as shown on the ballot paper. However, as required by SIRA, the counting of votes was organised and undertaken locally by COs in each of Scotland's 32 local government areas. Following the completion of their local count, each Counting Officer, in accordance with the CCOs guidance, reported their local total to the CCO for checking. After each local total was certified, the CCO authorised the relevant Counting Officer to declare their local total and subsequently announced each local total at the Count Collation Centre in Edinburgh. Once totals had been certified in all 32 local counting areas, the CCO certified and declared the national result.

6.24 As referred to above, the CCO had previously set out her approach to the administration of the referendum, including the objectives and principles to

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⁴⁵ Memorandum of Understanding between the Chief Counting Officer for the Scottish Independence Referendum and the Electoral Commission (http://www.electoralcommission.org.uk/__data/assets/pdf_file/0005/162770/Memorandum-of-Understanding-between-Chief-Counting-Officer-and-Electoral-Commission.pdf)

be followed to ensure the interests of voters were at the forefront of all organisational considerations. As part of this approach, the CCO made clear the primary consideration of the count process was that it delivered a result that could be trusted as accurate, rather than a result that was announced quickly but might not hold the confidence of the public.

6.25 In November 2013 the then CCO designate issued a public consultation paper on the count in which she indicated that while it was her intention to make the declaration as soon as possible, with the counting of papers commencing immediately following the close of polls at 10pm, she was seeking comments and wished to highlight the factors that would affect how long local counts might take and when the resulting national declaration might be made. COs in planning for counts need to take a myriad of factors into account such as geography, weather, turnout, availability of resources (such as the size of count venues and staff numbers), postal vote volumes, and requests for recounts and the possible impact of emergency situations 46.

6.26 It was inevitable, however, due to the high-profile nature of the event, that there would be an increased level of interest amongst the public, campaigners and the media, from an early stage, with regard to when the result of the referendum would be known. In relation to the media, this was particularly pertinent given the number of national and international news organisations which were present at count venues and were keen to have as much information about count timings as possible in order to inform their plans for coverage.

6.27 Following the CCOs consultation process, it was recognised that due to the number of factors outside the direct control of administrators, it would not be possible to provide any specific guarantees to the public, campaigners or the media when either local totals or the national result would be available. With this in mind, the approach taken by the CCO to this issue was to engage with stakeholders in the weeks leading up to polling day to promote understanding of the count process and, accordingly, the reasons why count timing predictions could not be made with specific timings given. Although the CCO had a robust analysis of the factors faced across Scotland in the 32 counting areas which informed her estimate of count timings and declarations she was not prepared to give an exact estimate of the final declaration. The

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⁴⁶ CCO Issues Consultation Paper: Timing of the Count and Declaration of Result for the Scottish Independence Referendum http://www.electionsscotland.info/emb/info/5/electoral_management_board/21/count_timing_for_2014_scottish_independence_referendum

CCO indicated that she expected to make a breakfast time declaration but also indicated to the media that she was uncertain as to whether she would be eating breakfast early or late that morning.

Mini-counts

- 6.28 One of the CCO's directions to COs related to the use of the mini-count model. The CCO's view of the mini-count model, guidance on which was provided to COs, involves the allocation of specific amounts of ballot boxes to groups of tables for verification and counting, on a smaller scale than one large count. This allows any discrepancies to be identified easily and resolved quickly in each group, before totals are aggregated for the whole counting area. The CCO directed on the use of this model as it enabled increased efficiency through greater control and produced clear audit trails, making the process of accounting for each paper easier.
- 6.29 The mini-count model of counting also enabled COs to move to the counting stage of the process in some groups within their local counting area before they had finished the verification stage for every ballot box (provided the verification within each particular group was completed). This allowed COs to mitigate the delay caused if there was a significant length of time between the receipt, at the count centre, of the ballot boxes which arrived early and those which arrived later in proceedings because of various factors, such as the geography of the area. The CCO's direction stipulated that COs could not move to the counting of votes before the completion of full verification across the local authority area if they were not using the mini-count model.
- 6.30 The Commission believes that the breaking down of the verification and counting of votes into areas smaller than the total electoral or referendum area is a particularly effective method in achieving an accurate, timely result with clear audit trails. Consequently, we would recommend that COs and Returning Officers in Scotland and elsewhere in the UK should consider utilising this approach when planning their verification and count at future electoral events. The use of the mini-count model is of course dependent on the legislation, under which a particular election or referendum is being run, allowing for the use of such an approach.

National count collation centre

6.31 The CCOs count collation centre was co-located with the City of Edinburgh count centre at the Royal Highland Centre, Ingliston following an exhaustive review of potential sites by the CCO and her team. It was decided

to co-locate with Edinburgh because it offered the advantages of being in a busy count centre in the capital of Scotland with shared facilities relating to media requirements and accreditation. The CCOs team was also supported by Edinburgh Council staff and the Deputy CCO was the CO for Edinburgh. Co-location in the Edinburgh count centre also meant that discussions between the CCO and her deputy could be easily facilitated.

6.32 The CCO also took advice from the Chair of the Electoral Commission who was the CCO for the Wales referendum on further powers for the National Assembly of Wales and the all-UK referendum on the Parliamentary Voting System for the UK Parliament held under PPERA in 2011 regarding her experiences in relation to the count centres she had used in London and Cardiff.

Collection and collation of local totals

- 6.33 In a referendum there is only one result even though there might be several local totals declared. The process by which that result is achieved is therefore very important and the CCO and her team spent time ensuring they had a robust process in place. The system used was informed by previous guidance issued by the Commission and adopted and adapted from that previously employed at the European Parliamentary Elections in May 2014 where the CCO had served as the Regional Returning Officer for Scotland and was faced with a similar task in that she needed to obtain results from 32 Returning Officers for that election prior to making her declaration of the result. A review of the process was undertaken after the May 2014 election and a dry run test undertaken of the process to be used at the referendum in August 2014.
- 6.34 At each of the 32 count centres, once the CO was satisfied that the local totals were accurate and reconciled with the verification total, the CO prepared a statement of the provisional totals and sent it to the CCO for consultation, which the CCO checked against the verification figures provided earlier. If the CCO was satisfied that the provisional count total reconciled with the verification total, or that the CO had carried out all of the steps set out in the CCO's instructions to identify and rectify any discrepancy between the verification total and the provisional count totals, the CCO authorised the CO to certify their local total.
- 6.35 COs then, although no express provision in legislation existed, shared as a matter of good practice advised by the CCO, the provisional count totals with referendum agents including the number of ballot papers rejected under

each heading. CCO required COs to undertake this process within a framework of maximum openness and transparency so that all agents present could have confidence in the processes and the provisional local totals provided.

6.36 At this stage, it was expected that referendum agents might request COs to conduct a recount and the CCOs guidance recommended that referendum agents be given sufficient time to digest the provisional result before proceeding further. We know of no instances where recounts were requested.

6.37 COs then prepared and submitted the formal certification to the CCO. The CCO team checked the certification and, when satisfied, advised the CCO to authorise the declaration of their local totals. COs then declared the local result including, the number of ballot papers counted in the local authority area, the number of votes cast in the area in favour of each answer to the referendum question and the number of rejected ballot papers.

National recounts

6.38 In the months prior to polling day, a number of stakeholders in the referendum process, including members of the public, campaigners and politicians, raised questions about what arrangements were in place for a national recount to take place. By national recount we understood stakeholders, when raising this issue, to mean a recounting of all the votes across Scotland, undertaken by COs on the instruction of the CCO, in the event of a close result once the 32 local totals were known. In this situation we understood some stakeholders expected that SIRA should have allowed for a recounting of votes even though counts in many or all of the local areas would have been, by then, declared and certified.

6.39 Many were unaware and surprised to learn that, although the SIRA authorised COs to recount votes in their local counting area and also allowed the CCO to require them to recount, there was no explicit provision in the legislation for a national recount. No provision existed for the CCO to require any CO to recount the votes if the totals for the counting area had already been certified and declared. These provisions largely mirrored those in the PVSC Act 2011 and the provisions in the National Assembly for Wales Referendum (Assembly Act Provisions) (Referendum Question, Date of Referendum etc.) Order 2010 which set the rules for the referendum held in Wales in 2011.

- 6.40 We are not aware that the need for provisions allowing a national recount was identified or debated at any stage during proceedings as SIRA passed through the Scottish Parliament. Stakeholders highlighted the issue to us as the date of the poll drew nearer.
- 6.41 For any form of a national recount to have been possible within the framework of SIRA, the CCO would have needed to direct COs not to certify any local total until all local counts had been completed; she could then have directed all COs to recount after the provisional local totals for all local counting areas were available. Given that the first local declaration took place at 1.30am and the last at 8.15am this could have meant thousands of count staff and agents waiting for hours in count centres until all local totals could be declared. This would have created many logistical issues for COs to overcome, not the least of which would likely be that in the local count centres the local totals were likely not being disputed by referendum agents present. In the Commission's view this would have been an impractical solution.
- 6.42 The CCO issued a position statement on the subject of recounts in May 2014. In her statement, she emphasised that the mitigation against the requirement for a national recount lay in planning and executing secure, robust and transparent count procedures, which would ensure the integrity of the process and deliver a result that would be trusted. The CCO sought to achieve this through the provision of guidance and directions to COs which included advice on the use of the mini-count model which, in her view, enabled a clear and efficient reconciliation of votes counted. In essence, the CCO sought to achieve acceptance of the result locally which then led to acceptance of the national result as it was a collation of the 32 locally accepted totals.
- 6.43 Additionally, SIRA provided for the attendance of agents representing various registered campaign groups, as well as neutral observers, at the counting of votes. Agents and observers were able to highlight any concerns they had to a member of count staff, enabling COs to resolve these concerns immediately at the local level. The CCO discussed the matter of recounts with her COs and emphasised the need for COs to be responsive to the concerns of agents to ensure that the integrity of the local result was accepted and trusted by those present at the count centres.
- 6.44 No recounts were requested locally and given the work undertaken by COs and their staff and observations undertaken in count centres by Commission representatives it is clear that all local totals were accepted by those agents present locally. Once the local results were accepted then it followed that acceptance of each of the 32 local counting area results, once

totalled, led to a translation of local confidence in the local total into confidence in the national result.

6.45 The Commission believes that what is important in delivering a national result is that high quality counts are undertaken so that confidence and trust in the result is achieved as was the case at the independence referendum. In future legislation for referendums in Scotland and elsewhere we would recommend that in developing and then considering legislation policy-makers ensure that legislators are aware of the issues surrounding the question of recounts at the national level and whether the legislation under consideration provides for such provisions.

Appointment of counting agents

6.46 SIRA allowed the referendum agent(s)⁴⁷ for each registered campaigner to appoint counting agents. COs were given the power to limit the number of counting agents appointed in each local government area, with the proviso that:

- The number that could be appointed by each referendum agent was the same.
- The number that could be appointed by each referendum agent was not less than the number obtained by dividing the number of clerks employed in the counting of votes, by the number of referendum agents.

6.47 Whilst this restriction and method of calculation is sound in principle, there is the potential for the creation of a situation in which one referendum outcome is represented to a greater extent than the other at the counting of votes. For example, if a larger number of campaigners had registered in support of a Yes vote than had registered in support of a No vote, or vice versa, this could have translated into that outcome being represented by more counting agents. COs were also obliged to allow access to the count centre to all MEPs, MSPs, MPs and councillors.

⁴⁷ Referendum agents and counting agents could be appointed by registered campaigners for each local counting area. Once appointed in writing, referendum agents could appoint polling agents, postal ballot agents and counting agents to attend polling stations, postal ballot opening session and the counting of votes respectively. Further information on these roles in relation to the referendum can be found in the CCO's guidance on Administering the Poll (http://www.electionsscotland.info/emb/downloads/id/118/part_d-absent_voting) and Verifying and Counting the Votes (http://www.electionsscotland.info/emb/downloads/id/119/part_d-votification_and_count).

- 6.48 For the referendum on independence for Scotland, there were 42 registered campaigners, with 21 supporting a Yes vote and 21 supporting a No vote. However, of those 42 registered campaigners, only 14 appointed counting agents in 30 or more local government areas; 10 supporting a Yes vote and 4 supporting a No vote. On average, at each count venue, there was more than double the number of counting agents in attendance on behalf of registered campaigners supporting a Yes vote than those supporting a No vote.
- 6.49 No preference was afforded to the designated lead campaigners in the referendum in relation to the appointment of counting agents. An important purpose lies behind the appointment of counting agents by campaigners as they observe proceedings at the counting of votes on behalf of campaign groups to ensure transparency of process and acceptance of the result locally. Limitations on the number of counting agents who can be appointed means that it could, in some circumstances, be extremely difficult for the agents of any given registered campaigner to properly scrutinise the conduct of the counting of votes.
- 6.50 In the referendum on independence for Scotland, some registered campaigners addressed this problem by acting collectively at the counting of votes. However, the nature of referendums means that those campaigning for the same outcome can hold diverse political beliefs and, accordingly, may be reluctant to work together in this manner. Whilst it could be said that this is a matter for those campaigners to address themselves, the Commission believes that it is important to have a system in place which facilitates a mechanism for encouraging local acceptance of procedures and results.
- 6.51 Although a restriction on the number of counting agents who can be appointed is necessary for logistical reasons (e.g. limitations in the size of available count venues), it may be that changes are required to the way in which the representation of each referendum outcome is calculated. For example, it may be that a system which prioritises the appointment of an appropriate number of counting agents acting on behalf of the designated lead campaigners would be more effective.
- 6.52 During the course of the referendum the Commission drew the attention of both lead campaigners and several other campaign organisations to the limitations on numbers of counting agents to ensure they were aware of a potential issue before it arose. Whilst we have not been provided with any feedback from registered campaigners on either side of the campaign to suggest that this matter created any problems in this referendum, the Commission believes it is something which legislators may wish to consider

for any future referendums, particularly if large numbers of registered campaigners could be anticipated.

Prohibition on appointment of staff previously involved in campaigning

- 6.53 SIRA prohibited COs from appointing any person as polling station staff if they had been involved in campaigning for a particular outcome in the referendum. It is good practice that staff appointed by COs must, in accepting their letter of appointment, reply indicating that they accept the terms and conditions of their appointment, one of which is that they have not campaigned during the referendum.
- 6.54 While a prohibition on appointment of polling station staff who had been involved in campaigning for a particular outcome existed, SIRA was less clear with regards to the employment of staff to assist with the verifying and counting of votes and this issue resulted in a small number of complaints to the Electoral Commission relating to staff employed in count centres who may have been previously involved in campaigning.
- 6.55 SIRA, in our view, is not entirely clear on whether the campaigning restrictions apply to those engaged with the verification and count. Although legal arguments can be made out either way, our view is that the better interpretation is the campaigning restrictions do apply to those engaged to help with other aspects of the process, such as at the count as well as at the poll. Given this lack of clarity, the Commission believes it would be logical, for future elections and referendums, to explicitly extend this prohibition to include those who would be working on behalf of the Counting Officer at the counting of votes.
- 6.56 We recommend that when considering future legislation for referendums in Scotland, and elsewhere, the legislation ensures that the prohibition on COs appointing people as polling station staff who have been involved in the campaigns for either outcome in the referendum is extended to explicitly cover people employed by the CO at the verifying and counting of votes.

Accreditation of Electoral Observers

6.57 The Electoral Commission currently operates an accreditation scheme for individuals and organisations who wish to register to observe certain specified proceedings at electoral events in the UK. Those wishing to register

must complete an application form, provide a copy of photographic identification and supply a digital photograph to be displayed on their identification badge. They must also sign a declaration stating that they have read and understood the Commission's Code of Practice for Observers. Although the Commission administers the scheme, those accredited do not observe on our behalf, or receive any payment.

6.58 SIRA made provision for access to key electoral proceedings by accredited observers and required the Commission to prepare a Code of Practice for Observers which was specific to the referendum and to accredit such observers. The Code also included guidance for the CCO, COs and Presiding Officers on permitting access to electoral proceedings by accredited observers.

6.59 The Commission accredited 224 observers, who came from all around the world and whose details were placed on our website⁴⁸. On the day before the poll we also offered a briefing session to all accredited observers, jointly hosted with the CCO, to explain the referendum process and take questions. Individual briefings for larger delegations of observers were also organised where requested.

6.60 The collective briefing was well attended and well received with over 110 observers from all around the world discussing the administrative processes relating to the referendum. A number of accredited observers subsequently supplied their observations on the referendum to the Commission which assisted us by informing our thinking as we developed this report.

Public enquiries regarding referendum administrative processes

6.61 In the days prior to polling day and immediately after, administrators reported having received a number of queries from members of the public relating to aspects of the administrative process under which the referendum

 $\underline{\text{http://www.electoralcommission.org.uk/}} \quad \underline{\text{data/assets/excel }} \underline{\text{doc/0019/170344/Accredited }} \underline{\text{observers Scotland.xls}}$

Register of accredited observer organisations:

http://www.electoralcommission.org.uk/ data/assets/excel doc/0020/170345/Accredited organisations Scotland.xls

⁴⁸ Register of accredited individual observers:

was conducted. The issues raised were also noted in enquiries received by the Electoral Commission and are set out below.

A pen or pencil when marking a ballot paper

6.62 A number of electors queried whether they were required to mark their ballot paper using either a pen or a pencil. These queries came both from voters who had received their postal ballot packs and from those due to vote in person at their polling station on polling day. Concerns which were raised ranged from the possibility of votes marked in pen being rejected during the counting of votes, to a small number of people who were concerned that their vote could be altered at a later stage if written in pencil. There is no stipulation under electoral law which requires an elector to use either a pen or a pencil and both Commission staff and local administrators were able to reassure voters that they could use either to mark their ballot paper.

Instructions to voters on the folding of ballot papers and the Unique Identifying Number

- 6.63 The Electoral Commission received reports from observers of voters carrying unfolded ballot papers from the voting booth to the ballot box. In one instance we were informed that polling station staff were specifically instructing voters not to fold their ballot paper. We assume this is a legacy from the 2012 council elections when voters were requested not to fold their ballots in order to aid the speed of the scanners at the subsequent e-count.
- 6.64 Additionally, we are aware that in many parts of Scotland it is common practice in polling stations for voters not to show the Presiding Officer the Unique Identifying Number (UIN) on the back of the ballot paper, immediately prior to putting the ballot in the box. This common practice became a matter of frequent enquiry in the weeks after the poll by voters to the Commission and CO staff.
- 6.65 SIRA required and the guidance issued by the CCO highlighted the requirement of polling station staff to inform voters to fold the ballot paper after they had made their mark and then show the UIN to the Presiding Officer before placing the ballot paper in the box. Posters and other guidance in the polling station also informed voters of this requirement.
- 6.66 We would recommend that Counting Officers and Returning Officers, at future referendums and elections, ensure that at training sessions for polling

station staff the requirements for how the ballots are to be presented prior to their deposit in the ballot box should be emphasised to staff.

The Future of the Electoral Management Board for Scotland

- 6.67 Following the publication of the Commission's 2008 report 'Electoral Administration in Scotland', both UK and Scottish Governments welcomed the idea of establishing the Electoral Management Board for Scotland (EMB) as did Returning Officers.
- 6.68 Although established on an interim, non-statutory basis in November 2008, the EMB was not created on a statutory basis until given roles in Scotland's local government elections by the Local Electoral Administration (Scotland) Act 2011, which gave the Board "the general function of coordinating the administration of local government elections in Scotland." Its overall aim is to promote a consistent approach to electoral administration across Scotland with the interests of voters at the fore.
- 6.69 Members of the Board are Returning Officers (Counting Officers for the referendum), their Deputes and Electoral Registration Officers and it is led by a Convener who is appointed by Scottish Ministers. It is advised by various professional electoral bodies, both the UK and Scottish Governments, and the Electoral Commission.
- 6.70 Since its establishment in 2008, the EMB has supported successfully the delivery of several elections and the 2011 Referendum on UK Parliamentary Voting Systems. Although the EMB did not have a statutory role at the Scottish Independence Referendum, its Convener was appointed under provisions in SIRA as CCO for the referendum and it played an integral role in providing advice and support to the CCO to ensure the proper and effective conduct of the referendum. The EMB is recognised by stakeholders throughout the electoral community as providing effective leadership and seeks to develop consistency in approach and the delivery of efficient and effective electoral administrative process in the interests of the voter.
- 6.71 The current legislative and administrative structures for electoral matters in Scotland are part reserved and part devolved. Although we have recommended that the statutory role of the EMB be expanded to include elections to the Scottish, UK and European Parliaments, to date this has not

happened, and it remains the case that its only statutory role relates to local government elections, with the EMB continuing to undertake roles in parliamentary elections on a non-statutory basis. The EMB, which supported the CCO throughout the referendum, has again demonstrated the added-value it brings to elections in Scotland. The future statutory electoral framework for Scotland should, in our view, include the EMB as it supports the provision of efficient and effective electoral administrative process in the interests of the voter.

- 6.72 Following the referendum on 19 September, the Smith Commission for further devolution of powers to the Scottish Parliament was established and published its report, referred to as 'the Smith Commission Agreement' on 27 November 2014⁴⁹. The Agreement included proposals that the Scottish Parliament be given powers over how its members are elected together with powers to extend the franchise to 16 and 17 year olds allowing them to vote at the 2016 Scottish Parliament election. The Parliament would also be given additional powers in relation to local government elections.
- 6.73 While 'the Smith Commission Agreement' envisages that the Electoral Commission will continue to operate on a UK-wide basis it proposed that the Scottish Parliament will have competence over the functions of the Electoral Commission in relation to Scottish Parliament elections and local government elections in Scotland. The Electoral Commission would report to the UK Parliament in relation to UK and European elections and for Scottish Parliament and local government elections to the Scottish Parliament.
- 6.74 The Commission has written to both the Scottish and UK Governments offering our assistance as they take forward the work needed to produce draft clauses implementing the report's conclusions.
- 6.75 Given the continuing development of the EMB and the need to secure its long-term funding and statutory arrangements, the Commission believes that the Smith Commission Agreement presents an opportunity to secure the future re-structuring of electoral matters in Scotland with the EMB playing an important role, delivering services which are in the interests of the voter.

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⁴⁹ Report of the Smith Commission for further devolution of powers to the Scottish Parliament: http://www.smith-commission.scot/wp-content/uploads/2014/11/The Smith Commission Report-1.pdf

6.76 We would therefore recommend:

- That the EMB's statutory remit is extended to Scottish Parliamentary, UK Parliamentary and European Parliamentary elections and that the Convener is given a power of direction at these elections.
- The long term funding and legal status of the EMB must also be secured and clarified so that it can undertake fully the tasks it was envisioned it would carry out when the idea of a Board was recommended by the Commission and accepted by governments in 2008.

In making the above recommendations, the Commission would re-state its comment in the 2008 report 'Electoral Administration in Scotland' that it recognises that as the EMB developed this would impact upon our work. We said we would review our work in that light which we continue to do.

Electoral integrity

- 6.77 Earlier in Chapter 4 we discussed the voter's views and perceptions relating to electoral integrity. Here we discuss some administrative matters arising in relation to electoral integrity. The referendum was a high-profile event, for the people of Scotland, the UK and the wider world. From the earliest stages of planning, the CCO highlighted the importance of delivering a result which could be trusted as accurate and the desire to achieve that through consistency, transparency and confidence in the integrity of the process.
- 6.78 Integrity, in relation to electoral events, covers a range of roles and responsibilities. Electoral administrators, campaigners, legislators, the police and the general public all have a role to play to ensure that elections and referendums are conducted in a climate of trust in the process.
- 6.79 SIRA and the Franchise Act, together with the Representation of the People Act 1983, provide a framework setting out each stakeholder's role. This, in turn, allows those stakeholders to put plans in place to ensure the integrity of the process within their remit is protected.
- 6.80 Although the incidence of electoral fraud has, historically, been low in Scotland, it always retains the potential to attract significant attention in the media and undermine public confidence. The increase in voter participation and engagement in the referendum, combined with the emotive nature of the subject and the intensity of the media spotlight on all aspects of the event,

resulted in an increase in the number of allegations being made to the police than at a usual Scotland wide electoral event of recent years.

- 6.81 In many ways, heightened vigilance amongst members of the public to potential electoral fraud is a positive thing, as increased awareness of what may constitute an offence is a valuable tool in preventing it from occurring. However, there is also the potential that a lack of understanding about the rules and processes in place lead to allegations which would not constitute electoral fraud and this can have a negative impact on the resources of the police, the Commission and electoral administrators, as well as jeopardising public confidence in the electoral process. In relation to this last point, the rise of social media has amplified the damage that an allegation, based on a lack of understanding of electoral process can cause, as the initial accusation is often seen by hundreds, or even thousands, of people, whereas the subsequent explanation rarely receives the same attention.
- 6.82 In Scotland, the Commission, EMB and Police Scotland have produced guidance on the prevention and detection of electoral fraud. The guidance highlights the preference for prevention rather than prosecution and, in conjunction with the principles identified by the CCO for the successful delivery of the referendum, advocates the need for careful and considered planning by all involved.
- 6.83 Additionally, the guidance issued by the CCO to COs for the referendum referenced integrity considerations throughout and the CCOs performance management framework required COs to confirm they had measures in place to maintain integrity in line with that guidance. EROs can receive registration applications all year round and, accordingly, must have plans in place to mitigate the risks posed by electoral fraud at all times.
- 6.84 The referendum on independence for Scotland was the second major electoral event, having closely followed the European Parliamentary Elections in May 2014, to take place since the creation of the single police force, the Police Service of Scotland ("Police Scotland"). Prior to that each of the eight forces in Scotland had a designated officer who acted as a Single Point of Contact ("SPOC") for electoral matters. Moving forward, Police Scotland elected to have a "Lead SPOC", but also "Divisional SPOCs" of the rank of Inspector who would be based in each Divisional Coordination Unit throughout the country. This system would retain the benefit of having officers with localised knowledge who could liaise with EROs and COs in their area, whilst ensuring that information relating to event planning and resourcing could be disseminated effectively.

- 6.85 Through the Lead SPOC, the relationship between Police Scotland, the CCOs team and the Commission was maintained through regular meetings and frequent conversations in the run-up to the referendum. The Commission, EMB and Police Scotland also organised briefing seminars which were attended by Divisional SPOCs and key members of their local teams.
- 6.86 Police Scotland produced detailed plans for the referendums and shared these with the CCO nationally and with COs at a local level. The plans acknowledged the high-profile nature of the referendum and while a national plan was put in place, each Divisional Coordination Unit also retained the autonomy to allocate resources according to local intelligence, including discussions with COs and their staff. This enabled every polling place in Scotland to benefit from a permanent police presence, or regular visits from officers on patrol, to provide support and reassurance to polling staff and the general public.
- 6.87 Working with Police Scotland and having a single contact for all police in Scotland assisted both the CCO and the Commission when dealing with integrity matters. While recognising the complexity of having many more police forces across the whole of the UK and their independence in operational terms, it is recommended that for future referendums at the UK level, Police Scotland, the Association of Chief Police Officers and the Police Service of Northern Ireland explore the possibility of establishing a single command structure to co-ordinate where necessary at UK level.
- 6.88 Police Scotland's plans were also flexible to allow resources to be reallocated in response to any emerging issues. For example, various campaign groups (both those registered with the Commission and otherwise) had publicised plans to undertake various campaign-related activities on polling day, which had the potential to pose challenges for local administrative arrangements.
- 6.89 Ultimately, however, there were no significant issues of concern to Police Scotland which occurred and, on the contrary, reports from observers were of a positive atmosphere at polling places.

Buying and selling votes

6.90 Following the issue of postal votes, the Commission was alerted to an advert placed on an online auction website, in which a person was offering to sell their vote in the referendum to the highest bidder. Such a transaction would have been in breach of Schedule 7, Paragraph 12 of the SIRA and, if

convicted of an offence, both the buyer and seller could have been liable for a fine of up to £5,000, one year's imprisonment, or both.

- 6.91 The Commission immediately reported this incident to Police Scotland and an individual was subsequently arrested and reported to the Procurator Fiscal. We also contacted the website in question to inform them of this and the listing was removed. As soon as we raised the issue with the online auction website they reacted positively and immediately co-operated. They also issued a statement about the action they had taken both in this case and would take in the future to remove such postings based on the process they agreed with the Commission in light of this incident. This acted as a model for engagement with other similar sites.
- 6.92 The Commission continued to monitor online activity of this nature up to and including polling day. Although there was a small number of similar incidents in the days which followed the immediate report, in each case the relevant websites responded quickly to our requests to remove the listings in question.

Requirement for secrecy at postal vote opening sessions

- 6.93 Significant media coverage was given to allegations that postal voting agents had "sampled" votes at postal vote opening sessions around the country in the days before polling day. The suggestion was that the agents, who were nominated by the registered campaign groups and permitted to attend the sessions to ensure the process was conducted appropriately, had been able to see the outcome for which votes had been cast. A significant number of people reported this matter to the Electoral Commission and/or the police at the time of the media/social media coverage of the issue.
- 6.94 The Commission is unaware of any such allegation having been made by any person who was present at a postal vote opening session and, in fact, this issue came to light as a result of comments made during media coverage, by individuals affiliated to campaign groups.
- 6.95 Schedule 7, Paragraph 7 of SIRA makes it an offence for a person attending a postal ballot opening session to attempt to ascertain the referendum outcome for which any vote is given in any particular ballot paper, or to communicate any such information which they have obtained during the session. At the referendum, as at all electoral events in the UK, it is a legal requirement for those attending a postal vote opening session to be provided with a copy of the requirements of secrecy in relation to the ballot.

6.96 This matter is still under investigation by the police at time of writing and, therefore, it would not be appropriate for the Commission to comment further.

Recommendations for the future conduct of the referendums and elections

Recommendation 17: Use of the mini-count approach to the verification and counting of votes

Breaking down the verification and counting of votes into areas smaller than the total electoral or referendum area is a particularly effective method in achieving an accurate, timeous result with clear audit trails. Consequently, COs and returning officers in Scotland and elsewhere in the UK should consider utilising this approach when planning their verification and count at future electoral events.

Recommendation 18: National recounts

The key factor in delivering a single national result for future any referendums is that high quality counts are undertaken in each counting area, so that confidence and trust in the overall result is achieved, as was the case at the independence referendum.

We do not believe that it would be necessary for legislation for any future referendum on any issue, not only in Scotland but also those held across or in other parts of the UK, to provide powers for the Chief Counting Officer to direct national recounts to be carried out across all counting areas. Legislatures scrutinising future referendum legislation will want to consider the powers provided to Counting Officers for recounts at the local counting area level.

Recommendation 19: Prohibition on appointment of staff previously involved in campaigning

The legislation for future referendums, not only in Scotland but also those held across or in other parts of the UK, should ensure that the prohibition on COs appointing people as polling station staff who have been involved in the campaigns for either outcome in the referendum, is extended to explicitly cover people employed by the CO at the verification and counting of votes.

Recommendation 20: Appointment of counting agents

Limitations on the number of counting agents who can be appointed at count centres mean that in some circumstances agents of any given registered campaigner may be unable to properly scrutinise the conduct of the counting of votes. Although a restriction on the number of counting agents who can be appointed is necessary for logistical reasons it may be that changes are required to the way in which the representation of each referendum outcome is calculated. For example, it may be that a system which prioritises the appointment of an appropriate number of counting agents acting on behalf of the designated lead campaigners would be more effective.

During the course of the referendum the Commission drew the attention of both lead campaigners and several other campaign organisations to the limitations on numbers of counting agents to ensure they were aware of a potential issue before it arose. For future referendum legislation in Scotland and elsewhere legislators may wish to consider if large numbers of registered campaigners are anticipated.

Recommendation 21: Instructions to voters on the folding of ballot papers and the Unique Identifying Number

SIRA required and the guidance issued by the CCO highlighted the requirement of polling station staff to inform voters to fold the ballot paper after they had made their mark and then show the Unique Identifying Number to the Presiding Officer before placing the ballot paper in the box. Counting Officers and Returning Officers at future referendums and elections in Scotland and elsewhere in the UK should ensure that at training sessions for polling station staff the requirements for how the ballots are to be presented prior to their deposit in the ballot box are be emphasised to staff.

Recommendation 22: The future of the Electoral Management Board for Scotland

Given the continuing development of the EMB and the need to secure its long-term funding and statutory arrangements, the Smith Commission Agreement presents an opportunity to secure the future re-structuring of electoral matters in Scotland with the EMB playing an important role, delivering services which are in the interests of the voter. We would therefore recommend:

- That the EMB's statutory remit is extended to all parliamentary elections and that the Convener is given a power of direction at these elections.
- The long term funding and legal status of the EMB must also be secured and clarified so that it can undertake fully the tasks it was envisioned it would carry out when the idea of a Board was recommended and accepted by governments in 2008.

Recommendation 23: Integrity administrative issues: a single point of contact

The Commission, while recognising the complexity of having many more police forces across the whole of the UK and their independence in operational terms, recommends that for future referendums at the UK level, Police Scotland, the Association of Chief Police Officers and the Police Service of Northern Ireland explore the possibility of establishing a single command structure to co-ordinate where necessary at UK level.

7 The cost of the referendum

7.1 As soon as is practicable after the referendum the Commission must prepare and lay before the Scottish Parliament a report on the conduct of the referendum. That report must also include a summary of how the Commission carried out our functions and a summary of the expenditure incurred by the Commission in carrying out those functions. This chapter provides the summary of expenditure incurred by the Commission.

Funding the Commission's activity

- 7.2 SIRA required the Scottish Parliament Corporate Body (SPCB) to reimburse the Electoral Commission for any expenditure incurred by the Commission that was attributable to the carrying out of the Commission's functions under SIRA.
- 7.3 This provision reflected in part a principle recognised in PPERA of the importance of ensuring that the Commission should be funded by the Scottish Parliament rather than the Scottish Government. The Commission is funded through the Speaker's Committee (a Committee of the House of Commons) for its activities under the PPERA in a manner designed to demonstrate and maintain its impartiality from Government.

Estimates of expenditure

- 7.4 SIRA provided that the Commission must before the start of each financial year prepare an estimate of the Commission's expenditure for the year that is attributable to the carrying out of their functions under this Act, and send the estimate to the SPCB for approval. Section 29 also provided for the Commission to submit a revised estimate of its expenditure during any financial year.
- 7.5 Commission funding proposals were discussed with officials from the SPCB and the Scottish Government and were included in the financial memorandum published when SIRA was introduced into the Scottish Parliament in March 2013. A total funding requirement of £2.195m was identified as summarised in the table below.

7.6 In accordance with the requirements of Section 29 of SIRA the funding requirement was reviewed with SCPB officials in December 2013. Minor revisions to the 2014-15 spending plans were agreed though these remained within the overall agreed allocation. These are shown in the final column of the table below.

Table 4 – Original and revised levels of agreed funding

Commission cost estimate (all figures £k)	Agreed funding (original)	Agreed funding (revised)
Undertaking Public Awareness activity	1,803	1,791
Writing and publishing guidance, and giving advice to permitted participants	180	115
Reporting on the referendum process	57	57
Other minor costs relating to remaining functions	50	43
Contingency (not yet allocated)	105	189
Total recoverable costs	2,195	2,195

7.7 Further minor reallocations within the approved Estimate total were subsequently approved by the Commission during the year. The cost report at paragraph 7.18 is measured against these final budgets.

Accountable Officer and audit arrangements

- 7.8 Following consideration of financial management options with Scottish Parliament and Scottish Government officials it was agreed that accounting arrangements for the above funding (including the related audit processes) would be the responsibility of the SPCB as purchasers of the Commission's functions. This approach had two administrative impacts for the Commission:
- There would be no requirement for the Commission to formally provide accounts for audit by the Auditor General for Scotland.
- There would be no requirement for the Commission to designate an Accountable Officer answerable directly to the Scottish Parliament for its expenditure.

7.9 In confirming these arrangements SPCB officials noted they would take comfort from the Commission's own external audit arrangements that expenditure has been in accordance with the normal public accounting requirements and recognised that the Commission's Accounting Officer would remain accountable under the Commission's current governance arrangements for the way money has been spent.

Funding for Question Assessment

7.10 The request from the Deputy First Minister for advice and assistance with Question Assessment activity was agreed and administered under the terms of Section 10 PPERA. When making the request that the Commission undertake the question assessment, the Deputy First Minister indicated that under Section 10 of that Act the Scottish Government would agree to meet the Commission's costs. An invoice for the final cost of just over £117k was paid by the Scottish Government in April 2013.

Reporting of CO and CCO Fees and expenses

- 7.11 Payment in respect of Referendum charges and expenses incurred by COs and the CCO were provided for by the Scottish Independence Referendum (Chief Counting Officer and Counting Officer Charges and Expenses) Order 2014 which came into effect on the 5th May. Administration of the process for reimbursement of fees and expenses was the responsibility of the Scottish Government.
- 7.12 The Commission has previously highlighted the importance of full and transparent reporting of the cost of electoral events, a principle endorsed by a National Audit Office value for money study in 2013. Though the reimbursement process is still incomplete at the time of this report we are pleased to note that it is the intention of the Scottish Government to report fully on these costs once all accounts are settled.

Reporting of Commission costs

7.13 In accordance with the provisions of S27 (2) (b) SIRA the table below details recoverable expenditure for each of the Commission's functions. The total cost of Commission activity was £1.826m, which was £0.369m below the amount provided for by the Scottish Parliament.

- 7.14 By far the most substantial Commission costs were incurred in delivering the public awareness campaign. Principally expenditure was incurred in the buying of media space (£611k) and in the creation of the appropriate advertising content (£453k).
- 7.15 The other key component of our awareness activity was in the production and distribution of a voting guide to every household in Scotland. In total the cost of this element of our campaign was £247k.
- 7.16 For both of the above activities we planned additionally for the costs of related research and audit processes to measure the success of the campaigns.
- 7.17 Finally the Commission managed a call centre facility to ensure that voter questions and enquiries could be promptly and efficiently handled. The provision of the call centre cost £55k.
- 7.18 The overall cost of public awareness activity was £163k below the allocated budget which reflected in particular efficiencies in the competitive buying of media advertising space. All material areas of spend were subject to Commission procurement guidelines which provide for competitive tendering and supplier selection based on operational capacity to deliver and value for money.

Table 5: Cost of Electoral Commission activity by function

Total expenditure - £k	Budget	Actual	Variance
Promoting public awareness	1,814	1,651	163
Cost of buying media space (TV, newspaper, online)	643	611	32
Design and production of advertising content (including creative fees)	479	453	26
Printing and distributing a booklet to all households in Scotland	250	247	3
Other public awareness	442	340	102
Advising, registering and regulating permitted participants	145	108	37
Designating lead campaigners	10	5	5
Administering an observer scheme	12	1	11
Reporting on the referendum	65	61	4
Unallocated contingency	149	0	149
Total expenditure	2,195	1,826	369

7.19 This schedule reflects the known costs of Commission activity at the time of reporting. Further costs may be incurred where enforcement activity arises from the receipt of final campaigner cost returns in March 2015. Any such costs will be reflected in the final cost statement and recharge to SCPB.

7.20 The Commission recharged only the marginal costs of Referendum activity to the Scottish Parliament. This included the temporary employment of two members of staff to assist primarily with the advising, registering and regulating functions.

Research methodology

Public opinion survey

On behalf of the Commission, ICM conducted a total of 1,852 interviews, split between voters (1,548) and non-voters (304).

All interviews were conducted between 19th September and 26th October 2014. A total of 1,509 interviews were conducted via Random Digital Dial (RDD) sampling methods, and a further 319 were generated after employing alternative techniques to locate hard-to-reach people including non-voters and young voters who were willing to be interviewed. Online databases were sourced to find such people.

In order to boost the number of non-voters in the sample, a small proportion of respondents were recruited face-to-face in Edinburgh and Glasgow (24).

The profile of the contacted sample was designed to match that of the eligible population by key demographics such as gender, age and work status. At the analysis stage, data was weighted to match the known demographic profile of Scotland.

Referendum data

The Electoral Management Board for Scotland collected data on the referendum on independence for Scotland, including data relating to electoral registration, turnout, absent voting and rejected ballots. Data was collected from COs and EROs across Scotland.

List of registered campaigners

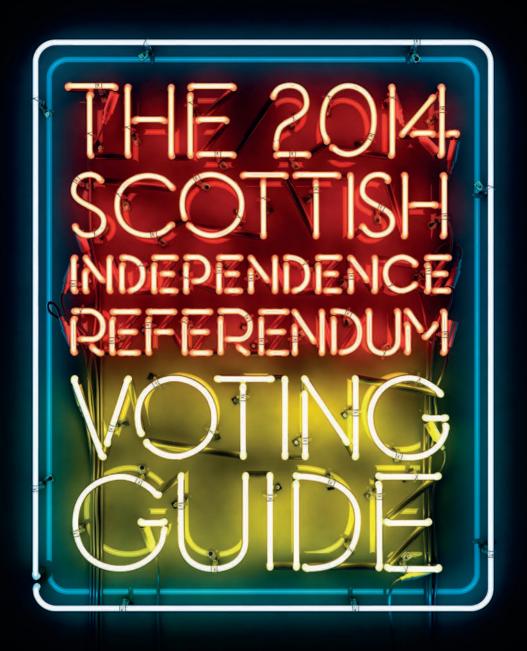
Campaigning for a "Yes" vote	Campaigning for a "No" vote
1001 Campaign	Better Together 2012 Ltd
Business for Scotland Ltd	Better With Scotland
Christians for Independence	Britannica
English Democrats	Communication Workers Union (CWU)
Farming 4 Yes	Conservative Party
Generation Yes	Cumbria Broadband Rural and Community Projects Limited
Labour for Independence	GMB
Mr Tommy Sheppard	Grand Orange Lodge of Scotland
Mrs Sarah-Louise Bailey-Kelly	Labour Party
National Collective (Artists and Creatives for Independence Limited)	Let's Stay Together
Radical Independence Campaign	Liberal Democrats
Scottish Campaign for Nuclear Disarmament	Mr Alistair McConnachie
Scottish Green Party	Mr Angus MacDonald
Scottish Independence Convention	Mr Ghill Donald
Scottish National Party (SNP)	Mr Tony George Stevenson
Scottish Socialist Party	No Borders Campaign
Spirit of Independence	Scottish Jacobite Party
Wealthy Nation	Stirlingshire For No Thanks
Wings Over Scotland	The Scottish Research Society
Women for Independence	Union of Shop, Distributive & Allied Workers (USDAW)
Yes Scotland Limited	WFS2014 Ltd

Summary of referendum result

Council	Total Votes	Yes	No	Rejected Papers	Turnout
	Counted				
Aberdeen City	143,664	59,390	84,094	180	81.7%
Aberdeenshire	180,045	71,337	108,606	102	87.2%
Angus	80,302	35,044	45,192	66	85.7%
Argyll & Bute	63,516	26,324	37,143	49	88.2%
Clackmannanshire	35,410	16,350	19,036	24	88.6%
Comhairle Nan Eilean Siar	19,758	9,195	10,544	19	86.2%
Dumfries & Galloway	106,775	36,614	70,039	122	87.5%
Dundee	93,592	53,620	39,880	92	78.8%
East Ayrshire	84,262	39,762	44,442	58	84.5%
East Dunbartonshire	79,011	30,624	48,314	73	91.0%
East Lothian	71,798	27,467	44,283	48	87.6%
East Renfrewshire	66,021	24,287	41,690	44	90.4%
City of Edinburgh	319,025	123,927	194,638	460	84.4%
Falkirk	108,626	50,489	58,030	107	88.7%
Fife	254,162	114,148	139,788	226	84.1%
Glasgow	364,664	194,779	169,347	538	75.0%
Highland	165,976	78,069	87,739	168	87.0%
Inverclyde	54,601	27,243	27,329	29	87.4%
Midlothian	60,395	26,370	33,972	53	86.7%

Moray	64,205	27,232	36,935	38	85.4%
North Ayrshire	96,173	47,072	49,016	85	84.4%
North Lanarkshire	226,883	115,783	110,922	178	84.4%
Orkney	14,907	4,883	10,004	20	83.7%
Perth & Kinross	104,285	41,475	62,714	96	86.9%
Renfrewshire	117,612	55,466	62,067	79	87.3%
Scottish Borders	83,526	27,906	55,553	67	87.4%
Shetland	15,635	5,669	9,951	15	84.4%
South Ayrshire	81,716	34,402	47,247	67	86.1%
South Lanarkshire	222,927	100,990	121,800	137	85.3%
Stirling	62,225	25,010	37,153	62	90.1%
West Dunbartonshire	62,532	33,720	28,776	36	87.9%
West Lothian	119,115	53,342	65,682	91	86.2%
Total	3,623,344	1,617,989	2,001,926	3,429	84.6%

Electoral Commission Voting Guide



The Electoral Commission

About this booklet

On Thursday 18 September 2014, there will be a referendum on independence for Scotland.

This booklet explains how you can take part.

Part 1: How to take part

- Page 3 Can I vote?
- Page 3 Am I registered to vote?
- Page 4 How do I vote in the referendum?
- Page 5 Ways of voting

Part 2: Information from lead campaigners and both governments

- Pages 8–9 Statements from the main referendum campaigners saying why they think you should vote 'ves' or 'no'
- Pages 10–11 A joint statement from the Scottish and UK governments on what will happen after the referendum

This booklet has been produced by The Electoral Commission Lothian Chambers, 59-63 George IV Bridge, Edinburgh EH1 1RN

The Electoral Commission is an independent body that works across the UK. The Scottish Parliament has given us a duty to provide public information about voting in the referendum.

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This booklet is also available in alternative languages and formats. Please call 0800 3 280 280 or visit www.aboutmyvote.co.uk for more information.



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Can I vote?

You can vote in the referendum if you are registered to vote in Scotland, are 16 or over on Thursday 18 September 2014 and are:

- a British or Irish citizen living in Scotland, or
- a European Union citizen living in Scotland, or
- a qualifying* Commonwealth citizen living in Scotland

You have to be registered to vote by Tuesday 2 September 2014 to vote in this referendum.

There are special provisions for the registration of members of the Armed Forces, Crown servants (e.g. in the diplomatic service or overseas civil service) and British Council employees. You can find out more at www.aboutmyvote.co.uk.

Am I registered to vote?

If you're not registered, you won't be able to vote. Most people register by using the form they receive in the post from their local electoral registration office each year.

If you haven't completed one of these forms, you may not be on the electoral register. If so, you will need to complete a voter registration form and send it to your local electoral registration office to arrive by midnight on Tuesday 2 September.

For a voter registration form and details of your local electoral registration office, go to www.aboutmyvote.co.uk.

^{*} Qualifying Commonwealth citizens are people who have leave (permission) to enter or remain in the UK, do not need to have such leave or are treated as having such leave.

You can also download a form at www.aboutmyvote.co.uk. You will need to print the form, sign it and post it to your local electoral registration office.

If you aren't sure whether you're registered to vote, your local electoral registration office can tell you. You can find their details at www.aboutmyvote.co.uk.

How do I vote in the referendum?

You will receive a ballot paper like the one pictured here:

BALLOT PAPER Vote (X) ONLY ONCE		
Should Scotland be an independent country?		
	YES	
	NO	

You show your choice by putting a cross (X) in the 'Yes' or 'No' box on your ballot paper.

Put a cross in only one box or your vote will not be counted.

Ways of voting

There are three ways you can vote:



In person on Thursday 18 September:

Most people vote in person at their polling station. It is straightforward and a member of staff will always help if you are not sure what to do.

You will receive a poll card telling you where your polling station is. It is often a nearby school or a community centre. If you do not receive your poll card, contact your local council to find out where your polling station is.

Polling stations are open from 7am to 10pm. Make sure you arrive in plenty of time.



By post:

You can apply to vote by post. You will need to fill in an application form and send it to your local electoral registration office to arrive by 5pm on Wednesday 3 September. You can find their details and get an application form at www.aboutmyvote.co.uk.

Your local council can send your ballot paper to your home address or any other address you give. A ballot paper can be sent overseas, but you need to think about whether you will have time to receive and return it by 10pm on Thursday 18 September.

If your ballot paper hasn't arrived by Friday 12 September, contact your local council. You can get a replacement up to 5pm on polling day.



If you can't go to the polling station and don't wish to vote by post, you can apply to vote by proxy. This means allowing somebody you trust to vote on your behalf.

You will need to fill in an application form and send it to your local electoral registration office to arrive by 5pm on Wednesday 3 September. You can get an application form at www.aboutmyvote.co.uk.

When you apply for a proxy vote you have to state why you cannot vote in person. Anyone can be your proxy as long as they will be aged 16 or over on Thursday 18 September 2014 and are a British, Irish, other European Union or qualifying Commonwealth citizen. They must also be willing to vote on your behalf. You will have to tell them how you want to vote.

If you have a medical emergency, or are unexpectedly and unavoidably called away because of your occupation, employment or service, you may be able to appoint an emergency proxy. Contact your local electoral registration office for more information. You can find their details at www.aboutmyvote.co.uk.

You must be registered to vote before you can be given a postal or proxy vote.

You have to be registered to vote by Tuesday 2 September 2014.

How to find out more

If you have any questions, please go to www.aboutmyvote.co.uk or call our helpline on 0800 3 280 280.

You can download further copies of this booklet from www.aboutmyvote.co.uk.

Information from lead campaigners and both governments

The United Kingdom Government and the Scottish Government have agreed that there should be a referendum for you to vote on whether Scotland should be an independent country. Both governments want the referendum to be legal and fair. Both want the result to be decisive. Both have agreed to respect the outcome, whatever it is.

What happens after the referendum?

If more people vote "Yes" than vote "No" in the referendum, Scotland would become an independent country.

If more people vote "No" than "Yes" in the referendum, Scotland would remain a part of the United Kingdom.

You can read more about this on Pages 10–11.

What are the arguments?

Campaigners have been explaining why they think you should vote 'yes' or 'no' in the referendum.

Each of the main campaign organisations has been given a page to put their side of the argument.

The pages have been included as they were provided. Please turn over to see them.



The referendum on September 18th is a choice of two futures.

A Yes vote means a future where we can take our own decisions and build a more prosperous nation, a Scotland where we can all truly flourish.

As one of the richest nations in the world, Scotland can afford to be a successful independent country. We can make this vast wealth work better for everyone who lives here, from looking after older Scots to making life easier for young families.

A No vote means a future stifled by the repeated failures of Westminster governments, governments we didn't even vote for.

September 18th is a once in a lifetime opportunity to create a thriving new nation.

Let's grasp it with both hands.



Yes Scotland.net

romoted by Yes Scotland, 136 Hope Street, Glasgow G2 2TG.

The Best of Both Worlds For Scotland

We believe that we can have the best of both worlds in Scotland as part of the UK. We can have a strong Scottish Parliament, with more powers guaranteed, and we can have the strength, security and stability that comes from being part of the bigger UK. We don't need to choose between the two.

Voting for separation would be a huge leap into the unknown. If we leave then we lose the strength of the UK pound. This would mean we would pay more for our mortgages, credit cards and loans. If we leave we are putting our pensions at risk. If we leave we are risking big companies being forced to move south and Scottish jobs being lost.

If we leave the UK there would be no going back. In September we face a choice about our future. Let's say no thanks to all of the risks and uncertainties of independence. Let's say loud and clear that we want the best of both worlds for Scotland.

Lisa Gardiner a working mum from Cambuslang said:

"I'm voting NO in September because I believe we can have the best of both worlds in Scotland. We can have more decisions made here and we can also have the strength and security of being part of the UK. Going it alone would be a massive leap into the unknown. Do I want to put my family's future at risk just so that nationalists can get what they want? No thanks."





www.nothanks2014.net

A joint statement by the Scottish Government and the United Kingdom Government

If more people vote "Yes" than vote "No" in the referendum, Scotland would become an independent country.

This would not happen straight away. There would need to be negotiations between people representing Scotland and people representing the rest of the United Kingdom.

During the negotiations, Scotland would still be part of the United Kingdom and public services would be delivered as they are now. The Scottish Government would continue to be responsible for health, education, justice, rural affairs, housing and transport in Scotland. The United Kingdom Government would continue to be responsible for defence, security, foreign affairs and constitution, most pensions, benefits and most tax powers up to the date Scotland becomes an independent country.

Laws which apply in Scotland now would still apply during the negotiations. During the negotiations, the two governments would continue to discuss any policies of either that affect the responsibilities of the other government. The current Scottish Government would carry on until the next general election to the Scottish Parliament, due to take place in May 2016.

The negotiations would include discussion about the allocation of assets and liabilities.

After the date of independence, the Scottish Government would become responsible for all aspects of government in Scotland.

After the date of independence, the Scottish Parliament would be able to amend or retain the laws that apply in Scotland now to reflect the new circumstances of an independent Scotland.

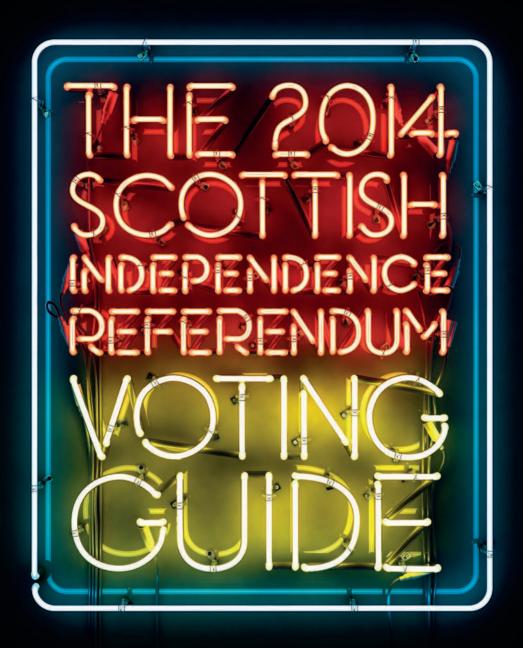
If more people vote "No" than "Yes" in the referendum, Scotland would remain a part of the United Kingdom.

The UK Parliament and Government would continue to be responsible for defence, security, foreign affairs, pensions, benefits and most tax powers. The Scottish Parliament and Government would continue to be responsible for health, education, justice, rural affairs, housing and transport in Scotland in the same way as now.

The present Scottish Government would stay in office until the next general election to the Scottish Parliament, due to take place in May 2016.

The two governments would continue to work together to bring about the changes to the powers of the Scottish Parliament and Government agreed by the two parliaments in the Scotland Act 2012. The main change is that the Scottish Parliament and Government will get new borrowing powers and will set a separate Scottish rate of Income Tax from April 2016.

Any further changes to the responsibilities of the Scottish Parliament and Government would be made by the UK Parliament, seeking the consent of the Scottish Parliament.



www.aboutmyvote.co.uk 0800 3 280 280

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