

The Electoral Commission – Update briefing on Scottish referendum

Background

The Electoral Commission is an independent body established by the Political Parties, Elections and Referendums Act 2000 (PPERA). We regulate party and election finance and set the standards for well-run elections and electoral registration in the UK. The Scottish and UK Governments have agreed that, subject to the passage of the Section 30 Order, the Electoral Commission will have responsibility at the referendum for:

- assessing the intelligibility of the proposed question
- public awareness activities
- registering and giving guidance to campaigners
- regulating campaign spending during the referendum period, and donations towards that spending
- designating lead campaigners
- reporting on the referendum process.

We have previously set out the principles we believe should inform the way in which any major referendum, including the Scottish referendum, is run. In our March 2012 response to both the Scottish and UK Governments' consultations on the referendum we set out our detailed views on the proposals for the referendum.¹ These principles, along with our consultation response, will continue to guide our approach to the referendum and are repeated below along with more detail relating to:

- how we will carry out our own role at the Scottish referendum
- aspects of the conduct of the poll that are specific to the Scottish referendum
- when we expect to be in a position to provide further information about the work we are doing and our views on certain issues.

We will respond to further detailed proposals for the referendum when they are brought forward and will set out our views on the legislation to the Scottish Parliament in time to inform their consideration of the referendum bill. We will make these views public and identify changes or improvements where they need to be made.

¹ The Commission's full response to the Scottish and UK Governments' consultations on the Scottish referendum is available at: http://www.electoralcommission.org.uk/_data/assets/pdf_file/0011/146927/The-Scottish-referendum-Response-to-consultations.pdf

The key principles that should inform the way referendums are run

- Our focus is on voters and on putting their interests first and that underpins everything we do.
- Referendums should be administered in a way that engenders confidence, is credible, transparent, and open to scrutiny.
- Our objectives for referendums are:
 - they should be well-run and produce results that are accepted
 - there should be integrity and transparency of campaign funding and expenditure

1. Voters

There should be no barriers to voters taking part. This means:

- those eligible can register to vote
- voters can easily understand the question (and its implications)
- voters are informed about the possible outcomes, and can easily understand the campaign arguments
- 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

Votes for 16 and 17 year olds

- Whatever the franchise for the referendum (which we believe is rightly a matter for Parliament to decide), everyone who is entitled to vote should have a fair and equal opportunity to participate, and the registers used to administer the referendum must be as complete and accurate as possible.
- In our response to the Scottish Government's consultation earlier this year we identified some apparent discrepancies between the stated intention of extending the franchise to all those aged 16 and 17, and what is currently possible within UK electoral legislation. We recommended that the Scottish Government should set out more clearly how it will give effect to its proposed policy.
- We will closely scrutinise the Scottish Government's proposed paving Bill, which it intends will allow all 16 and 17 year olds to be included on the electoral register in time for the referendum, to ensure that it does give effect to this proposed policy. Any changes to the legislation for registering electors should be made in

time so that the detailed rules are clear for Electoral Registration Officers at least six months before commencing the relevant annual canvass of households.

Introduction of individual electoral registration (IER)

- The UK Government should take full account of the Scottish referendum when planning activity for the transition to individual electoral registration (IER) in the UK. We have also said to the UK and Scottish Governments that they should work closely together – and with EROs in Scotland and the Electoral Commission - to address any practical challenges to the completeness and accuracy of the electoral registers used for a referendum in autumn 2014.

Referendum question

- We are now assessing the referendum question in line with our established guidelines. At the end of the process we will publish our assessment, along with a research report and summary of the evidence we have gathered. We will report our findings directly to the Scottish Parliament so that it informs their scrutiny of the question set out in the referendum legislation.

Public awareness

- We will undertake public awareness activity to provide people with the information they need to participate in the referendum. Our research with voters as part of the question assessment will help inform the scope of our public awareness campaign.
- We will say more about our public awareness plans when we publish our question assessment report.

2. Campaigners

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

- it is easy to register as a campaigner 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 is easy to understand, and accepted as fair

Overall campaigning rules

- We will provide advice to the Scottish Government on the development of the full range of campaigning rules, taking into account recommendations for changes to the PPERA rules that we have made in the light of our experience of PPERA referendums.
- When proposed rules are put before the Scottish Parliament we will brief the Parliament and other interested parties on our views. The referendum rules must set out unambiguously the outcomes for which lead campaigners may be designated, and what is to happen if suitable campaigners do not apply in respect of both outcomes.

Spending limits

- The spending limits for campaigners should: allow effective campaigning for all outcomes in the referendum; deter excessive spending; and should not be set so low as to distort reasonable campaigning and affect transparency (for instance, by giving campaigners an incentive to split their spending between multiple campaign bodies).
- In March this year we set out our initial views on the Scottish Government's consultation proposals for campaign spending limits. We will now review the evidence from the Scottish Government's consultation responses and will talk to prospective campaigners and political parties before setting out our further advice on spending limits at the Scottish referendum.

Designation of lead campaign organisations

- We will make the process for designating the lead campaigners as transparent as possible by: issuing guidance for potential applicants in good time before the application process begins; publishing all applications after we make our decision, and clearly explaining the reasons for our designation decision.

3. Administration of the referendum

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

- standards for a well-run referendum against which the delivery of the referendum is measured
- an efficient process for distributing funds to campaigners and administrators
- rapid and clear reporting on campaign funding and spending
- a timely and authoritative report on how the referendum worked

Delivering and reporting on the Scottish referendum

- We support the appointment of the Convener of the Electoral Management Board for Scotland as Chief Counting Officer (CCO) for the Scottish referendum and believe this appointment should be approved by the Scottish Parliament, rather than by Scottish Ministers. The CCO must be adequately resourced for the task of co-ordinating the delivery of the referendum.
- We will publish plain English and accessible guidance for campaigners and will offer our support and expertise to the CCO to produce guidance for Counting Officers.
- We will publish an interim statement on preparedness for the referendum, which we currently expect to do in autumn 2013. This will set out both our own and the CCOs preparedness for the referendum alongside our views on the progress of the legislation and any outstanding risks to the delivery of the referendum or voters' participation.
- We will publish a comprehensive report on the administration of the referendum and lay it before the Scottish Parliament.

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