Devolution (Further Powers) Committee

Report on the Electoral Management of the Scottish Independence Referendum
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**ISBN 978-1-78568-164-6**
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Devolution (Further Powers) Committee

To consider matters relating to The Scotland Act 1998 (Modification of Schedule 5) Order 2013, the Scottish Independence Referendum Act 2013, its implementation and any associated legislation. Furthermore, (i) until the end of November 2014 or when the final report of the Scotland Devolution Commission has been published, to facilitate engagement of stakeholders with the Scotland Devolution Commission and to engage in an agreed programme of work with the commission as it develops its proposals; and (ii) thereafter, to consider the work of the Scotland Devolution Commission, the proposals it makes for further devolution to the Scottish Parliament, other such proposals for further devolution and any legislation to implement such proposals that may be introduced in the UK Parliament or Scottish Parliament after the commission has published its final report.

www.scottish.parliament.uk/devolution-of-further-powers
devolutioncommittee@scottish.parliament.uk
0131 348 6124

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Executive Summary

As one of its initial items of work, the Devolution (Further Powers) Committee has undertaken post-legislative scrutiny of the electoral management of the Independence Referendum that had been held on 18 September, 2014. At the same time, the Committee has considered the relevant recommendations of the Smith Commission with regard to elections given the centrality of this issue to the future workload of the Committee.

During the course of our inquiry, we have considered a number of issues, including: the approach taken by Scotland’s local authorities to the discussion of the referendum in schools; the Scottish public’s understanding of the electoral process; the funding of electoral registration; registration deadlines, extension of the voting franchise to 16-17 year olds in future Scottish elections; the future role of the Electoral Management Board, and; finally, individual electoral registration.

This report sets out the evidence we have received during our considerations, as well as our overall conclusion and a set of ten recommendations on the electoral management of the Referendum.
Introduction

1. The Referendum (Scotland) Bill Committee, as the predecessor committee to the Devolution (Further Powers) Committee ("the Committee"), agreed on 9 October 2014\(^1\) to take evidence from electoral administrators and the Electoral Commission on the electoral management of the Scottish Independence Referendum. The Referendum (Scotland) Bill Committee was responsible for the passage of the Scottish Independence Referendum Act 2013. The Devolution (Further Powers) Committee considered that it would be appropriate as the successor committee to the Referendum (Scotland) Bill Committee to undertake post-legislative scrutiny of the electoral management of the referendum. At the same time, the Committee also considered the recommendations of the Smith Commission with regard to elections given the centrality of this issue to the future workload of the Committee.

2. The Committee held two evidence sessions on this issue. The Committee took evidence from the Electoral Management Board for Scotland (EMB), the Scottish Assessors Association (SAA) and the SOLAR Elections Working Group at its meeting on 18 December 2014. On 8 January 2015, the Committee took evidence from representatives of the Electoral Commission.

3. The Committee wishes to thank those who provided oral and written evidence to the Committee.
Electoral management of the referendum

The overall management of the referendum

4. The Independence Referendum represented a pinnacle of democratic engagement in terms of Scottish political history. The degree of public engagement with the referendum campaign culminated in a record turnout for an electoral event in Scotland since the extension of the franchise in 1918. In total, 3,623,344 people voted in the referendum representing 84.6% of the electorate. Turnout ranged from 91% in East Dunbartonshire to 75% in Glasgow. In addition, the referendum was historic as a result of the extension of the franchise to 16 and 17 year olds with 109,593 16 and 17 year olds being included in the electoral register and research by the Electoral Commission indicating that 75% of 16 and 17 years who were registered to vote had voted in the referendum.

5. The scale of turnout was indicative of the demand for engagement from the Scottish electorate. Given the significance of the question being asked of voters and the level of public engagement, the electoral administration of the referendum would inevitably be subject to an unprecedented level of scrutiny.

6. In written evidence to the Committee, the Chief Counting Officer for the referendum, Mary Pitcaithly, emphasised the guiding principles which she placed at the centre of electoral planning for the referendum. These were that—

- “There should be no barriers to any voter taking part (accessibility);
- Voters should have the same experience wherever they are in Scotland (consistency);
- The referendum will be administered efficiently; and
- The referendum will produce results that are accepted as accurate (integrity)”

7. The Electoral Commission report on the electoral management of the referendum comments—

"The referendum was well run by the CCO [Chief Counting Officer] and her CO [Counting Officer] and ERO [Electoral Registration Officer] 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."
8. The Convener of the Electoral Management Board for Scotland and Chief Counting Officer, Mary Pitcaithly, stressed the importance of joint-working in delivering a successful outcome commenting—

With extensive planning and the engagement of all the professionals in the 32 council election teams, the Scottish Government, the Electoral Commission and Police Scotland, we were able through consensus, guidance and a handful of directions to craft a framework that ensured that polling and counting went smoothly across the country.

9. The Committee welcomes the historic and unprecedented level of democratic engagement engendered by the referendum. In particular, the Committee recognises that the scale of engagement and interest in the referendum resulted in a significant workload for those involved in delivering the referendum. The Committee therefore wishes to congratulate all those involved in managing and administering the referendum for the successful delivery of the most significant electoral event in Scottish political history.

10. The Committee also acknowledges the publication of the Electoral Commission’s report on the conduct of the referendum and welcomes the recognition of the Electoral Commission that, notwithstanding the successful delivery of the referendum, lessons can be learned from the referendum which will help inform future electoral events in Scotland and the United Kingdom.

11. Recommendation 1 - Accordingly, the Committee believes there are lessons for both Governments and encourages both the Scottish Government and the United Kingdom Government to give due consideration to the recommendations of the Electoral Commission report. The Committee asks both Governments to report to the Committee on what their respective response is to the recommendations of the Electoral Commission.

The approach of local authorities to the discussion of the Independence Referendum in schools

12. As noted above, the extension of the franchise to include 16 and 17 year old voters was a key feature which marks the referendum as being a landmark moment in Scottish democratic practice. The Committee decided as part of the post-legislative scrutiny of the Scottish Independence Referendum Act 2013 to take evidence from local authorities on the approach taken by local authorities with regard to the discussion of the Independence referendum in schools. To this end, the Convener wrote to all Scottish local authorities and observed that schools across Scotland varied considerably in their approach with regard to how far 16 and 17 year old pupils could discuss the referendum in the run-up to the poll itself as a result of differing policies among education authorities. Accordingly, the letter from the Convener sought the views of local authorities on the issue in order that
the Committee could obtain a fuller understanding of the nature and rationale for these variations.

13. All thirty-two local authorities responded to the Convener’s letter. Local authorities tended to refer to guidance which had been produced by the Association of Directors in Education Scotland (ADES) and/or by Education Scotland (2013), as having been the main source of guidance which local authorities provided to schools.

14. An analysis of the local authority responses, by SPICE, found that almost all local authorities permitted, encouraged or actively supported schools to hold debates on the referendum with most local authorities allowing such debates to take place within school premises and during school hours.

15. Local authorities were also involved in a range of activities designed to encourage the involvement of 16 and 17 year olds with the referendum. These included the organisation of mock hustings, events seeking to encourage 16 and 17 year olds to register to vote and encouraging pupil participation at events such as the BBC Big Big debate at the Hydro in Glasgow.

16. In relation to restrictions which local authorities placed on schools during the 28-day period known as the ‘relevant period’, or informally as the ‘purdah period’, 18 local authorities said they had placed no restrictions on referendum related activities during this time-period. Of the 14 local authorities who had put in place additional restrictions these tended to involve no referendum related activities being permitted during the ‘purdah period’. In some instances, local authorities permitted some activities but not the participation of either politicians or campaign groups within activities organised in schools.

17. The Electoral Commission report commented on the variation in approach taken by local authorities in the following terms—

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.

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.
18. In oral evidence to the Committee, John McCormick, Electoral Commissioner, commented further that—

> Political literacy education is, of course, provided by councils. There are 32 individual councils from which, I think, the committee has collected information. Councils took different approaches to political literacy in schools; it was down to whatever the councils wanted to do. It is our understanding that a lot of activity was undertaken. Some councils allowed both sides to go into schools at the same time, while others allowed them to go into schools separately. As we move forward—given that 16 and 17-year-olds will be on the register in the future—we will need to look at the issue again, work on it and learn the lessons from the past.

19. Following further questioning on whether it was appropriate for local authorities to decide the policy on awareness-raising or that a more uniform approach may be more effective, Mr McCormick commented further that—

> The comment in our report reflects the fact that some campaigners wanted consistency and a uniform approach, but we are very sensitive to the fact that education is a local government matter and that the professional people on the ground who lead the education service in each local authority area are the best people to make that judgment. We did everything that we could to work with the national bodies that advise the local authorities, the directors of education services and the like. As the list in our report shows, that resulted in activities being undertaken across the country. Some people saw that as inconsistency, while others saw it as matching the needs of individual communities. I do not think that we would want to go any further than that.

20. **Recommendation 2** - The Committee would appreciate a view from the Electoral Commission on what it considers to be the most appropriate approach to be taken by education authorities during the relevant period given the issues raised in this report.

21. The Committee, as part of its post-legislative scrutiny of the Scottish Independence Referendum Act 2013, held informal events with 16 and 17 year old school pupils, in Fort William and Levenmouth, who were eligible to vote in the referendum. One of the key findings from these discussions was that pupils had become most engaged with the referendum during the final weeks of the campaign when the ‘purdah’ provisions in the schools, in Fort William and Levenmouth, provided that schools could not undertake activities relating to the referendum, including, teachers being unable to discuss the referendum with pupils. Many of the pupils the Committee met with felt that they would have benefitted from being able to discuss the issues in the referendum campaign with
their teachers and that the restrictions placed on schools during the ‘purdah’ period were overly restrictive.

22. The Committee considers that the restrictions which some education authorities placed upon schools were overly restrictive during the ‘purdah’ period and acted to restrict the ability of 16 and 17 year old voters to discuss the issue in school and in particular with their teachers. The evidence the Committee has taken suggests that this was a concern to both school pupils and teachers.

23. Recommendation 3 - The Committee calls on Education Scotland, the Association of Directors of Education in Scotland, the Society of Local Authority Chief Executives and Senior Managers (Scotland), the Society of Local Authority Lawyers and Administrators in Scotland and the Electoral Commission to consider how rules within schools during the ‘purdah’ period should be applied to ensure that 16 and 17 year old voters in future elections are able to discuss the issue freely in school in particular through discussions with teaching staff.

Public understanding of the electoral process

24. The referendum not only resulted in heightened levels of voter engagement and participation but also in intensive media and notably social media coverage, both nationally and internationally, of the electoral event. One consequence of the intensity of interest in the referendum and of the widespread use of social media to analyse the counting process was that suggestions were made, notably on social media, of irregularities at the referendum count. The Electoral Commission report comments on this issue in the following terms—

> 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.\(^\text{11}\)

25. Andy O’Neill, from the Electoral Commission, expanded on this issue in oral evidence. He said—
We have spent a lot of time and resource over the past few years explaining to people how to register to vote, how to fill in a ballot paper and suchlike. We have also spent time briefing and providing information to journalists, candidates and agents about what happens in counts. However, we have never consciously done that for the general public.

As far as I know, the referendum vote was the first time when there were cameras at all 32 count centres and people saw what was going on. Things were being thrown up on television during the count that resulted in social media comment. It was probably the first such huge and unique democratic event here since social media have existed.

From that, we and the counting and returning officers have seen the need to explain consciously and simply to the ordinary member of the public how a count works, so that they can be informed because—let us be honest—they do not understand it.

Everyone in our electoral world took a lot of calls after the count. Many people were simply confused, but once we explained the process they were happy. Others were less happy, to be honest. However, from a bureaucratic point of view, we need to provide simple information on how a count works and get that out to people.

The Committee notes that no issues with the electoral count were raised by campaigners and politicians present at the 32 counting centres and that the referendum result was accepted as being accurate by both campaigns. The Committee also recognises the joint-working between the Electoral Commission, Electoral Management Board and Police Scotland including the production of guidance on the prevention and detection of electoral fraud. However, the Committee agrees with the view that there is a need for improved public information regarding the electoral count process to be available to voters and calls on the Electoral Commission, in conjunction with support from the Electoral Management Board and electoral administrators, to work together to deliver an information campaign on the electoral count process ahead of future elections.

The Committee is aware that, in a very small number of cases, investigations are on-going into allegations of fraud relating to the counting of votes including into the counting of votes at postal vote opening sessions. Until such time as these investigations are concluded, it would not be appropriate to make any comment with regard to these specific allegations.

Funding of electoral registration

The Financial Memorandum to the Scottish Independence Referendum Act 2013 stated that the Scottish Government would reimburse electoral registration officers for any fees and expenses incurred in the course of undertaking their functions during the referendum. However, in written evidence to the Committee, Ian Milton
of the Scottish Assessor’s Association noted that the Fees and Charges order did not make any direct reference to Electoral Registration Officers (EROs) and went on to comment on the costs which had been incurred by EROs in the following terms—

"The extraordinary demand imposed on EROs and their staff by an extremely engaged electorate, required a reactive response that ensured that every application was considered and processed within the strict statutory timetable. This was only achieved by offices being manned for up to 20 hours per day 7 days per week for a number of weeks during late August and early to mid-September. The resultant costs in terms of additional hours, printing, postages, and incidental related costs amount to an estimated £700,000. EROs now wish to secure the reimbursement of this extraordinary expenditure."

29. The Committee is aware that discussions have been taking place between the Scottish Government and electoral administrators on this issue.

30. **Recommendation 4** - The Committee welcomes the discussions that have been taking place on the costs incurred by Electoral Registration Officers during the referendum and seeks assurances from the Scottish Government that this issue will be addressed. Accordingly, the Committee requests that the Scottish Government keeps the Committee informed on progress on this issue.

**Electoral Registration Deadlines**

31. The deadlines for electoral registration are established in legislation with varying deadlines applying depending on the type of vote being applied for. Mr Ian Milton, of the Scottish Assessors Association, summarised the varying deadlines which apply to electoral events as follows—

"The deadlines for registration and for absent vote applications are considered by administrators to be fairly cast iron, as they are well embedded in legislation. The deadline for registering to vote is 12 days before the electoral event at midnight, whereas the deadline for making an absent vote application is 11 days before the electoral event at 5 pm. It did not apply in the referendum particularly, but in electoral law the deadline for making an application for a proxy vote is normally midnight on day 6, and for an emergency proxy it is 5 pm on the day. There is a midnight deadline and a 5 pm deadline, and it depends on what event you are working towards.

Ideally, all the time deadlines would be brought to noon, so that any forms that were being delivered could be handed in to offices that are manned, and people who are handing in forms could be assured that the forms have
been received in time, rather than their popping a form through a letterbox at 11.59 at night and wondering whether it is going to be accepted. That is one time issue. There is also the question of the deadlines being too close to the election, which is a real challenge.

32. The Electoral Commission report on the referendum considered that allowing people to apply to register to vote closer to polling day would result in electoral registers being more accurate. However, this improvement would have to be balanced, in the Electoral Commission’s view, against the need to allow time for EROs to ensure that applications received are from genuine and eligible electors. Accordingly, the Electoral Commission stated—

> 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\textsuperscript{13}.

33. **Recommendation 5 - The Committee welcomes this commitment from the Electoral Commission to continue to work with partners on this issue and urges EROs and the Scottish and UK Governments to do likewise. The Committee also notes that the Law Commissions for Scotland, Northern Ireland, England and Wales, are currently working jointly on how electoral law should be reformed and suggest that the issue of the lack of consistency in electoral registration deadlines and how to bring deadlines closer to polling day, whilst maintaining the integrity of the electoral register, should be considered by the Law Commissions in the course of their work on reform of electoral law. The Committee supports greater continuity and consistency in electoral deadlines with a possible approach being Noon deadlines.**
Smith Commission recommendations on elections

34. The Smith Commission report made a number of recommendations in relation to elections including that the Scottish Parliament should have all powers in relation to elections to the Scottish Parliament and local government elections and that the Electoral Commission will report to the Scottish Parliament in relation to these elections. The Smith Commission also called on the UK Parliament to devolve the relevant powers in sufficient time to allow the Scottish Parliament to extend the franchise to 16 and 17 year olds for the 2016 Scottish Parliament election, should the Scottish Parliament decide to extend the franchise for that election.

Extension of the franchise to 16 and 17 year olds

35. Since the publication of the Smith Commission report, the Scottish and UK Governments have agreed that the legislation to extend the franchise to 16 and 17 year olds should be brought forward ahead of other areas in the Smith Commission report. Accordingly, a sections 30 and 63 Order was laid in the Scottish Parliament on 20 January 2014. This Order was considered and agreed to by the Committee, and subsequently by the Scottish Parliament on 4 March, 2015.

36. Following the 2007 Scottish Parliament election, an independent review of the 2007 Scottish Parliament and local government elections was conducted by Mr Ron Gould. The report of the independent review, commonly termed the ‘Gould Report, recommended that—

> Throughout this report, we have pointed to problems that have arisen because the passing of electoral legislation has been unduly delayed. To avoid these problems, we would recommend a practice found in the electoral laws in other countries. These laws provide that electoral legislation cannot be applied to any election held within six months of the new provision coming into force.

37. In evidence to the Committee, Ian Milton of the Scottish Assessors Association suggested that in an ideal world, legislation to extend the franchise would be in place six months before the canvass to compile the electoral register began. In effect, that would mean that the relevant legislation would have been required to be in place by February 2016. However, Mr Milton went on to observe that such a timetable would be ideal whilst also noting that the Scottish Independence Referendum (Franchise) Act 2013 did receive royal assent six months before the canvass for the referendum began and that if legislation was in place by August 2015 that would be manageable for electoral registration officers. Accordingly, Mr Milton commented that—
What is most important is that there is very close working, as there was for the referendum, between officials like me, policy makers and the Scottish Government. We had a referendum focus group that involved people like me and Scottish Government officials and which met informally, which worked extremely well. That meant that when the legislation was enacted, we were all up and running.

38. Mr O'Neill, from the Electoral Commission, commented further on the legislative timetable required by electoral administrators in order to plan and effectively deliver an extension of the franchise to 16 and 17 year old voters as follows—

The important thing is that the legislation is clear well in advance of the canvass. We and the EROs are already involved in discussions with the Scottish Government on the potential of the franchise bill, which will be introduced in Parliament some time this year. That allows us to know what the legislation is likely to look like, so we and the EROs can plan. We have to produce the guidance, and we would want to be able to do that as soon as the legislation is commenced, as we did for the 2013 act.

As John McCormick says, if we have the legislation by the summer recess, that will allow us to do that. If we go beyond the summer recess, we start endangering the ability to include 16 and 17-year-olds in the annual canvass, which would bring risks that we would be concerned about.

Delaying the canvass would create a problem at the other end: parties, candidates and agents need the final product—the electoral register—so that they can canvass. Political parties want the register well in advance so that they can put it into their software systems and use it as a tool to campaign with. Our concern is to ensure that clear legislation is in place before the summer recess—and, presumably, by stage 1, what the legislation looks like will be pretty clear. To achieve that, the best thing for us to do is to be involved, along with the electoral registration officers, in the development of the legislation with the Scottish Government.

39. The Committee welcomes that the Section 30 Order to extend the franchise has been laid in the Scottish Parliament and will report on this Order in due course. The Committee is also aware that discussions are already underway between the Scottish Government, Electoral Commission and the Electoral Management Board regarding legislation to extend the franchise to 16 and 17 year olds and welcomes that such discussions are taking place should legislation be passed to extend the franchise.

40. Recommendation 6 - The Committee emphasises that if this legislation is to be passed by Parliament before the summer recess, in order to allow electoral administrators to begin the canvass in sufficient time, then the Bill will need to be introduced in Parliament by April 2015.

41. The Smith Commission recommendations that the Electoral Commission report to the Scottish Parliament for local government and Scottish Parliament elections was considered to be “appropriate” by Mr McCormick from the Electoral Commission. He went on to comment—

… we will welcome whatever mechanism the Parliament decides on in relation to our accountability. We are very supportive of a transparent mechanism that shows we are accountable through the Scottish Parliament, to voters in Scotland.  

42. At present, the Electoral Commission reports to the Speaker’s Committee on the Electoral Commission. The Speaker’s Committee on the Electoral Commission was established by the Political Parties, Elections and Referendum Act 2000. The recommendation of the Smith Commission that the Electoral Commission report to the Scottish Parliament in relation to Scottish Parliament and local government elections means that it would therefore report to both the UK and Scottish Parliament depending on the election in question.

43. The Committee recognises that whilst the Electoral Commission has regularly reported on its activities in relation to local government elections to committees of the Scottish Parliament, the recommendation of the Smith Commission on this issue would create a new, formal relationship between the Electoral Commission and the Scottish Parliament. Accordingly, the Committee considers that an institutional mechanism will be required to recognise this new institutional relationship.

44. Recommendation 7 - The Committee suggests to the Standards, Procedures and Public Appointments Committee of the Scottish Parliament, and other bodies within the Scottish Parliament as may be appropriate, that it may wish to consider what would be the most appropriate mechanism via which the Electoral Commission could report to the Scottish Parliament should this recommendation of the Smith Commission be implemented.

45. The Electoral Commission report on the referendum observed that the Smith Commission report presented an opportunity to restructure the role of the Electoral Management Board (EMB) and also that the Electoral Commission would also look to review its role in elections as the role of the EMB developed. The Electoral Commission made two specific recommendations regarding the role of the EMB in its report on the referendum. These were—

18
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.

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.  

46. John McCormick commented on the rationale for these recommendations in the Electoral Commission’s report in the following terms—

An important point about the infrastructure of the EMB is that, although it has been put on a statutory basis, it works on the basis of a lot of good will from local authorities, for whom the chief counting officer, the deputy chief counting officer, the registration officers and those who sit on the board work. It is done on a kind of grace and favour basis with some central Government support. As the board attracts powers of direction for all parliamentary elections—as we hope and as we recommended to the Smith commission—it is infrastructure, financing and funding should be put on a statutory basis so that it can undertake continuing planning and strategic work. It is not possible for the EMB to do that at the moment, because it gets a lot of its support from local authorities. We would like that issue at least to be aired and discussed. We want the position of the EMB as an independent body that co-ordinates all electoral activities in Scotland to be underpinned.

47. The Electoral Commission also recognised, both in their report on the referendum and in evidence to the Committee, that changes to the role and funding of the EMB could have an impact on the functions of the Electoral Commission in Scotland. Witnesses from the Electoral Commission emphasised the need to ensure that the role of the two organisations did not lead to a duplication of functions but rather would be complimentary and that the Electoral Commission wished to enter into a dialogue on this issue.

48. Recommendation 8 - The Committee welcomes the recommendation of the Electoral Commission and commends their approach in being open to considering changes to the remit and funding of the EMB and any impact this may have on the functions of the Electoral Commission in Scotland. The Committee sees merit in reassessing the role, status and funding of the EMB and requests the view of Scottish Ministers on this issue.
Individual Electoral Registration

49. Individual electoral registration (IER) came into effect in Scotland on 19 September 2014. The process of individual electoral registration requires electors to have a National Insurance number in order to be able to register to vote. The Electoral Commission commented upon the impact of the IER for voters who will be aged 16 and 17 at the 2016 Scottish Parliament election in the following terms—

What should be done with 15-year-olds who are turning 16 and their national insurance numbers comes back to the need for detailed early planning to look at the best way of getting the 15-year-olds who do not have a national insurance number on to the register by the time they are 16. I do not know what the answer is at the moment, but the point reinforces the need for early conversations, looking at the plans and working with registration officers as the legislation is being developed.  

50. The Committee is aware and commends the extensive work that was done by a variety of bodies from across the public and voluntary sectors to seek to ensure that 16 and 17 year olds were registered to vote in the referendum. Nevertheless, the Committee is aware of concerns that the move to individual electoral registration may result in reduced rates of registration across the electorate with potentially significant impacts upon registration rates across particular social groups such as, 16 and 17 year olds and students.

51. Recommendation 9 - The Committee considers that it is essential, particularly within the context of the introduction of individual electoral registration, that early planning and extensive joint working on this issue between public bodies and the third sector take place to ensure that 16 and 17 year olds, as well as eligible voters generally, are registered to vote should that be required for future Scottish Parliament and local government elections.

52. Recommendation 10 - The Committee considers that particular consideration should be given to ensuring that specific measures are in place to assist groups which may experience difficulty with the process of individual electoral registration, such as people with disabilities, in order that individuals do not face any barriers in seeking to register to vote. The Committee anticipates that this will be an issue to which it will return should it be required to consider future legislation on the issue of 16 and 17 year old voting.
Conclusion

53. The Committee recognises the scale of the task for electoral officials and administrators in delivering the Scottish Independence referendum. The Committee commends the hard work and professionalism of electoral officials in delivering what was a remarkably successful and well-organised referendum in which the people of Scotland immersed themselves in democratic debate.
Recommendations

**Recommendation 1** - The Committee believes that there are lessons for both Governments from the management of the Independence Referendum and encourages both the Scottish Government and the United Kingdom Government to give due consideration to the recommendations of the Electoral Commission report. The Committee asks both Governments to report to the Committee on what their respective response is to the recommendations of the Electoral Commission.

**Recommendation 2** - The Committee would appreciate a view from the Electoral Commission on what it considers to be the most appropriate approach to be taken by education authorities to discussions in schools of electoral matters during the relevant period given the issues raised in this report.

**Recommendation 3** - The Committee calls on Education Scotland, the Association of Directors of Education in Scotland, the Society of Local Authority Chief Executives and Senior Managers (Scotland), the Society of Local Authority Lawyers and Administrators in Scotland and the Electoral Commission to consider how rules within schools during the ‘purdah’ period should be applied to ensure that 16 and 17 year old voters in future elections are able to discuss the issue freely in school in particular through discussions with teaching staff.

**Recommendation 4** - The Committee welcomes the discussions that have been taking place on the costs incurred by Electoral Registration Officers during the referendum and seeks assurances from the Scottish Government that this issue will be addressed. Accordingly, the Committee requests that the Scottish Government keeps the Committee informed on progress on this issue.
Recommendation 5 - The Committee welcomes the commitment from the Electoral Commission to continue to work with partners on this issue [to improve access to future elections and referendums by allowing people to register to vote closer to polling day] and urges Electoral Registration Officers and the Scottish and UK Governments to do likewise. The Committee also notes that the Law Commissions for Scotland, Northern Ireland, England and Wales, are currently working jointly on how electoral law should be reformed and suggest that the issue of the lack of consistency in electoral registration deadlines and how to bring deadlines closer to polling day, whilst maintaining the integrity of the electoral register, should be considered by the Law Commissions in the course of their work on reform of electoral law. The Committee supports greater continuity and consistency in electoral deadlines with a possible approach being Noon deadlines.

Recommendation 6 - The Committee emphasises that if legislation [to extend the franchise to 16-17 year olds] is to be passed by the Scottish Parliament before the summer recess, in order to allow electoral administrators to begin the canvass in sufficient time, then a bill will need to be introduced in the Scottish Parliament by April 2015.

Recommendation 7 - The Committee suggests to the Standards, Procedures and Public Appointments Committee of the Scottish Parliament, and other bodies within the Scottish Parliament as may be appropriate, that it may wish to consider what would be the most appropriate mechanism via which the Electoral Commission could report to the Scottish Parliament should this recommendation of the Smith Commission [that the Electoral Commission report to the Scottish Parliament in relation to Scottish Parliament and local government elections] be implemented.

Recommendation 8 - The Committee welcomes the recommendation of the Electoral Commission and commends their approach in being open to considering changes to the remit and funding of the Electoral Management Board (EMB) and any impact this may have on the functions of the Electoral Commission in Scotland. The Committee sees merit in reassessing the role, status and funding of the EMB and requests the view of Scottish Ministers on this issue.
Recommendation 9 - The Committee considers that it is essential, particularly within the context of the introduction of individual electoral registration, that early planning and extensive joint working on this issue between public bodies and the third sector take place to ensure that 16 and 17 year olds, as well as eligible voters generally, are registered to vote should that be required for future Scottish Parliament and local government elections.

Recommendation 10 - The Committee considers that particular consideration should be given to ensuring that specific measures are in place to assist groups which may experience difficulty with the process of individual electoral registration, such as people with disabilities, in order that individuals do not face any barriers in seeking to register to vote. The Committee anticipates that this will be an issue to which it will return should it be required to consider future legislation on the issue of 16 and 17 year old voting.

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1 The Minutes of the meeting of the Referendum (Scotland) Bill Committee on 9 October 2014 are available at: http://www.scottish.parliament.uk/S4_ReferendumScotlandBillCommittee/Minutes_of_Meeting_9.10.14.pdf
3 Written Submission from the Chief Counting Officer, Mary Pitcaithly, p.2 http://www.scottish.parliament.uk/S4_ScotlandBillCommittee/General%20Documents/Covering_letter_from_M_Pitcaithly_to_Convener.pdf
9 The restrictions which apply in the ‘relevant period’, or ‘purdah period’, is defined in Section 125 of the Political Parties, Elections and Referendum Act 2000 and Part 4, Schedule 4 of the Scottish Independence Referendum Act 2013 detailed the restrictions on the activities of Scottish Ministers, the Scottish Parliament and devolved public bodies during the ‘relevant period’ for the Scottish Independence referendum.


Annexe A

Extract from the minutes of the meetings of the Committee and links to the Official Reports

7th Meeting, 2014 (Session 4), Thursday 18 December 2014

Present:
Bruce Crawford (Convener)
Linda Fabiani
Rob Gibson
Alex Johnstone
Alison Johnstone
Lewis Macdonald (Deputy Convener)
Stewart Maxwell
Mark McDonald
Stuart McMillan
Drew Smith

Apologies were received from Tavish Scott.

The meeting opened at 10.32 am.

1. Electoral Management - Scottish Independence Referendum: The Committee took evidence from—

Mary Pitcaithly, Chief Counting Officer at the Scottish Independence Referendum, Convener of the Electoral Management Board for Scotland;

Ian Milton, Grampian Assessor & Electoral Registration Officer, Chair of the Scottish Assessors Association (SAA) Electoral Registration Committee, Member of the Electoral Management Board for Scotland;

Gordon Blair, Chief Legal Officer, West Lothian Council, Depute Returning Officer, West Lothian, Chair of the SOLAR Elections Working Group, Adviser to the Electoral Management Board for Scotland;

Chris Highcock, Senior Depute Returning Officer City of Edinburgh, Secretary to the Electoral Management Board for Scotland.

The Committee agreed to write to the Electoral Management Board with questions that there was not time to consider during the meeting.
Devolution (Further Powers) Committee

Official Report:

Written evidence
Electoral Management Board
1st Meeting, 2015 (Session 4), Thursday 8 January 2015

Present:
Richard Baker (Committee Substitute)
Bruce Crawford (Convener)
Linda Fabiani
Rob Gibson
Alex Johnstone
Alison Johnstone
Lewis Macdonald (Deputy Convener)
Stewart Maxwell
Mark McDonald
Stuart McMillan
Tavish Scott

Apologies were received from Drew Smith.

The meeting opened at 10.00 am.

1. Declaration of interests: Richard Baker declared that he was a member of Unite the Union and Director of Better Together.


John McCormick, Electoral Commissioner, Alex Robertson, Director of Communications, and Andy O'Neill, Head of Office Scotland, The Electoral Commission.

Official Report:

Written Evidence
Electoral Commission
6th Meeting, 2015 (Session 4), Thursday 26 February 2015

Present:
Bruce Crawford (Convener)
Linda Fabiani
Rob Gibson
Alex Johnstone
Alison Johnstone
Bill Kidd (Committee Substitute)
Lewis Macdonald
Mark McDonald
Stuart McMillan
Duncan McNeil (Deputy Convener)

Apologies were received from Stewart Maxwell, Tavish Scott.

In attendance: Heidi Poon, Committee Adviser

The meeting opened at 9.01 am.

1. Decision on taking business in private: The Committee agreed to take items 6 and 7 in private and all future Committee reports in private.

7. Draft report on the electoral management of the Scottish Independence Referendum (in private): The Committee considered and agreed a draft report.

The meeting closed at 11.21 am.

Official Report: item 7 was taken in private.