



The Scottish Parliament
Pàrlamaid na h-Alba

**Referendum (Scotland) Bill
Committee**

1st Report, 2013 (Session 4)

**Stage 1 Report on the Scottish
Independence Referendum
(Franchise) Bill**

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Referendum (Scotland) Bill Committee

Remit and membership

Remit:

To consider matters relating to The Scotland Act 1998 (Modification of Schedule 5) Order 2013, the Referendum (Scotland) Bill, its implementation and any associated legislation.

Membership:

Bruce Crawford (Convener)
Annabelle Ewing
Linda Fabiani
Patricia Ferguson
Rob Gibson
Annabel Goldie
Patrick Harvie
James Kelly (Deputy Convener)
Stewart Maxwell
Stuart McMillan
Tavish Scott

Committee Clerking Team:

Clerk to the Committee

Andrew Mylne

Senior Assistant Clerk

Claire Menzies Smith

Assistant Clerk

Stephen Fricker

Committee Assistant

Carol Mitchell



The Scottish Parliament
Pàrlamaid na h-Alba

Referendum (Scotland) Bill Committee

1st Report, 2013 (Session 4)

Stage 1 Report on the Scottish Independence Referendum (Franchise) Bill

The Committee reports to the Parliament as follows—

INTRODUCTION

The Committee and its role

1. The Referendum (Scotland) Bill Committee was established by the Parliament on 23 October 2012 to scrutinise the legislation that will provide the basis for the referendum on Scottish independence, to be held on 18 September 2014.
2. The Committee's first task was to consider and report on the Scotland Act 1998 (Modification of Schedule 5) Order 2013 (SI 2013/242) (the "section 30 Order").¹ This statutory instrument provided the agreed legal framework for two Bills – the Scottish Independence Referendum (Franchise) Bill ("the Franchise Bill") and the Scottish Independence Referendum Bill ("the Referendum Bill"). The Committee's report² on the draft Order was published on 23 November 2012, and the Parliament approved it on 5 December 2012. Following approval by the UK Parliament in January 2013, the Order was made on 12 February and came into effect the following day.
3. Since the Committee's first report, it has focused its efforts on gathering evidence to enable scrutiny of the Franchise Bill at Stage 1, and this Report sets out the Committee's conclusions on the general principles of that Bill.
4. The Committee has also begun work on scrutinising the Referendum Bill, which was introduced into the Parliament on 21 March 2013. The Committee hopes to publish a Stage 1 Report on the Referendum Bill's general principles in autumn 2013.

¹ The Scotland Act 1998 (Modification of Schedule 5) Order 2013 (SI 2013/242). Available at <http://www.legislation.gov.uk/ukSI/2013/242/introduction/made>.

² The Referendum (Scotland) Bill Committee, 1st Report 2012 (Session 4), The Scotland Act 1998 (Modification of Schedule 5) Order 2013 [draft], SP Paper 221.

Parliamentary scrutiny

5. The Scottish Independence Referendum (Franchise) Bill³ was introduced into the Scottish Parliament on 11 March 2013. The Bill was accompanied by Explanatory Notes,⁴ a Financial Memorandum, and a Policy Memorandum,⁵ as required by the Parliament's Standing Orders.⁶
6. The Referendum (Scotland) Bill Committee was confirmed by the Parliamentary Bureau as lead committee on the Bill on 19 March 2013. The only other committees with a role in Stage 1 scrutiny are the Subordinate Legislation Committee and the Finance Committee.
7. The Subordinate Legislation Committee (SLC) considered the Delegated Powers Memorandum⁷ and reported on 19 March 2013.⁸ The Finance Committee took evidence on the Bill's Financial Memorandum on 20 March 2013, and subsequently wrote to the Committee, referring it to the Official Report⁹ of the evidence session.

Timetable for consideration of the Bill

8. The Referendum (Scotland) Bill Committee gave initial consideration to its timetable for scrutiny of both Government Bills on 13 December 2012. Noting the Scottish Government's stated wish for the Franchise Bill to be passed before the summer recess 2013, the Committee agreed to take some initial evidence prior to the Bill's introduction. It also agreed to write to the Deputy First Minister seeking further information on the likely timescale for both Bills.
9. In the Deputy First Minister's response, she confirmed the Government's intention that the Bill complete its parliamentary passage by the end of June 2013 and be in force by later in the summer. This was to enable electoral registration officers (EROs) to begin collecting data about prospective young

³ The Scottish Independence Referendum (Franchise) Bill, as introduced (SP Bill 24 Session 4 (2013)) Available at:

http://www.scottish.parliament.uk/S4_Bills/Scottish%20Independence%20Referendum%20Franchise%20Bill/b24s4-introd.pdf.

⁴ The Scottish Independence Referendum (Franchise) Bill, Explanatory Notes (SP Bill 24-EN Session 4 (2013)) Available at:

http://www.scottish.parliament.uk/S4_Bills/Scottish%20Independence%20Referendum%20Franchise%20Bill/b24s4-introd-en.pdf.

⁵ The Scottish Independence Referendum (Franchise) Bill, Policy Memorandum (SP Bill 24-PM Session 4 (2013)) Available at:

http://www.scottish.parliament.uk/S4_Bills/Scottish%20Independence%20Referendum%20Franchise%20Bill/b24s4-introd-pm.pdf.

⁶ Scottish Parliament (2012). Standing Orders, 4th Edition (4th Revision). Available at:

http://www.scottish.parliament.uk/Parliamentaryprocedureandguidance/SO4_Revisions_Complete.pdf.

⁷ The Scottish Independence Referendum (Franchise) Bill, Policy Memorandum (SP Bill 24-DPM Session 4 (2013)) Available at:

http://www.scottish.parliament.uk/S4_Bills/Scottish_Independence_Referendum_Franchise_Bill_-_DPM.pdf.

⁸ Subordinate Legislation Committee, 19th Report, 2013 (Session 4), available at:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/61262.aspx>.

⁹ Finance Committee Official Report, available from:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/29824.aspx>.

voters as part of the annual household canvass (the collection of details from each household of those resident and eligible to vote) in the autumn of 2013.

Witnesses

10. Three pre-introduction evidence sessions were held on 31 January, and on 7 and 21 February. During these sessions, the Committee heard from the Scottish Assessors Association, the Society of Local Authority Lawyers and Administrators in Scotland (SOLAR) and from officials of three Crown dependencies that have already lowered their minimum voting age to 16 – Jersey, Guernsey and the Isle of Man.
11. A further three evidence sessions were held on 14, 21 and 28 March, following introduction of the Bill. At the first session, the Committee focused on the implications for young people, with evidence from two members of the Scottish Youth Parliament, the National Union of Students, Young Scot, Scotland's Commissioner for Children and Young People, and from the Information Commissioner's Office. The second session brought together key organisations with responsibility for the administration of the referendum – the Electoral Commission, the Electoral Management Board in Scotland, the Scottish Assessors Association, the Association of Electoral Administrators and the Association of Directors of Education in Scotland. At the final session, the Committee heard from the Deputy First Minister and her officials.
12. The Committee issued a call for written evidence immediately after the Bill's introduction. Twenty-three submissions were received from a range of organisations and individuals.
13. Extracts from the minutes of relevant Committee meetings are attached at Annexe B. Links to Official Reports of oral evidence sessions, together with associated written submissions and other written evidence, comprise Annexe C. All the evidence received is available on the Parliament's website.¹⁰
14. **The Committee extends its thanks to all those who provided oral evidence and written evidence on the Bill.** The Committee is also grateful to its advisers (Iain Grant and Professor Stephen Tierney) for the expert advice they provided throughout the process.

BACKGROUND TO AND PURPOSE OF THE BILL

15. The purpose of the Bill is to make provision about the franchise for the referendum on independence that the Scottish Government wishes to hold on 18 September 2014.
16. The holding of an independence referendum is a long-standing commitment of the Scottish National Party (SNP). Since the party's election as a majority administration in May 2011, it has been the Scottish Government's intention to introduce legislation in the Parliament to provide for a referendum on independence in the autumn of 2014. The Edinburgh Agreement with the UK Government and the subsequent section 30 Order, referred to above, put

¹⁰ <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/60762.aspx>.

beyond doubt the Parliament's legislative competence to pass the necessary legislation.

17. The SNP's policy in relation to the referendum has also included for some time a commitment to lowering the voting age to 16. (Where it has the power to do, the Scottish Parliament has legislated to give the vote to 16 and 17-year olds – in relation to pilot health board elections in 2010, and in relation to elections to the Crofting Commission in 2011.¹¹ However, the franchise at both Scottish Parliament and local government elections is a matter reserved to the UK Parliament.)

18. In January 2012, when the Scottish Government published its consultation paper (*Your Scotland, Your Referendum*) and associated draft Referendum Bill, it proposed lowering the voting age but not making any changes to existing provision about voter registration – according to which only those who would have reached the age of 18 before 1 December 2015 (usually described as “attainers”) would have been entitled to register to vote in a referendum held in autumn 2014. As a result, most of those who would have been 16 by the time of the referendum, although of “voting age”, would not in practice have been able to vote. In October 2012, following its consultation, the Scottish Government decided that it was necessary for the legislation to allow all 16 and 17-year olds to register.¹² In order to have the relevant provisions in force in good time for the 2013 annual canvass, this made it necessary to separate out the franchise provisions into a “paving” Bill that could be taken through the Parliament more quickly than the main referendum bill.

Contents of the Bill

19. According to the Policy Memorandum (paragraph 9), the Bill “sets out who is entitled to vote in the referendum, including the requirement that voters be 16 or over; provides for collection of data on eligible young people whose details would not otherwise be collected as part of the next annual household canvass; provides 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 sets out who will have access to it and data held on it”.

20. Other provisions that are relevant to the franchise, including how data from the register of young voters will be merged with data from the main electoral register to create a single “polling list”, are contained in the separate Referendum Bill.

21. The Policy Memorandum also explains (paragraphs 9 and 11) that the Scottish Government's approach to extending the franchise to young voters is to strike a balance between putting them on an equal footing with other voters and the need to treat their data sensitively and responsibly.

22. The Bill is structured as follows:

¹¹ See the Health Boards (Membership and Elections) (Scotland) Act 2009 (asp 5), and the Crofting Commission (Elections) (Scotland) Regulations 2011 (SSI 2011/456).

¹² Scottish Government, News Release: “16 and 17 year-olds to have Referendum vote”, 20 October 2012. Available at: <http://www.scotland.gov.uk/News/Releases/2012/10/referendum>.

- section 1 establishes a link with the main Referendum Bill
- sections 2 and 3 define the franchise for the referendum, including a minimum voting age of 16 and a prohibition on voting by convicted offenders
- sections 4-9 make provision for the preparation and maintenance of a separate “register of young voters”, and for restrictions on its publication
- section 10 provides for electoral registration officers’ expenses in relation to the Bill to be paid by the Scottish Government
- sections 11-15 make further general provision, including (section 11) delegating to Ministers a power to make “supplementary, incidental or consequential provision”, and (section 12) providing for the legislation to be repealed at the beginning of 2015
- schedule 1 applies existing electoral law with certain modifications
- schedule 2 sets out the canvass form for the register of young voters.

Consultation

23. The Scottish Government consulted on issues relating to the franchise, including the lowering of the voting age, in *Your Scotland, Your Referendum*, published in January 2012. The results of this consultation, published in October 2012, showed that 56% of respondents broadly agreed that the franchise should be extended to include 16 and 17-year-olds.¹³ In December 2012, a separate consultation exercise was conducted with a targeted group of stakeholders on some of the more technical issues involved in extending the franchise to 16 and 17-year olds. Copies of the relevant documentation, including an early draft of the Bill, were provided to the Committee and were useful background for the Committee’s pre-Stage 1 evidence-taking.

Financial implications

24. The Financial Memorandum estimates the costs attributable to the Franchise Bill as £358,000. This includes costs for the Scottish Government of around £240,000 for modifying existing electoral management software, and £25,000 for testing the young voter registration form. Local authority electoral registration officers (EROs) will incur specific extra costs at the time of the annual canvass, as they will be required to print young voter registration forms and then to issue reminders, at a total estimated cost of £56,000.¹⁴ They will

¹³ Source: *Your Scotland, Your Referendum: an analysis of consultation responses*, Scottish Government, 2012, available at <http://www.scotland.gov.uk/Resource/0040/00405470.pdf>, paragraph 9.3.

¹⁴ In the Financial Memorandum, £6,000 of this figure is attributed to issuing postal reminders. In a note to the Finance Committee dated 23 April 2013 (available at <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/60762.aspx>), the Scottish Government indicated that, on reflection, this figure is “too low” and that it will provide revised estimates before Stage 3.

also incur costs estimated at around £37,000 in connection with their more general duties, including during the “rolling registration” process.

THE FRANCHISE

25. As set out in section 2 of the Bill, eligibility to vote in the referendum is to be based on the franchise for local government elections (and also used for Scottish Parliament elections), but with the minimum voting age reduced from 18 to 16. The Scottish Government estimates this reduction in voting age will add an extra 120,000 people to the franchise for the referendum.¹⁵

26. Specifically, the eligibility criteria are:

- being 16 or over on the day of the referendum
- being registered in the register of local government electors or in the register of young voters (prepared under the Bill)
- not being subject to any legal incapacity to vote (which includes being a convicted offender in a penal institution)
- being a citizen of a Commonwealth country, the Republic of Ireland or another European Union country.

27. Registration for local government elections (under the Representation of the People Act 1983) depends on being resident in the relevant electoral area or being able to make a service declaration (if in the armed forces) or a declaration of local connection. Also, under the 1983 Act, Commonwealth citizens only qualify if they have, or do not require, leave to enter or remain in the UK.

28. The Committee notes the views of three people of Scottish origin living outside Scotland who submitted written evidence, who consider they should be entitled to vote but will not meet the residence criteria for registration.¹⁶

29. The Committee agrees that the local government register is the appropriate basis for the franchise.

Minimum voting age

30. A number of witnesses expressed support in principle for the lowered voting age.

31. Robin Parker, President of NUS Scotland, said that his organisation, both at Scottish and UK levels had—

“for a long time supported the principle of votes at 16. It is extremely positive that the Scottish Government and the Westminster Government have agreed that we can extend the franchise for the referendum. Young people will have

¹⁵ Source: Financial Memorandum, footnote 4 on page 15.

¹⁶ Harry Hayfield (in relation to a friend living in the USA), CV Martin and Mrs H Mitchell, written evidence.

to deal with the consequences of the referendum, whichever way it goes, for the longest time, so we have to have the biggest stake in the decision.”¹⁷

32. The Scottish Youth Parliament, similarly, had campaigned for votes at 16 for more than a decade, and Emily Shaw MSYP said that it was “fantastic to see the principle being taken forward in the Bill”. She believed that 16 and 17-year olds “can be just as informed as over-18s are, and it is important that they have a voice”. Andrew Deans MSYP said that votes at 16 had received a high degree of support among youth organisations and young people, including in a consultation with over 40,000 responses. He added: “We work with 16 and 17-year olds all the time, and we see that they are very much ready to vote”.¹⁸
33. Young Scot, although it did not normally adopt policy positions, was willing to support votes at 16 “because the feedback from other organisations and young people is that it is such an important issue”.¹⁹
34. Tam Baillie, Scotland’s Commissioner for Children and Young People, said he had shaped his office around listening to the voices of children and young people “because I think that they have the same wisdom as many adults. I heartily support 16 and 17-year-olds getting the vote in the referendum”.²⁰
35. The change was also supported by Children in Scotland, and by the Electoral Reform Society (ERS) which said that “engagement of 16 and 17-year olds in important political debates is vital for the future health of our democracy”. ERS felt the Scottish Government’s original proposal to allow only “attainers” to vote would have “risked creating a ‘false franchise’” and perhaps allowed a basis for the result to be challenged, and so welcomed the change of approach following consultation.²¹
36. One dissenting voice came from Charles Clegg, a 17-year-old high school pupil who felt that the existing age-limit of 18 had “proven itself to be neither broken nor in need of fixing” and was concerned that “the referendum has been used as a cloak to sneak in this reform without the consideration that it is due”.²²
37. Kate Crawford, of the Association of Electoral Administrators, raised a concern about creating a different franchise for the referendum, when the voting age in elections remained at 18. She said that EROs had tried to explain the position to young people but “they are not happy about being given the franchise for one thing but not for the other. They do not understand why that is happening”.²³

¹⁷ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 226.

¹⁸ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, cols 226-8.

¹⁹ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 228.

²⁰ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 246.

²¹ Electoral Reform Society, written evidence.

²² Charles Clegg, written evidence.

²³ Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 289.

38. The Deputy First Minister explained the thinking behind the Government's position—

“Young people obviously take on a range of important rights and responsibilities at 16, and we believe that they should have the opportunity to have their say on the future of the country of which they are part.”²⁴

39. She said that the Scottish Government had listened to concerns about its original proposal that would have allowed only attainers to vote. As a result, the Bill that had been introduced “puts in place arrangements to enable all 16 and 17-year-olds to register to vote and to take part in the referendum if they so wish. I hope that all of them do”.²⁵

40. Most of the political parties represented in the Parliament now have a policy in favour of lowering the voting age to 16 for all purposes. As a Committee, we have not reached a conclusion on this wider question, despite having received some evidence on the issue, mainly because it is both beyond our remit and outside the legislative competence of the Parliament.

41. The Committee acknowledges that lowering the voting age for the referendum, when there is no immediate prospect of it changing for elections, is not ideal, and carries some risk of confusing some young voters. Nevertheless, we believe that the Parliament should apply the principle of votes at 16 when it has the opportunity to do so – and particularly in connection with the historic choice the country faces in September 2014.²⁶

42. The Committee is aware that the successful participation of 16 and 17-year-olds in the referendum may impact on the wider debate in Scotland and the UK regarding the voting age for elections, and therefore places great importance on the smoothest possible implementation of the process of registration and promotion of participation.

43. The Committee endorses the extension of the franchise for the referendum to include 16 and 17-year-olds.²⁷

Convicted prisoners held in penal institutions

44. Section 3 of the Bill specifically prohibits convicted prisoners held in a penal institution at the time of the referendum from voting. Prisoners on remand are not included in this prohibition and so will be able to vote (as they can in elections) by postal or proxy vote.

45. The Explanatory Notes (paragraph 9) point out that this prohibition is identical to that made by section 3 of the 1983 Act for parliamentary and local government elections. They go on to say that the provision has been included

²⁴ Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, col 303.

²⁵ Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, col 307.

²⁶ Annabel Goldie dissented from this sentence.

²⁷ Annabel Goldie dissented from this conclusion.

in the Bill “because the UK Parliament is considering proposals to alter section 3 of the 1983 Act and the Scottish Government would not wish any alteration to apply for the purposes of an independence referendum”. The Policy Memorandum (paragraph 13) further explains that the UK Parliament proposals are in response to rulings by the European Court of Human Rights that a blanket ban on prisoners voting in elections to legislatures is inconsistent with the European Convention on Human Rights (ECHR), adding that the Court’s rulings, and relevant case-law, do not relate to referendums.

ECHR compatibility

46. The issue of the compatibility of section 3 of the Bill with ECHR was considered in more detail by the Committee’s adviser, Professor Stephen Tierney, in a paper for the Committee. The paper noted that the relevant provision of ECHR, Article 3 of Protocol 1 (A3P1) refers specifically to “elections” involving the people’s “choice of the legislature”, and referred to European Court decisions stating that A3P1 does not apply to referendums. Professor Tierney concluded that this provided a “convincing defence of the *vires* of section 3”, but noted that a challenge could still be brought. Although he was not persuaded such a challenge would be successful, there were some reasons for thinking that the outcome of such a challenge “may be unpredictable”.²⁸

47. The Law Society of Scotland also said that this provision “might be challenged” and pointed out that some solicitors appear “ready to act on behalf of aggrieved clients”. Like Professor Tierney, however, the Society concluded that such a challenge was “unlikely to be successful”.²⁹

48. The Deputy First Minister described the legal position as clear, and said that the Scottish Government had “taken account of all the legal considerations and arguments in coming to the position in the Bill”.³⁰

49. The Committee notes the views of Professor Tierney and the Law Society of Scotland, and their conclusion that a challenge to section 3 on ECHR grounds is unlikely to succeed.

Arguments of principle

50. The principle of preventing convicted prisoners voting in the referendum was directly challenged in written evidence by a number of witnesses – in particular in a joint submission by the Howard League for Penal Reform, the Prison Reform Trust, SACRO, Positive Prison? Positive Futures and Professors Fergus McNeill and Mike Nellis. The submission received backing from the Scottish Association of Social Work and by Professor Alec Spencer, among others.

51. The submission notes that most other European countries give some voting rights to prisoners and suggests that voting should be seen as an inalienable right that cannot be removed as a punishment. It argues that Scotland imprisons too many people, and that a ban on prisoner voting “impacts

²⁸ Professor Tierney’s paper is available from the Committee’s web-page.

²⁹ Law Society of Scotland, written evidence.

³⁰ Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, col 317.

disproportionately on the most deprived and vulnerable". The submission also argues that a ban on voting in the referendum would have an arbitrary impact, particularly in relation to those serving short sentences at around the time of the poll.³¹

52. Other written evidence also opposed the ban on prisoners voting. Quakers Scotland, for example, argued that prisoner voting could "play a part in the process of desistance and rehabilitation". Similarly, the Church of Scotland's Church and Society Council based its opposition to section 3 on the principle that the criminal justice system should "reflect the aim of restoring broken relationships between the offender and the community".³²

53. However, the Deputy First Minister rejected these arguments. She recognised that the position might have to change at UK level in relation to elections, but that was a matter for the UK Government.

"Right now, convicted prisoners who are serving prison sentences do not get to vote, and I do not consider that there is a good argument for changing the position for the referendum.

"People who do not commit crimes and do not get sent to jail will have the right to vote. That is a pretty simple principle."³³

54. The majority view in the Committee is to support the Scottish Government's position, namely that all convicted prisoners should be ineligible to vote in the referendum.³⁴

55. The Committee notes that remand prisoners, together with a small number of civil prisoners and people imprisoned for defaulting on a fine, will still be entitled to vote, and seeks assurances from the Scottish Government that the Scottish Prison Service is fully prepared to put procedures in place to ensure that these prisoners are able to register, to receive all relevant information about the referendum, and to exercise their right to vote.

Service personnel etc.

56. The Explanatory Notes explain how schedule 1 to the Bill applies, with some modifications, existing provisions in the 1983 Act on "service declarations". These are a means for members of the armed forces (plus some Crown servants and employees of the British Council) and their spouses or civil partners to register to vote while posted overseas, and so unable to meet the normal residency requirements.

57. The Deputy First Minister recognised that there had been considerable interest in the issue of the rights of Scottish service personnel to vote in the referendum,

³¹ The Howard League for Penal Reform and others, written submission.

³² Quakers Scotland, written submission; Church of Scotland (Church and Society Council), written submission.

³³ Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, col 313.

³⁴ Patrick Harvie and Tavish Scott dissented from this conclusion. See also Annexe B.

but said that some of the media reporting had been inaccurate. In particular, she said that there was no need for special arrangements to be made—

“The arrangements that are in place for the referendum will be the same as the arrangements that are already in place to allow service personnel to vote in elections to this Parliament. Service personnel who have lived in Scotland but are currently serving overseas or elsewhere in the United Kingdom will have the opportunity to register for and vote in the referendum, and EROs will be responsible for determining applications from service voters to register to vote, as they do for all voters.”³⁵

58. She went on to explain in more detail the three options available for service personnel to register – as an ordinary voter, if they can register at an address in Scotland; as a service voter, using a UK address that is either where they or their partner currently lives, where they would live if not serving in the forces, or where they last lived before taking up their post; or as an overseas voter. Around two-thirds of service personnel who register do so as ordinary voters, and around a third as service voters. Only about 1% register as overseas voters and only they would not be able to vote in the referendum (in common with other overseas voters).³⁶

59. Andrew Scallan of the Electoral Commission agreed that this range of options was comprehensive, but pointed out that it “is not available to all service personnel all of the time”³⁷ – their ability to register depended on their particular circumstances and that it was for EROs “to make a determination based on the information provided”³⁸. John McCormick added that the Commission was co-operating with the Ministry of Defence to provide information on the registration options for service personnel, and on other matters.³⁹

60. Ken Macdonald, from the Information Commissioner’s Office, drew attention to a possible gap in relation to the children of service personnel. He noted that spouses and partners of service personnel living outside Scotland could make a service declaration, but that similar provision was not made for any of their children still living with them, who would “therefore be disenfranchised”.⁴⁰ The Committee notes that this is the case at present.

61. The Committee notes the clear and unambiguous evidence given by the Deputy First Minister on the eligibility of service personnel (as outlined above in paragraphs 57 and 58), which she summarised as follows—

³⁵ Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, cols 303-4.

³⁶ Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, col 311.

³⁷ Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 277.

³⁸ Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 278.

³⁹ Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 278.

⁴⁰ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, cols 254.

“If somebody in the armed forces is eligible to vote in elections for the Scottish Parliament, they will be eligible to vote in the referendum. That is, with the exception of 16 and 17-year olds, the same as for everybody else.”⁴¹

62. On this basis, the Committee is content with the proposed franchise, as provided for in the Bill, in respect of service personnel. What matters now is that there is effective joint working between the Electoral Commission, EROs and the Ministry of Defence in order to provide information to these personnel about the registration options available to them.

63. The Committee urges the Scottish Government, in discussion with the UK Government, to explore all possible options for enabling young people to vote if they are of voting age and are only resident outside Scotland because the family has moved to be with a parent serving in the armed forces, and to report on this prior to the beginning of Stage 2.

ELECTORAL REGISTRATION

The annual canvass and rolling registration

64. The Scottish Assessors Association explained to the Committee how the process of electoral registration works. Brian Byrne said that the normal process is to have an annual household canvass that starts around September and finishes by 1 December. Joan Hewton added that the timings vary across local authority area depending on geographical factors, with EROs in rural areas starting earlier, sometimes in August, because they have greater distances to cover. For all areas, the household canvass “must be concluded and the register printed by 1 December”.⁴²

65. In addition, there is a process of “rolling registration” which allows individuals to add their names at any time, with the register then updated each month.

66. Brian Byrne said that the level of completeness of the register at any time fluctuated, but the percentage of the eligible population included was “in the 90s”. He added that the accuracy of the register was “a slightly different question”, as some people who were on the register might have moved since their details were last updated. Electoral Commission research had suggested that the register loses about 1% accuracy each time it is updated, but catches up again at the annual canvass.⁴³

67. The Deputy First Minister said that it was a decision for EROs in each local authority to decide when the annual canvass should start, but she expected it be “on or around 1 October in all parts of Scotland”. She said that having such a consistent start-date was generally desirable but doubted whether it would

⁴¹ Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, col 311.

⁴² Scottish Parliament Referendum (Scotland) Bill Committee, 31 January 2013, Official Report, cols 137.

⁴³ Scottish Parliament Referendum (Scotland) Bill Committee, Official Report, 31 January 2013, col 139. See also written correction by Brian Byrne, available at: <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/55800.aspx>.

make much difference if some parts of the country started a few days or even weeks on either side. However, she did not envisage imposing any start-date in legislation, as that would represent a departure from the normal voter registration process that the Scottish Government was generally trying to mirror for the referendum.⁴⁴

68. The Committee agrees that wide discrepancies in the start-date are undesirable, and that local variations should be measured at most in days or perhaps weeks, but not months. The Committee is also content for an appropriate degree of national co-ordination to be achieved through existing mechanisms, without the need for any statutory imposition.

69. Towards the end of its inquiry, the Committee was made aware that the 2013 canvass has now been postponed by the UK Government.⁴⁵ The deadline for publication of the revised register is now to be 10 March 2014 in Scotland, rather than 1 December 2013, and the start-date for canvass activity (including the distribution of canvass forms) is to be 1 October 2013 across Great Britain. The Committee understands this latter date will not prevent EROs from preparing for the canvass in advance – for example by arranging printing and checking information sources.

Individual electoral registration

70. A significant complicating factor is the introduction of individual electoral registration (IER) throughout Great Britain, following the enactment in January, by the UK Parliament, of the Electoral Registration and Administration Act 2013.

71. Under IER, the current household canvass will be replaced by a requirement on each eligible individual to register. The original intention was for the transition to the new system to begin after the June 2014 European Parliament elections, either in July or September 2014.

72. When the Committee took pre-Stage 1 evidence on the Bill, it explored in detail with the Scottish Assessors Association the implications of preparing for a referendum then thought likely to take place in October 2014, while at the same time overseeing a transition to IER. Brian Byrne described this as “a colossal amount of work”, warning that it also had “the potential to confuse some of the electors”. He felt that it would be preferable if the implementation of IER in Scotland could be delayed until after the referendum, adding that that “might depend on a relatively early date for the referendum”.⁴⁶

73. By the time the Committee took evidence from the Deputy First Minister, it had become clear from the First Minister’s announcement the previous week that the referendum date would indeed be relatively early. She said that both governments had made it clear that they wanted “to ensure that the timescales

⁴⁴ Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, cols 305-6.

⁴⁵ Source: The Electoral Registration (Postponement of 2013 Annual Canvass) Order 2013 (SI 2013/794).

⁴⁶ Scottish Parliament Referendum (Scotland) Bill Committee, 31 January 2013, Official Report, col 143.

of the two processes are compatible and that we minimise any adverse impact on the referendum, electors or electoral registration officers”. She was then able to tell us that the Cabinet Office had confirmed a few days earlier that transition to IER in Scotland “will not start until after the referendum – it will begin on or around 1 October 2014, to avoid unhelpful interaction with the referendum”.⁴⁷

74. The Committee understands that it will require the making of a statutory instrument under the 2013 Act by the UK Government to bring about the postponement of IER in Scotland. The Committee very much welcomes the agreement that has been reached to make this change, and looks forward to receiving confirmation in due course that it has been delivered.

REGISTER OF YOUNG VOTERS (RYV)

75. The Bill provides for a separate register of young voters (RYV) to be created to capture details of those young people who will be 16 or 17 at the time of the referendum, but who may only be 15 at the time they register.

Method of registration

76. The Policy Memorandum (paragraph 21) states that the registration of young people will mirror the arrangements for registration on the local government register. It anticipates that the majority of young people will register through completion of the young voter registration form (as set out in schedule 2 to the Bill) that will be distributed alongside the annual household canvass form, but will also be able to register on a “rolling” basis until 11 working days before the referendum.

77. The Deputy First Minister explained the thinking behind the Government’s approach—

“Co-ordinating with the existing process in that way rather than trying to run a separate registration process will ensure that the whole process is as simple as possible for the voter while keeping administrative costs to a minimum.”⁴⁸

78. Andrew Deans MSYP, however, questioned whether the Scottish Government had the balance right, as its “mindset” seemed to be that the household canvass was the preferred option, and that “rolling registration would be used a secondary, mop-up method”⁴⁹. One of the problems with this was that—

“attainers are often missed out on the household canvass when it comes to electoral registration; sometimes parents do not realise that they can put

⁴⁷ Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, col 304.

⁴⁸ Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, col 303.

⁴⁹ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 238.

them on the register and often young people do not know that the process is happening.”⁵⁰

79. He wanted to see more emphasis on rolling registration, and both he and Emily Shaw MSYP wanted to see the forms distributed in schools, youth clubs and other venues.⁵¹ Robin Parker of NUS Scotland agreed, saying that although the experience of student associations so far had been mixed, EROs needed to be “encouraged and given support to hold rolling registration events in schools, colleges and universities”.⁵² David McNeill from Young Scot was keen to explore an online means of enabling young people “to register themselves, rather than leaving it up to someone in their household”.⁵³

80. Andrew Deans MSYP was also concerned about the form itself, which relied mainly on references to age to explain who was eligible to register, rather than date of birth. He felt this was “quite confusing; indeed, when the proposals first came out, we had to look through them a number of times to get straight in our heads just who is supposed to be registered where.” He felt that referring instead to those born between specified dates would “make things as clear as possible for parents who are filling in the household canvass”.⁵⁴

81. The Scottish Assessors Association explained how EROs would use school records, to which they had good access, as a basis for getting young people’s details onto the register. Joan Hewton said that “one key way of getting the information would be to approach schools with a view to trying to get the school pupils to register, probably at the schools, although they would be registered at their home address”.⁵⁵

82. She also explained that schools could provide pupils’ names and addresses, which would enable EROs to send out forms to the relevant households with the pupils’ names already included. One advantage of this was that “if we send out a form that is prepopulated with the name, we are more likely to get it back than if we send out a blank form”.⁵⁶ In addition, as Brian Byrne pointed out, it would enable EROs to take a more targeted approach to identifying those households that include young people of the relevant ages “rather than using blanket

⁵⁰ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 238.

⁵¹ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, cols 230.

⁵² Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 239.

⁵³ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 236.

⁵⁴ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, cols 239.

⁵⁵ Scottish Parliament Referendum (Scotland) Bill Committee, 31 January 2013, Official Report, cols 138-9.

⁵⁶ Scottish Parliament Referendum (Scotland) Bill Committee, 31 January 2013, Official Report, col 144.

coverage and reaching every house in order to get to something like 45,000 people out of 4 million electors".⁵⁷

83. The Committee is generally content with the arrangements for creating and maintaining a separate Register of Young Voters (RYV) and agrees that both the household canvass and rolling registration should be used to encourage young people to register.

Protection of young persons' data

84. Access to the RYV is to be strictly limited. However, the list of names it contains will be merged with the main electoral register, in advance of the referendum, to create a single polling list which will be available to the lead campaigns (designated organisations), but will not include dates of birth or other information that would enable younger voters to be identified. In this way, the Scottish Government aims to balance access for campaigners to information about voters with the need to provide additional protection for young people.

85. This approach was generally supported by witnesses. Brian Byrne endorsed the ideas behind it, including preventing access to information on young people for credit reference or to people buying the register, and limiting access to the register to those directly involved in the referendum. Kate Crawford, from the Association of Electoral Administrators, said that EROs were used to handling sensitive material and had safeguards in place. Bruce Robertson, for the Association of Directors of Education in Scotland, said that child protection was "paramount across education and children's services" and wanted "absolute clarity on the use of the data once it is sourced and ... to ensure that that data is used for the purpose for which it is required".⁵⁸

86. The Scottish Youth Parliament welcomed the additional safeguards contained in the Bill to ensure that the personal data of young people was protected.⁵⁹ The Electoral Commission raised some concerns in written evidence, but confirmed in oral evidence that most of them related to the rules on access to the merged register, which are contained in the main Referendum Bill.⁶⁰

Lessons from the Crown dependencies

87. The Committee took evidence from the Crown dependencies on whether data protection concerns had arisen when their electoral registers included young people for the first time. Michael de la Haye, Greffier of the States of Jersey, said this had not been a problem in Jersey, suggesting this was probably because "we have no system of selling or allowing our register to be used for other purposes; it is purely an electoral roll". Jersey had resisted pressure from

⁵⁷ Scottish Parliament Referendum (Scotland) Bill Committee, 31 January 2013, Official Report, cols 139.

⁵⁸ Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 283.

⁵⁹ Scottish Youth Parliament, Written Submission.

⁶⁰ Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 279.

credit rating agencies to have access to the register on the same basis as in the UK.⁶¹

88. Similarly, Paul Whitfield (Deputy Registrar General) said that data protection was “not seen to be a problem” in Guernsey because, as in Jersey, “date of birth is not recorded on the electoral roll”, and the roll was not used for any other purpose.⁶² In the Isle of Man, according to Stephen Carse (Registration Officer, Isle of Man Government), concerns were noted during the passage of the legislation, but no separate young voters register was created. He added that, for data protection reasons, no access was given to school rolls or other Government records to assist with data matching.⁶³

Retention of data from RYV

89. On a separate but related data protection point, the Electoral Commission pointed out the impact of the “sunset clause” in section 14 of the Bill, which provides for the legislation to be repealed on 1 January 2015. This would not only end the obligation on EROs to maintain the RYV, but would also require the register to be destroyed – since, as Andrew Scallan explained, “data protection rules require organisations not to have information that they no longer need”. However, information from the RYV could be useful in helping to populate the normal electoral register with information about attainers – and there was “potentially a dilemma in there being information that could help in compiling the normal register but the law saying that the information is no longer needed after the referendum”.⁶⁴

90. Picking up the Electoral Commission’s point, Brian Byrne said—

“Generally, such information should certainly be destroyed if there is no other use for it. However, everyone on the register will be over 16 by then and it would be good information to use for individual registration, to avoid having to send all the people on it an application form to join the full register.”⁶⁵

91. He had suggested to the Cabinet Office that the RYV could be used to match data with that provided by the Department of Work and Pensions. But he recognised that child protection issues could prevent this, and that a change in the legislation would be needed to enable the register to be used in this way.

92. The Committee can see the rationale for retaining the RYV, rather than destroying it, so that the information it contains can be used to get attainers onto the local government register for subsequent elections. However, we recognise that this may raise certain issues concerning data protection. We

⁶¹ Scottish Parliament Referendum (Scotland) Bill Committee, 7 February 2013, Official Report, col 174.

⁶² Scottish Parliament Referendum (Scotland) Bill Committee, 7 February 2013, Official Report, col 180.

⁶³ Scottish Parliament Referendum (Scotland) Bill Committee, 21 February 2013, Official Report, col 195.

⁶⁴ Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 280.

⁶⁵ Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 284.

would encourage the Scottish Government to consider further with electoral professionals whether there is a satisfactory way of squaring the circle.

Vulnerable young people

93. A particular issue raised in evidence concerned the need for additional protection for vulnerable young people, including those subject to a non-disclosure order. Provision is made in the Bill for such young people either to be entered anonymously on the register, or to be registered at an address other than where they reside by making a “declaration of local connection” to (for example) an address from which they have been removed for their own safety.
94. Scotland’s Commissioner for Children and Young People, Tam Baillie, endorsed the idea of a separate register for young voters but questioned whether “the provisions or the criteria for anonymity take account of children who may be in care establishments or foster placements”.⁶⁶
95. Ken Macdonald from the Information Commissioner’s Office welcomed what he said had been “significant changes” since the draft bill but shared Tam Baillie’s concerns about anonymous registration which was, he said, “limited by particular restrictions in the Representation of the People Act 1983”.⁶⁷ He suggested it should be compulsory where a non-disclosure order was in force because of the risk the order could be accidentally breached.⁶⁸ He also wanted to see clearer information on the canvass form about the options of anonymous registration or use of a declaration of local connection.⁶⁹
96. Donald Urquhart, Chair of the Scottish Child Protection Committee Chairs Forum, told the Committee that Forum members were generally satisfied with the arrangements to allow vulnerable young people to register and vote without disclosing their address, and to afford sufficient protection to those subject to a non-disclosure order or who are vulnerable more generally. However, he too called for additional information about these options to be included in the canvass form, and asked for clarity about the information that would be provided to local authorities, social workers and other support staff.⁷⁰
97. On this last point, Andy O’Neill admitted the Electoral Commission had not so far given much attention to the particular needs of young people in care, but referred to previous work it had done in relation to older people in care and said it could do something similar, distributing guidance via councils and other

⁶⁶ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 246.

⁶⁷ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 247.

⁶⁸ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 247.

⁶⁹ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 248.

⁷⁰ Letter from Donald Urquhart, the Chair of the Scottish Child Protection Committee Chairs Forum to the Convener of the Referendum (Scotland) Bill Committee, 27 March 2013.

agencies. “We may have to work with various partners that we have never worked with before, but we could do that”.⁷¹

98. The Deputy First Minister promised to reflect on the points that had been raised and, although she felt they were more about improving guidance than the legislation, she promised to consider amendments to the Bill if they would provide additional clarity.⁷²

99. The Committee acknowledges the dialogue that the Scottish Government has had with child protection specialists, and the improvements made to the Bill since the consultation draft. We welcome the Scottish Government’s commitment to considering the concerns raised by witnesses, and particularly draw attention to the suggestion about including information in the canvass form about the right to register anonymously or using a declaration of local connection.

Commencement of right to apply to RYV

100. Section 13 of the Bill explicitly prevents any application for registration in the RYV being made before 1 December 2013. Brian Byrne of the Scottish Assessors Association said that “as we are likely to want to start canvassing on 1 October, that leaves a bit of a gap, which is an issue”.⁷³

101. Stephen Sadler, speaking for the Scottish Government, said that the 1 December date had been set out before the referendum date was known and before the Government was aware from discussions with EROs that they hoped to start the canvass around 1 October. He added, “We intend to amend that date”.⁷⁴

102. The Committee welcomes the Scottish Government’s commitment to bring forward the date on which applications to the RYV can be made, so as to tie in with when EROs anticipate beginning work on the annual canvass process.

Canvass form

103. Schedule 2 to the Bill contains the form to be used in the household canvass to enable young people to be registered on the RYV. It is being subject to independent testing by the Scottish Government.

104. As already noted, the Committee heard various suggestions about possible improvements to the form, particularly making greater use of dates of birth rather than age, and including guidance on the right to register anonymously or via a declaration of local connection.

⁷¹ Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 271.

⁷² Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, cols 308-9.

⁷³ Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 293.

⁷⁴ Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, cols 307-8.

105. Another suggestion was for use of a different coloured paper to distinguish the RYV form from the main household canvass form – something that the Electoral Commission thought might help and suggested could be made part of the testing process.⁷⁵ The Deputy First Minister was also receptive to the idea, noting that it could also help people with visual impairments. She was confident that the testing would be completed in good time, so that the Government would be able “to make any necessary amendments to the form before we get to Stage 2.”⁷⁶
106. The Committee is encouraged by what it has heard about the independent testing process and the Government’s willingness to consider suggestions from other sources. We expect the Scottish Government to keep us informed about the outcome of that process, and whether it expects to propose amendments as a result.
107. The Committee understands that applications for registration outwith the canvass period are not on a prescribed form but should meet the requirement of regulation 26 of the 2001 Regulations. The Committee would therefore ask the Scottish Government whether advice will be given to EROs on the form that should be used for an application by a young voter to be registered outwith the canvass period, and to explain what information is to be supplied with such a form to ensure that this is consistent with information given at the time of the annual canvass.

RAISING AWARENESS

108. As part of its wider scrutiny of the issues raised by the Bill, the Committee has taken considerable evidence on how voters, particularly young voters enfranchised for the first time, can be given the information they need about registering for and voting in the referendum.
109. The Committee is conscious that there is an overlap here between the Franchise Bill and the Referendum Bill, and that its forthcoming scrutiny of that Bill will provide a further opportunity to consider the points outlined below.
110. The Electoral Commission, which has the principal responsibility in this area, said that it refreshed its approach each time to reflect the particular circumstances – which included, in this instance, the unique challenge of engaging with younger voters. Andy O’Neill said that its main objective for the referendum was—
- “to ensure that everyone who can register is registered and that all electors understand the date of the poll and to provide information on postal and proxy voting and how to complete the ballot paper”.
111. The Commission’s awareness campaign would be based around a leaflet or booklet, to be distributed to every household, which would be extensively tested

⁷⁵ Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 272.

⁷⁶ Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, cols 310, 322.

“to ensure it is clear and impartial and covers all the necessary topics”. Use would also be made of “television, radio, paid-for newspaper advertisements, posters and online activity”.⁷⁷

112. Mr O’Neill said that the Commission regarded ensuring that all 15 to 17-year olds were registered as its “main challenge”. It was only starting to think about how to do this, but had no concerns about the timescale involved. It had started talking to the Association of Directors of Education in Scotland and made contact with Education Scotland; in the past it had worked with NUS Scotland, the Scottish Youth Parliament and Young Scot, among others. John McCormick added that the Commission had “a very well-established relationship with the communications network of specialists in each of the local authorities and, in partnership with the Electoral Management Board for Scotland and the communications network, we target specific events for the local population.”⁷⁸

113. Questioned on the Commission’s expertise in social media, Mr McCormick insisted that it had the necessary resource already, including “a highly experienced website team” with a track record of successful animations. Andy O’Neill added that it was engaging a social media agency to advise it, and referred to the “Ballot box man” video it had previously produced and which was available online.

114. In its written evidence, NUS Scotland called for “comprehensive efforts” to be made to educate young people and “ensure they have the information and tools needed to take part in this historic vote”.⁷⁹ In oral evidence, Robin Parker also suggested that “some kind of organisation, coalition or unit ... be set up that can deliver awareness raising independently”.⁸⁰

115. Young people also stressed the need for joint working, innovation and impartiality. Andrew Deans MSYP said that awareness raising was “definitely necessary”, adding that both campaign organisations and the Scottish Government “have a role in ensuring that clear, accessible and plain English information goes out to young people”. Engaging with young people not in education, including those with jobs or apprenticeships, would be more challenging and require more effort and thought.⁸¹

116. David McNeill said that Young Scot had direct communication channels with half a million young people, representing around 80% of those who will be 16 or 17 at the time of the referendum, and would use those channels to encourage young people to register for the referendum and to vote.⁸² Young Scot could

⁷⁷ Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, cols 264-5.

⁷⁸ Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, cols 265, 269.

⁷⁹ National Union of Students Scotland, written evidence.

⁸⁰ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 229.

⁸¹ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, cols 227, 244.

⁸² Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 229.

consider producing an app with information about registration – an idea that was supported enthusiastically by Emily Shaw MSYP.⁸³

Lessons from the Crown dependencies

117. Speaking to us from Jersey, Michael de la Haye acknowledged that more could have been done in 2008, when under-18s were able to vote in island elections for the first time, to raise awareness. He said that more effort was made in 2011, in a campaign that used social media, including Facebook and Twitter, a website and media advertising. A humorous and irreverent YouTube video was commissioned, encouraging people to register and vote. Mr de la Haye had no empirical evidence on turnout among young voters, but said that there was “robust anecdotal data” suggesting that it was only around 10%. However, he said this could still be regarded as a success for the policy, and in any case young people in Scotland faced a simple and clear choice in the referendum, and so were unlikely to have “the difficulty that people have in Jersey in choosing ... from a long list of 50 and 60-year olds ... when they do not know what those people stand for”.⁸⁴

118. The experience in Guernsey was in some ways similar – the change in the law was made shortly before an election in 2008, leaving little time for preparation. Unlike in Jersey, however, the campaign of awareness raising had been – in Paul Whitfield’s view – very successful, with more than half the young people eligible to register doing so. He attributed this to election officials visiting all high schools and colleges to give presentations on the history of voting, why it was important and on the process involved, and on the use of Facebook to promote registration and a website to engage people in the awareness campaign.⁸⁵

119. In the Isle of Man, also, there was only limited time between the voting age being reduced and the first Tynwald elections using the new franchise, held in 2006. As a result, according to Stephen Carse, only around 34% of young people registered. More was done for the 2011 elections, with information sessions at a youth café, and the production of a film by a local college which was shown in all secondary schools, posted on YouTube and local websites, and advertised via Twitter. There was also more engagement with the press and coverage on radio. As a result, registration of young people went up to 60%, although the proportion of those who voted actually declined slightly from around 58% in 2006 to 54% in 2011.⁸⁶

Implications for turnout

120. NUS Scotland pointed to the evidence from Guernsey as demonstrating how “with adequate resources and innovative methods, high turnout [of 16 and 17-

⁸³ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, cols 236, 238.

⁸⁴ Scottish Parliament Referendum (Scotland) Bill Committee, 7 February 2013, Official Report, cols 170-1.

⁸⁵ Scottish Parliament Referendum (Scotland) Bill Committee, 7 February 2013, Official Report, cols 180-1.

⁸⁶ Scottish Parliament Referendum (Scotland) Bill Committee, 21 February 2013, Official Report, cols 196-7.

year olds] can be achieved”.⁸⁷ Similarly, David McNeill of Young Scot pointed to experience with Scottish Youth Parliament elections, where levels of participation ranged from less than 5% to 90%, depending on the ability of local authorities and schools to create a “buzz” about the election and the importance of voting.⁸⁸

121. Robin Parker of NUS Scotland anticipated a very high turnout, and said it was important that EROs had enough resources and that there were enough polling stations – including in community locations and in universities and colleges.⁸⁹

122. Mr Parker was receptive to the idea of setting an aspirational target of 50% turnout among young voters. However, Emily Shaw MSYP was less convinced, saying that having the right to vote at 16 was the real success, regardless of how many took this up – “we should not measure the success of the referendum on how many 16 and 17-year olds we get to turn out”.⁹⁰

123. The Deputy First Minister was not complacent about turnout, but said—

“My anecdotal experience from speaking to people about the referendum leads me to think that there will be a high turnout and that it will span all age groups.”⁹¹

Information in schools

124. The Electoral Reform Society suggested that the Electoral Commission and EROs be “encouraged to undertake innovative approaches to ensuring as high a registration as possible of 16 and 17-year olds”. This could include registration through schools, as already happens in Northern Ireland. As well as promoting awareness among young people of their right to vote, this “could include the possibility for them to formally debate the issues amongst their peers.” Safeguards would be needed that this sort of citizenship education was not partisan, but ERS was confident that modern studies teachers and other professionals could incorporate this into their teaching – adding that “timidity” about using the referendum to “encourage young people’s consideration of governance, citizenship and democracy ... would be a missed opportunity”.⁹²

125. According to Robin Parker, clear guidance to schools was needed so that young people could question those involved in campaigning in an appropriate way, but he did not support an “open-door” policy. He was also keen on

⁸⁷ National Union of Students Scotland, written evidence.

⁸⁸ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 233.

⁸⁹ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 230.

⁹⁰ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 233.

⁹¹ Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, col 321.

⁹² Electoral Reform Society, written evidence.

promoting a “peer-led” approach, in which young people would take the lead in educating each other on the issues.⁹³

126. Witnesses were united on the importance of impartiality in the information provided through schools. Gordon Blair wanted to see “a robust framework” within which local authorities, including education services “can engage pupils in a neutral way”.⁹⁴

127. Robin Parker suggested “a registration information campaign that could produce teaching materials on a range of issues and areas of study specifically for the independence referendum” – but such a campaign would need to be completely independent.⁹⁵

128. Tam Baillie, Scotland’s Commissioner for Children and Young People, said the aim should be to “raise awareness of the process and the right to vote – that is quite different from the political debate”. He expected many schools and colleges would hold mock referendums – which, to him, fitted perfectly with many of the themes of the curriculum for excellence. Overall, he saw the referendum as “democracy in action” and a “great opportunity” to engage young people, though he recognised the need to be careful about “politicisation”.⁹⁶

129. Evidence from the Crown dependencies pointed up similar issues. In Jersey, the education ministry decided in 2008 not to allow any candidates into schools, but in 2011 did allow schools to organise youth hustings involving all the local candidates. In Guernsey, individual candidates were allowed to visit schools, but only to talk about the process and not to promote their own candidacy. Similarly, Stephen Carse said that election officials in the Isle of Man were able to facilitate events in schools that involved individual candidates so long as it was to encourage registration or participation.⁹⁷

130. Kate Crawford from the Association of Electoral Administrators explained some of the work that she had been involved in as an ERO in Renfrewshire, which included workshops in schools about the voting process, mock elections and exercises in which pupils are given a budget to spend on a local project with the aim of winning a prize. After going through this process, 83% of pupils registered to vote, and about 70% said they were more likely to vote as a result.⁹⁸

⁹³ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 229.

⁹⁴ Scottish Parliament Referendum (Scotland) Bill Committee, 21 February 2013, Official Report, cols 206-8.

⁹⁵ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 234.

⁹⁶ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, cols 250-1.

⁹⁷ Scottish Parliament Referendum (Scotland) Bill Committee, 7 February 2013, Official Report, cols 175, 182; Scottish Parliament Referendum (Scotland) Bill Committee, 21 February 2013, Official Report, col 198-9.

⁹⁸ Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, cols 288-9.

131. Both the MSYPs that we heard from felt that the availability and quality of modern studies and political and social education (PSE) was variable across the country. Andrew Deans MSYP felt that the referendum provided an opportunity to see how it could be improved.⁹⁹ Kate Crawford agreed that “work is needed with all pupils, not just those who take modern studies”, and suggested that EROs could “hijack the PSE period and use it to get the message out to as many pupils as possible”.¹⁰⁰
132. Emily Shaw MSYP acknowledged that there was a balance to be struck between providing information in schools and the need to ensure people were able to concentrate on their studies, but felt that the referendum was a “once-in-a-lifetime opportunity for young people to have their say on the future of Scotland”.¹⁰¹ Robin Parker (NUS Scotland) went further, seeing a “strong synthesis” between a campaign of awareness raising in schools and the purpose of education, which he described as “setting people up to be successful citizens”.¹⁰² Bruce Robertson, from the Association of Directors of Education in Scotland, said that information about the referendum would be provided at times when pupils are already expected to focus on matters other than qualifications, although it would have “spin-offs” into other areas. He described this as “the happy balance that we need to strike”.¹⁰³
133. More generally, Mr Robertson wanted to encourage young people, wherever they lived, to understand the process and engage in the debate. This required national agencies to “work to the same set of standards and approaches, so that there are no mixed messages”. This should not depend on the attitude of individual headteachers – “we need to establish clear guidance, so that young people, parents, carers and educators understand the rules of engagement”. He also recognised a need to engage with young people themselves, and felt that YouthLink Scotland could play an important co-ordinating role.¹⁰⁴

Duties to promote registration and participation

134. A particular issue was whether further clarification was needed in the Bill about the role of bodies other than the Electoral Commission to promote registration and participation in the referendum. NUS Scotland suggested that the existing duty on the Society of Local Authority Lawyers and Administrators in Scotland (SOLAR) to promote elections should be extended to cover the referendum as well. Gordon Blair, representing SOLAR, said that clarity was

⁹⁹ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, cols 230.

¹⁰⁰ Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 291.

¹⁰¹ Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 231.

¹⁰² Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 231.

¹⁰³ Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 292.

¹⁰⁴ Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, cols 290, 293.

needed in the legislation over the powers of local officials, as well as the Electoral Commission, to encourage participation in the referendum.¹⁰⁵

135. The Deputy First Minister promised to consider the evidence, including that from NUS, but said that her strong view was that the provisions already in the Bill were sufficient. She pointed out that the Electoral Commission would “have a statutory responsibility to raise awareness and understanding of the voter registration process” and would “need to work with a range of organisations, including local authorities and schools, to ensure that they do what is required of them”. She did not see awareness raising in schools as a distraction for pupils, but rather as something that would be “good for their development and for how informed they are as citizens”, adding that it was “ultimately for headteachers and education authorities to determine what happens in schools”.¹⁰⁶

Conclusions

136. **The Committee agrees with witnesses that the key points about awareness-raising are the need for a coordinated approach, based on clear guidance, that maintains political impartiality.** The Electoral Commission has a central role to play in this process, working collaboratively with many other organisations.

137. The Committee is not persuaded that bodies other than the Electoral Commission need a duty in law to encourage participation. However, we would expect the Commission to develop, in good time, a detailed delivery plan to promote effective joint working, to clarify what it expects from others, and to ensure an appropriate degree of consistency across Scotland.

138. In terms of raising awareness among younger voters in schools, the Committee is confident that those involved at local level, including EROs and teachers, already understand what is required, and are experienced in engaging young people in issues of citizenship in an appropriate and non-partisan way that complements rather than competes with the rest of their education.

OTHER ISSUES

Equal opportunities

139. The Committee has noted above how using a different coloured canvass form for the register of young voters could assist those with a visual impairment. On a similar theme, the National Deaf Children’s Society (NDCS), in written evidence, drew attention to the particular needs of young people with hearing loss, and the barriers they often face in engaging and participating in society. The Society said that communication methods needed to take account both of the range of needs that young deaf people had, and their various methods of communication (including British Sign Language). As their literacy levels were generally lower, the Society said it was important “to make any messaging

¹⁰⁵ Scottish Parliament Referendum (Scotland) Bill Committee, 21 February 2013, Official Report, cols 206, 208.

¹⁰⁶ Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, cols 306-7, 321.

accessible, without being patronising, and to communicate information clearly and simply.”¹⁰⁷

140. The Electoral Commission confirmed that it would make sure the language it used in any material it produced was tested for its suitability for all sections of society – including, in this instance, those in the 15-17 age-group. It also confirmed its materials would be available in Gaelic, and in minority ethnic languages, as well as in English.¹⁰⁸ The Deputy First Minister made a similar commitment, saying “We will certainly take great care – in language provision and in the way we present the material – to make it as accessible as possible to everybody who has the right to vote in the referendum.”¹⁰⁹

141. The Committee welcomes these assurances, and looks forward to seeing information provided in a wide range of languages and formats, using simple and accessible language as far as possible.

Financial issues

142. As already noted, a number of witnesses have drawn attention to the importance of ensuring that awareness-raising is sufficiently well resourced.

143. The Electoral Commission confirmed that it had a budget of £1.8 million for advertising, including on TV and radio, online, and via printed material, and that it was satisfied overall that it would have sufficient resources.¹¹⁰ The Deputy First Minister said that she was also satisfied that the Commission would have the funding it required.¹¹¹

144. The Finance Committee took oral evidence on the Bill's Financial Memorandum from Scottish Government officials on 20 March 2013. It had no particular comment to make, but wrote to the Committee directing it to the *Official Report* of its meeting.

145. The Committee notes the evidence given to the Finance Committee and considers itself satisfied with the information provided in the Financial Memorandum.

Delegated powers

146. The only provision in the Bill that includes a delegated power is section 11, which allows Ministers, by order, to make “such supplementary, incidental or consequential provision as they consider appropriate for the purposes of, in consequence of, or for giving full effect to, any provision of this Act”. That includes the power to modify any enactment, including the Bill itself, and so is

¹⁰⁷ National Deaf Children's Society (NDCS), written evidence.

¹⁰⁸ Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 276.

¹⁰⁹ Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, col 318.

¹¹⁰ Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, cols 270-1.

¹¹¹ Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, col 322.

what is sometimes referred to as a “Henry VIII” power. Orders made under the section are subject to the affirmative procedure.

147. In the Delegated Powers Memorandum, the Scottish Government says that it “has no specific intention” to use this power, but has included it “to provide the flexibility to make any necessary adjustments” to the relevant legislation – adding that—

“It is important that this can be done swiftly, if needed, as EROs will need to begin to implement the matters covered by the Bill shortly after its enactment.”

148. The Subordinate Legislation Committee, in its report on the Bill, concluded that—

“While the powers have considerable scope, the Committee considers that it is sensible to be able to make any necessary modifications to ensure the Bill operates effectively together with the referendum Bill. It will also be necessary to take into account any changes to the provisions concerning the electoral register on which part of the franchise is to be based. Accordingly, the Committee considers that the power is acceptable in principle.”

149. This Committee, too, has considered section 11 carefully, noting that Henry VIII provisions are relatively unusual and should require particular justification. While we recognise that the scope of the section 11 power is wide, we note that it can only be used for purposes directly connected with the relatively narrow provisions of this Bill, and only for a limited period. We also note that any exercise of the power would require the specific approval of the Parliament. On this basis, and in view of the importance of ensuring that any unforeseen legislative obstacles to the holding of the referendum in the manner intended can be quickly resolved, the Committee is content with the drafting of section 11.

GENERAL PRINCIPLES OF THE BILL

150. Although the Committee has noted particular issues and concerns in the course of this report, it is generally content that the Bill delivers an appropriate franchise for the referendum, and the means to ensure that all those entitled to vote are able to register accordingly. **The Committee therefore recommends to the Parliament that the general principles of the Scottish Independence Referendum (Franchise) Bill be agreed to.**¹¹²

¹¹² Annabel Goldie dissented from this conclusion on the basis that she does not support the extension of the franchise for the referendum to 16 and 17-year olds.

ANNEXE A: REPORTS FROM OTHER COMMITTEES

Subordinate Legislation Committee

19th Report, 2014 (Session 4)

INTRODUCTION

1. At its meeting on 19 March 2013, the Subordinate Legislation Committee considered the delegated powers provision in the Scottish Independence Referendum (Franchise) Bill (“the Bill”) at Stage 1. The Committee submits this report to the Referendum (Scotland) Bill Committee as lead committee for the Bill under Rule 9.6.2 of Standing Orders.

OVERVIEW OF THE BILL

2. The Scottish Independence Referendum (Franchise) Bill is a Scottish Government Bill which was introduced to Parliament on 11 March 2013.

3. The Bill is the first of two Bills which will provide for a referendum to be held on the independence of Scotland from the rest of the United Kingdom. This Bill provides the rules for who will be entitled to vote in an independence referendum. The second Bill will provide for the holding of an independence referendum.

4. Section 2 of the Bill provides that a person is entitled to vote in an independence referendum if the person is:

- aged 16 or over;
- registered in either
 - the register of local government electors for any area in Scotland or
 - the register of young voters which the Bill establishes under section 4;
- not subject to any legal incapacity to vote (other than on account of their age); and
- a citizen of the Commonwealth, the Republic of Ireland (RoI) or a citizen of the European Union (other than a Commonwealth or RoI citizen).

5. Section 3 provides that convicted persons who are detained in prison (or who are unlawfully at large when they should be detained) are not entitled to vote.

6. The remaining provisions of the Bill provide for the preparation and maintenance of a register of young voters (RYV). The RYV will contain the names of those persons who are too young to be registered in the register of local government electors but who meet the requirements for registration and have attained the age of 16 or will attain that age on or before the date on which the poll at an independence referendum is to be held.

7. There is one delegated power in the Bill. The Scottish Government has provided a Delegated Powers Memorandum (“DPM”) setting out the need for the delegated

power, how it may be exercised and the choice of procedure applicable to its exercise.

Section 11: Power to make supplementary etc. provision and modifications.

Power conferred on: Scottish Ministers

Power exercised by: Order

Parliamentary procedure: Affirmative

8. Subsection (1) empowers the Scottish Ministers to make supplementary, incidental or consequential provision for the purposes of, in consequence of, or for giving full effect to, any provision made by the Bill. Subsection (2) provides that this includes power to make provision in consequence of, or in connection with, any provision in an Act (or proposed to be made in an Act) for the holding of an independence referendum. Such consequential or connected provision can also be made relating to any modification, or proposed modification, of legislation relating to electoral registration. Subsection (3) provides that such an order may modify any enactment, including the provision made by the Bill itself. It also provides that an order may apply, with or without modifications, any provision of any enactment, and may include supplementary, incidental, consequential, transitory or transitional provision or savings. Subsection (4) requires that any such order must be laid in draft before the Scottish Parliament for approval.

9. While the powers have considerable scope, the Committee considers that it is sensible to be able to make any necessary modifications to ensure the Bill operates effectively together with the referendum Bill. It will also be necessary to take into account any changes to the provisions concerning the electoral register on which part of the franchise is to be based. Accordingly, the Committee considers that the power is acceptable in principle.

10. As the power would allow textual amendment to primary legislation and having regard to the high degree of political significance of the subject matter, the Committee considers that the affirmative procedure is the correct level of scrutiny.

11. The Committee finds the proposed power acceptable in principle and is content that it is subject to the affirmative procedure.

Finance Committee

Letter from Convener

The Finance Committee took oral evidence from Scottish Government officials on the Scottish Independence Referendum (Franchise) Bill's Financial Memorandum (FM) at its meeting on 20 March 2013. The Committee raised a number of issues in relation to the FM and agreed to refer the Official Report of the evidence session to the lead Committee for consideration in advance of its oral evidence session with the Deputy First Minister on 28 March.

The Official Report can be accessed via the link below:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/29824.aspx>

The witnesses also undertook to submit additional written evidence in relation to the following topics:

- Figures from Electoral Registration Officers on number of registration appeals (paragraph 21 of FM)
- Figures from Crown Office on number of prosecutions for electoral offences (paragraph 22 of FM)
- Further information on the costs of reminder notices (paragraph 14 of FM).

I have requested that this additional information be provided as quickly as possible and will arrange for it to be sent to your clerks as soon as it becomes available.

Kenneth Gibson MSP
Convener
22 March 2013

ANNEXE B: EXTRACTS FROM THE MINUTES OF THE REFERENDUM (SCOTLAND) BILL COMMITTEE

6th Meeting, 2012 (Session 4), Thursday 29 November 2012

Proposed Government Bills: The Committee provisionally agreed to seek approval for the appointment of an adviser or advisers in connection with scrutiny of forthcoming Government Bills and to consider a shortlist of candidates in private at its next meeting.

7th Meeting, 2012 (Session 4), Thursday 13 December 2012

Proposed Government Bills: The Committee gave preliminary consideration to its approach to scrutiny of proposed Government Bills. It agreed to write to the Deputy First Minister seeking more detail on the proposed "paving Bill" and the main Referendum Bill, and on the expected timescales. It also agreed to take some general evidence ahead of introduction of the proposed Bills from those with experience of electoral administration, particularly where a lower minimum voting age has been applied.

Proposed Government Bills (in private): The Committee considered a list of candidates for the post of adviser. It agreed in principle to appoint one adviser on the practical and technical aspects of the proposed legislation, but to allow more time for further candidates to be identified, and one adviser on the legal and constitutional aspects, subject to confirmation of the availability of its preferred candidate.

1st Meeting, 2013 (Session 4), Thursday 17 January 2013

Work programme: The Committee considered correspondence from the Deputy First Minister and the implications for its timetable for scrutiny of proposed Government Bills. The Committee agreed the timetable for its scrutiny of the proposed franchise bill. [...]

Proposed Government Bills (in private): The Committee agreed a ranked list of candidates for appointment as adviser in connection with the practical and technical aspects of scrutiny of proposed Government Bills.

2nd Meeting, 2013 (Session 4), Thursday 31 January 2013

Proposed referendum franchise bill: The Committee took oral evidence from—

Brian Byrne, Chair of the Electoral Registration Committee, and Joan Hewton, Assessor and Electoral Registration Officer for Lothian, Scottish Assessors' Association.

Work programme: The Committee [...] agreed to seek an informal briefing from Scottish Government officials on the proposed franchise bill.

3rd Meeting, 2013 (Session 4), Thursday 7 February 2013

Proposed referendum franchise bill: The Committee took oral evidence, by video conference, from—

Michael de la Haye, Greffier of the States (Clerk of the States Assembly - Jersey), States of Jersey

Paul Whitfield, Deputy Registrar General of Electors (Electoral Roll), States of Guernsey.

4th Meeting, 2013 (Session 4), Thursday 21 February 2013

Proposed referendum franchise bill: The Committee took oral evidence by video conference from—

Stephen Carse, Registration Officer, Isle of Man Government

and took oral evidence from—

Gordon Blair, Depute Returning Officer, West Lothian Council and Chair of the Elections Working Group, Society of Local Authority Lawyers and Administrators in Scotland (SOLAR).

Proposed referendum franchise bill: The Committee considered its approach to the scrutiny of the proposed bill at Stage 1, agreed a general call for written evidence and agreed those from whom it wished to invite oral evidence. The Committee also agreed to consider the themes on which its approach to taking oral evidence at Stage 1 of the Bill should be based, in private, at its next meeting.

5th Meeting, 2013 (Session 4), Thursday 7 March 2013

Proposed referendum franchise bill (in private): The Committee considered and agreed a list of key themes for Stage 1 of the proposed bill.

6th Meeting, 2013 (Session 4), Thursday 14 March 2013

Scottish Independence Referendum (Franchise) Bill: The Committee took evidence on the Bill at Stage 1 from—

Andrew Deans MSYP, and Emily Shaw MSYP, Scottish Youth Parliament;

Robin Parker, President, National Union of Students Scotland;

David McNeill, Entitlements and Rewards Director, Young Scot;

Tam Baillie, Scotland's Commissioner for Children and Young People;

Dr Ken Macdonald, Assistant Commissioner (Scotland & Northern Ireland), Information Commissioner's Office.

7th Meeting, 2013 (Session 4), Thursday 21 March 2013

Scottish Independence Referendum (Franchise) Bill: The Committee took evidence on the Bill at Stage 1 from—

John McCormick, Electoral Commissioner for Scotland, Andrew Scallan, Director of Electoral Administration, and Andy O'Neill, Head of Office Scotland, Electoral Commission;

Mary Pitcaithly, Convener, and Chris Highcock, Secretary, Electoral Management Board;

Brian Byrne, Chair of the Electoral Registration Committee, Scottish Assessors' Association;

Kate Crawford, Chair of the Scotland and Northern Ireland Branch, Association of Electoral Administrators;

Bruce Robertson OBE, Education Policy Adviser, Association of Directors of Education in Scotland.

8th Meeting, 2013 (Session 4), Thursday 28 March 2013

Decisions on taking business in private: The Committee [...] agreed to review the evidence received on the Scottish Independence Referendum (Franchise) Bill in private at its next meeting.

Scottish Independence Referendum (Franchise) Bill: The Committee took evidence on the Bill at Stage 1 from—

Nicola Sturgeon, Deputy First Minister, and Stephen Sadler, Head of Elections Team, Scottish Government.

9th Meeting, 2013 (Session 4), Thursday 18 April 2013

Scottish Independence Referendum (Franchise) Bill (in private): The Committee considered the main themes arising from evidence received, in order to inform the drafting of its Stage 1 report.

10th Meeting, 2013 (Session 4), Thursday 25 April 2013

1. **Decisions on taking business in private:** The Committee agreed to take item 2 in private and agreed that any further consideration of the draft Stage 1 report on the Scottish Independence Referendum (Franchise) Bill be taken in private at future meetings. [...]
2. **Scottish Independence Referendum (Franchise) Bill (in private):** The Committee considered a draft Stage 1 report. Various changes were proposed and decided on (one by division), and the Committee agreed to consider a revised draft at its next meeting.

Record of division in private

Patrick Harvie proposed replacing the draft conclusion on the franchise (prisoner voting) with the following:

“While noting the evidence received that there is a low chance of a successful legal challenge to the bar on prisoners voting in the referendum, the Committee takes the view that there is a strong argument in principle that the franchise for the referendum should apply the same human rights standards as the ECHR requires for elections to a legislature. The Committee notes that the Scottish Government has suggested, in *Scotland's Future: from the Referendum to Independence and a Written Constitution*, that human rights should be embedded in Scotland's constitution, and does not consider section 3 of the Bill to be in keeping with the spirit of that aspiration.

“The Committee seeks clarity from the Scottish Government on the reason in principle why the franchise for the referendum should differ from the franchise for elections, in the event that the UK Parliament brings the electoral franchise into compliance with the ECHR.

“The Committee is persuaded of the view that the referendum offers an opportunity to demonstrate a strong human rights ethos, by allowing prisoners serving sentences of less than six months to vote.”

The proposal was disagreed to (by division): For 2 (Patrick Harvie, Tavish Scott), Against 9 (Richard Baker, Bruce Crawford, Annabelle Ewing, Linda Fabiani, Patricia Ferguson, Rob Gibson, Annabel Goldie, Stewart Maxwell, Stuart McMillan), Abstentions 0.

11th Meeting, 2013 (Session 4), Thursday 2 May 2013

Scottish Independence Referendum (Franchise) Bill (in private): The Committee considered a revised draft Stage 1 Report. Subject to a few minor changes, the report was agreed for publication. The Committee agreed to delegate to the Convener responsibility for finalising a news release.

ANNEXE C: ORAL AND WRITTEN EVIDENCE

Please note that all oral evidence and associated written evidence is published electronically only, and can be accessed via the Referendum (Scotland) Bill Committee's webpages, at:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/60762.aspx>

Oral evidence

2nd Meeting, 2013 (Session 4), Thursday 31 January 2013

Brian Byrne, Chair of the Electoral Registration Committee, and Joan Hewton, Assessor and Electoral Registration Officer for Lothian, Scottish Assessors Association.

[Correction to evidence by Brian Byrne, Scottish Assessors Association](#)

3rd Meeting, 2013 (Session 4), Thursday 7 February 2013

Michael de la Haye, Greffier of the States (Clerk of the States Assembly - Jersey), States of Jersey;

Paul Whitfield, Deputy Registrar General of Electors (Electoral Roll), States of Guernsey.

4th Meeting, 2013 (Session 4), Thursday 21 February 2013

Stephen Carse, Registration Officer, Isle of Man Government

Gordon Blair, Depute Returning Officer, West Lothian Council and Chair of the Elections Working Group, Society of Local Authority Lawyers and Administrators in Scotland (SOLAR)

[Clarification of evidence provided by Stephen Carse, Isle of Man Government](#)

6th Meeting, 2013 (Session 4), Thursday 14 March 2013

Andrew Deans MSYP and Emily Shaw MSYP, Scottish Youth Parliament

Robin Parker, President, National Union of Students Scotland

David McNeill, Entitlements and Rewards Director, Young Scot

Tam Baillie, Scotland's Commissioner for Children and Young People

Dr Ken Macdonald, Assistant Commissioner (Scotland & Northern Ireland), Information Commissioner's Office

7th Meeting, 2013 (Session 4), Thursday 21 March 2013

John McCormick, Electoral Commissioner for Scotland, Andrew Scallan, Director of Electoral Administration, and Andy O'Neill, Head of Office Scotland, Electoral Commission

Mary Pitcaithly, Convener, and Chris Highcock, Secretary, Electoral Management Board for Scotland

Brian Byrne, Chair of the Electoral Registration Committee, Scottish Assessors Association

Kate Crawford, Chair of the Scotland and Northern Ireland Branch, Association of Electoral Administrators

Bruce Robertson OBE, Education Policy Adviser, Association of Directors of Education in Scotland

8th Meeting, 2013 (Session 4), Thursday 28 March 2013

Nicola Sturgeon, Deputy First Minister, and Stephen Sadler, Head of Elections Team, Scottish Government

Written evidence

Children in Scotland
Church of Scotland, Church and Society Council
Charles Clegg
Kingsley Dawson
Electoral Commission
Electoral Reform Society Scotland
Harry Hayfield
Howard League for Penal Reform in Scotland (and others)
Howard League for Penal Reform in Scotland (and others) - supplementary submission
International Alliance for Youth Coalition
Law Society of Scotland
CV Martin
Mrs H Mitchell
Clare F Moran
National Deaf Children's Society
National Union of Students Scotland
Quakers Scotland
Quakers (Crime, Community and Justice sub-committee)
Scottish Association of Social Work
Scottish Youth Parliament

Robert Seaton
Alec Spencer
James Watson

The written submissions are all available from the following page:
<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/61539.aspx>

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