DEVOLUTION (FURTHER POWERS) COMMITTEE

AGENDA

29th Meeting, 2015 (Session 4)

Thursday 26 November 2015

The Committee will meet at 10.30 am in the Mary Fairfax Somerville Room (CR2).

1. **Subordinate legislation:** The Committee will take evidence on the Scottish Parliament (Elections etc.) Order 2015 [draft] from—

   Joe FitzPatrick, Minister for Parliamentary Business, Colin Brown, Senior Principal Legal Officer, Directorate for Legal Service, and Roddy Angus, Policy Adviser, Directorate for Strategy and Constitution, Scottish Government.

2. **Subordinate legislation:** Joe FitzPatrick (Minister for Parliamentary Business) to move—

   S4M-14803—That the Devolution (Further Powers) Committee recommends that the Scottish Parliament (Elections etc.) Order 2015 [draft] be approved.

3. **Work programme (in private):** The Committee will review its work programme.

Stephen Imrie
Clerk to the Devolution (Further Powers) Committee
Room T3.40
The Scottish Parliament
Edinburgh
Tel: 85206
Email: devolutioncommittee@scottish.parliament.uk
The papers for this meeting are as follows—

**Agenda Items 1 and 2**

Supplementary written evidence

*Scottish Parliament (Elections etc.) Order 2015 [draft]*

PRIVATE PAPER

**Agenda Item 3**

PRIVATE PAPER
Devolution (Further Powers) Committee

Supplementary written evidence

Introduction

1. The annexe to this paper contains supplementary written evidence from witnesses that gave evidence to the Committee on 12 November 2015 on the Scottish Parliament (Elections etc.) Order 2015 [draft].

2. Supplementary written evidence has been received from the Electoral Management Board for Scotland, the Electoral Commission and the Chair of the Scottish Assessors Association (SAA) Electoral Registration Committee.

Action/recommendation

3. Members are invited to take these submissions into account during their questioning of the Minister for Parliamentary Business.

Clerking Team
November 2015
Electoral Management Board for Scotland (EMB)

I write to thank you for the opportunity to attend the Devolution (Further Powers) Committee meeting last week to assist in your consideration of the Scottish Parliament (Elections etc.) Order 2015. I trust that our evidence was helpful. One of the issues that arose in the discussion was with respect to the rejection rates for postal votes, with a question from Mark McDonald. While I was able to offer some information orally at the Committee I have since been asked to provide some additional statistics for the committee’s review.

As you are aware, Postal Voters are required to submit a Postal Voting Statement (PVS) with their ballot paper. To complete the PVS voters must enter their date of birth and provide a signature. Both the date of birth and signature are checked by the Returning Officer and must match those previously provided by the voter if their ballot paper is to be passed to the Count. If either are missing or if either does not match the samples held by the Returning Officer then the ballot papers are rejected and not forwarded to the Count. It should be noted that during this verification process the ballot papers themselves are not examined and are always held face down.

This process was introduced to address issues experienced around postal voting fraud and has been in operation in Scotland since the European Parliamentary Elections in 2009. Electoral Registration Officers and Returning Officers put great effort into explaining the steps necessary to fill out the PVS correctly with detailed instructions and diagrams provided in the postal vote pack. There is also a regular schedule of “refreshing” signatures so that they remain accurate and current. This is done annually with each signature updated every five years. The next refresh exercise is due to commence in the week beginning 11 January 2016.

Following UK electoral events, starting with the European Parliamentary Elections in May 2014 and repeated in May 2015 for the UK Parliamentary General Election, the ERO is required to write to postal voters whose postal voting statement was not completed fully or contained a date of birth or signature that did not match. This process has now been introduced to Scottish Parliament elections in the Scottish Parliament (Elections etc.) Order 2015 (Schedule 3, paragraph 25). This allows voters to take any necessary action to avoid future postal voting statements, and the accompanying ballot papers, from being rejected.

While the requirement for these identifiers is to prevent postal voting fraud, rejection is often due to voter error, for example where a husband and wife have completed each other’s statement by mistake or where a married name has been used in a signature instead of a maiden name. Indeed, our experience would show that most rejections are due to missing signatures or missing/wrong dates of birth rather than signatures not matching.
Statistics on the rejection rates at postal vote statement verification are compiled and maintained by each Returning Officer and collated nationally and at a UK level by the Electoral Commission. The table below shows the rejection rate for recent electoral events for Scotland. This is the percentage of postal vote statements which, when verified were either incomplete or contained a date of birth or signature that did not match those held for that voter.

<table>
<thead>
<tr>
<th>Electoral Event</th>
<th>Postal Vote Rejection Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011 Scottish Parliament Elections</td>
<td>5.9%</td>
</tr>
<tr>
<td>2012 Scottish Local Council Elections</td>
<td>4.0%</td>
</tr>
<tr>
<td>2014 European Parliamentary Election</td>
<td>2.9%</td>
</tr>
<tr>
<td>2014 Scottish Independence Referendum</td>
<td>2.7%</td>
</tr>
<tr>
<td>2015 UK Parliamentary General Election</td>
<td>2.9%</td>
</tr>
</tbody>
</table>

The clear trend above is that the rejection rate is coming down over time. I would expect this to continue as postal voters become more familiar with the process and as previous rejections are followed up and addressed through the notifications to voters.

Returning Officers wish to allow all properly registered voters to participate in elections and will seek to include rather than exclude a vote wherever possible. To support this great effort is put into explaining the absent voting process to voters so that they complete the statements fully and correctly. However the verification of date of birth and signature are required by law as important steps to prevent fraud and, as so often, there is a necessary tension between measures to promote integrity and those that promote participation.

Mary Pitcaithly  
Convener  
Electoral Management Board for Scotland  
20 November 2015
Electoral Commission

Thank you for the opportunity to give evidence to the Committee on 12 November. During the session we committed to write to you to set out the Electoral Commission’s understanding of the division between devolved and reserved responsibilities in relation to the controls on donations to candidates at Scottish Parliament elections.

Until recently, donations to candidates at Scottish Parliament elections (except party list candidates) were controlled under the Representation of the People Act 1983 (as amended by the Political Parties, Elections and Referendums Act 2000 (PPERA)). Following the commencement on 1 July 2015 of certain provisions of the Scotland Act 2012 responsibility for the administration and conduct of Scottish Parliament elections was devolved to the Scottish Parliament, with the exception of the regulation of political parties and non-party campaigners.

At Scottish Parliament elections there are three types of candidates; constituency candidates, independent list candidates and party list candidates.

Constituency and independent list candidates

Controls on donations to constituency and independent list candidates are a devolved matter currently legislated for in the Scottish Parliament (Elections etc) Order 2015 (SPEO). Donations for the ‘short campaign’ are reportable by the candidate and/or their agent to the Returning Officer after the election. The Electoral Commission does not regulate these donations.

Party list candidates

Donations given to promote party list candidates are classed as donations to the relevant political party rather than the candidate. These donations are reportable by the party under the PPERA controls.

Political parties report their donations to the Electoral Commission every quarter, and these are published on our website. There is no separate donation return for parties contesting Scottish Parliament elections, parties continue to report any donations they accept – including donations to promote party list candidates, on a quarterly basis. Party funding matters are reserved under the Scotland Act 1998.

I hope this clarified the question raised at the Devolution (Further Powers) Committee meeting on 12 November, however if you need further information then do not hesitate to contact me.

Andy O’Neill
Head of Office Scotland
The Electoral Commission
23 November 2015
Dear Mr Crawford

Devolution (Further Powers) Committee Meeting 12 November 2015

I refer to the request for the rate of rejection of registration forms that was made to Mary Pitcaithy following the Devolution (Further Powers) Committee meeting on 12 November.

The individual electoral registration (IER) framework requires each registration application to pass through a verification stage prior to the electoral registration officer (ERO) determining the application and where appropriate adding an elector to the corresponding register of electors. Since the introduction of IER in 2014, 74% of applications to register are made online at www.gov.uk/register-to-vote.

Whilst I do not have figures to hand for all 15 electoral registration officers in Scotland, I can provide the registration application rejection rate for the Grampian area that comprises Aberdeen, Aberdeenshire and Moray. I understand that the data is however in line with the position across Britain.

Under IER the applicants over 16 years old are required to provide their name, address, nationality, date of birth and national insurance number (NINO). The name, date of birth and NINO are compared to data held by the Department of Work and Pensions. If there is a strong match, the application is treated as verified and the ERO may proceed to consider the application for determination once the normal 5 day objection period has passed. This verification step provides the ERO with greater confidence in the integrity of the application than was available prior to the introduction of IER.

For a number of reasons, that include alternative name spelling, recent name changes or keying errors when the application details are input, 8.7% of applications made in Grampian since the publication of the revised registers on 27 February 2015 have failed this initial verification stage. When applications fail to verify, EROs contact the applicants concerned and assist re-submission of the applications, particularly where it can be established that a keying error was made.

If an application continues to fail, or an applicant cannot provide their date of birth, NINO and/or their nationality, an exceptions process is provided that allows the ERO to request documentary evidence that would enable their identity to be verified. A hierarchy of permitted documents and combinations of documents that include a UK photocard driving licence or passport are prescribed.
In Grampian we have used this exceptions process in 71% of those cases that failed to verify automatically against DWP data. Approximately half of those applicants who receive requests for documents respond and are subsequently verified. Where an applicant cannot provide the required documentation, the exceptions process also includes an attestation provision whereby a person 'of good standing' may attest the application.

If an applicant does not respond to the exceptions process, their application must be rejected by the ERO. The overall rejection rate for all registration applications in Grampian is 2.8%.

The registration application process, including the exceptions and attestation measures, is set out in Regulations 26, 26A and 26B of the Representation of the People (Scotland) Regulations 2001 (as amended).

To cater for registration applications by attainers who are under 16 years old the Scottish Elections (Reduction of Voting Age) Act 2015 amended regulation 26, dis-applying the requirement to provide a NINO and allowing verification of applications by reference to education records. As EROs have only commenced registration of under 16 year olds during the current canvass, verification against education records is currently in hand and statistically significant data is not yet available.

I trust that this assists the Committee.

Yours sincerely

Ian H Milton
Grampian Assessor and Electoral Registration Officer
Chair, Scottish Assessors Association Electoral Registration Committee
Member, Electoral Management Board for Scotland