LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

Wednesday 14 May 2008

Session 3

£5.00

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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE
14th Meeting 2008, Session 3

CONVENER

*Duncan McNeil (Greenock and Inverclyde) (Lab)

DEPUTY CONVENER

*Kenneth Gibson (Cunninghame North) (SNP)

COMMITTEE MEMBERS

*Alasdair Allan (Western Isles) (SNP)
*Bob Doris (Glasgow) (SNP)
*Patricia Ferguson (Glasgow Maryhill) (Lab)
Johann Lamont (Glasgow Pollok) (Lab)
*David McLetchie (Edinburgh Pentlands) (Con)
*Jim Tolson (Dunfermline West) (LD)

COMMITTEE SUBSTITUTES

Robert Brown (Glasgow) (LD)
Rhoda Grant (Highlands and Islands) (Lab)
Tricia Marwick (Central Fife) (SNP)
Margaret Mitchell (Central Scotland) (Con)

*attended

THE FOLLOWING GAVE EVIDENCE:

Gerald Byrne (Scottish Government Constitutional and Parliamentary Secretariat)
Bruce Crawford (Minister for Parliamentary Business)
Andy Sinclair (Scottish Government Constitutional and Parliamentary Secretariat)

CLERK TO THE COMMITTEE

Martin Verity

SENIOR ASSISTANT CLERK

Jane-Claire Judson

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 5

Scottish Parliament

Local Government and Communities Committee

Wednesday 14 May 2008

[THE CONVENER *opened the meeting at 11:30*]

Elections 2007

The Convener (Duncan McNeil): Good morning and welcome to the 14th meeting in 2008 of the Local Government and Communities Committee. I remind everyone to switch off their mobile phones and BlackBerrys.

For the first item on the agenda, the committee will take oral evidence from Bruce Crawford, the Minister for Parliamentary Business—welcome to the committee, minister—Gerald Byrne, the head of the constitution unit, and Andy Sinclair, senior policy officer in the constitutional and parliamentary secretariat. The minister will make a brief opening statement.

The Minister for Parliamentary Business (Bruce Crawford): Thank you for inviting me and for giving me the opportunity to address the committee and make a brief opening statement.

Obviously, the committee is looking at the local government aspect of last May's elections and at what the Gould report says about that. Our responsibilities are similarly focused. In March, we published our proposed way forward on the recommendations in the Gould report that relate to the local government elections. We are now consulting on decoupling, with a view to holding the next local authority elections in 2012, but we want to hear views before coming to a final conclusion on that.

We will publish a consultation on proposals for a chief returning officer in the autumn. Next year, we will consult on other detailed recommendations in the Gould report, including consultations on ballot paper design and the position of parties; the close of nominations and the timing of changes to the law; the security of the ballot, including the folding of the paper; any necessary changes to e-counting; and overnight counting. We intend that our consultations will lead to new secondary legislation in good time before the next Scottish local government elections. We are committed to addressing the problems that Gould identified with the local government elections.

We also want to ensure that the committee plays a central role in helping the Government to get the system right. There was corporate shame across the board about last year's elections, and we

would welcome any help that the committee can give us to ensure that those mistakes are not repeated. We will do our best to keep the committee fully informed as we progress.

Unfortunately, at this stage, we are not able to tackle one of the major issues identified by Ron Gould: the fragmented and antiquated system of legislation and management that failed last year. The Government and Parliament support Ron Gould's recommendation that legislative and administrative responsibilities for elections to the Scottish Parliament should be transferred to us. We believe that radical change is needed, and that only with that radical change can we properly address the problems that Ron Gould identified and provide clear accountability to the Scottish people for elections to the Parliament.

So far, the United Kingdom Government has said that it is not persuaded of the case for a change. Its consultation period has ended and we hope that we will get a response soon. I hope that it will be persuaded by the case that has been put. If we do the right thing, we can prepare and plan for the 2011 parliamentary elections, but decisions cannot be delayed beyond September of this year. Time is already running short for us to do the things that we need to do to ensure that we are able to deal properly with the 2011 elections. I therefore look to the UK Government to follow the Gould recommendations and give the Parliament responsibility for our elections.

Thank you for allowing me to make an opening statement, convener. I look forward to having a positive working relationship with the committee. As I said, it has a central role in helping the Government to ensure that we get all the issues surrounding the elections right. After all, we owe it to the people of Scotland to make a positive contribution towards a positive outcome.

The Convener: Under its remit, the committee's challenge is to address those matters with regard to the next Scottish Parliament elections. The Gould report also refers to referendums—a word that has been mentioned a lot this week—and to European and UK elections. Although the integrity of those elections has to be maintained, that is not a specific matter for the committee.

Leaving aside the only major division in the committee, which is over Mr Gould's recommendation with regard to administrative and legislative powers over the Scottish Parliament elections, I believe that there is a willingness among committee members to address the issues, and we very much welcome—and are encouraged by—your statement that you consider the committee to have a central role in the process. We accept our responsibilities in that regard and will try very hard to work with you on the matter. After all, we are all mindful of Mr Gould's point that

in the previous elections the politicians did not appear to take the voters very much into account.

There is consensus over decoupling the local government and Scottish Parliament elections. Would such a move not address the time pressures on the parliamentary elections?

Secondly—I put this point to Mr Gould, too—we all understand the many arguments in favour of decoupling. For example, it would have administrative and cost benefits and would allow a focus on local government. Have Scottish voters been consulted on the proposal to have additional elections? Is that something that they want, and are we proceeding with their authority?

Bruce Crawford: In March, the Government kicked off a consultation process that directly addressed the issue of decoupling. Obviously, we followed the usual Government procedures with regard to the people who were consulted but, as we know, a wide body of opinion in Scotland has favoured decoupling for a while now. For example, it was supported by the Kerley report, the McIntosh report in 1999 and the Arbuthnott report, and now the Electoral Commission and the Convention of Scottish Local Authorities have come out in favour. I have not yet seen the responses to and the outcomes of the consultation—I will no doubt be exposed to them in due course—but I am not aware of any voices that have been raised against the idea.

The Convener: I understand that such engagement has taken place. However, has there been any public engagement on the establishment's view that decoupling is a good idea?

Bruce Crawford: Are you asking whether there has been any direct consultation with the public?

The Convener: Or whether there has been just general consultation.

Gerald Byrne (Scottish Government Constitutional and Parliamentary Secretariat): We have not held a specific series of public events or anything like that. As the minister said, it has been a fairly standard consultation.

The Convener: So we are beginning a new process—

Bruce Crawford: Yes, but—

The Convener: Please let me finish, minister.

So although we are beginning to put in place new election procedures and to provide new opportunities for local government elections, there has been no public engagement. For example, the issue has not been discussed with focus groups and no questionnaires have been sent out. Are we yet again proceeding without the people?

Bruce Crawford: We are proceeding with the authority of Parliament, which voted on 10 January for the decoupling process to begin. The Government responded to the recommendation of Parliament by starting the consultation process in March. As I said, there is a wide body of opinion that subscribes to the idea that decoupling is appropriate. The consultation document has been on our website, so people have been able to access it. I accept that it has not been sent to the general public, but, given that the Parliament—not just the Government—has already made its decision, it would be difficult for us to proceed in any other way.

The Convener: I am sorry if I have given you the impression that I think that the Government is solely responsible; my point is that we all are. I do not know what plans there are to engage the public in the consultation and to get their views, but that might be useful, because there is an issue about the voter fatigue that could be caused by having one election after another. It might have been useful to try to find out what the public think about having another election.

Bruce Crawford: The members of the public who had a concern about the issue would have had a chance to make a contribution to the Gould review's consultation process. We have had our own consultation process, but I will consider what you have said and think about whether we can strengthen the basis of decision making. However, given that the Parliament has already stated quite clearly its preferred direction of travel, we would have to come back to Parliament and suggest that, because of the consultation, there should be a different outcome, if that was what we decided to do. If we did that, there would be a danger that we could dash people's justifiable expectations that decoupling will take place.

Jim Tolson (Dunfermline West) (LD): Before I came to the Parliament, I was involved in local government for so long that I can remember all the arguments and discussions about why we coupled the local government and Scottish Parliament elections in the first place. I believe that there is still a great deal of concern among the public and, probably, many prominent politicians about the decoupling process that is likely to go forward. Can you give us an assurance that, following decoupling, the issues that led to the decision to couple the elections in the late 1990s will not return to the fore?

It was interesting that you mentioned that the next local government elections will take place in 2012, as that will make the current term for local councillors a five-year term. Is it the Government's intention that, thereafter, there will be a four-year term, or will there be another five-year term, followed by a return to four-year terms, which

would keep a two-year spread, as was suggested in the Gould report?

Bruce Crawford: On 19 March, we published our proposals, which are set out clearly. There are a number of options that we could choose. The preferred option of the Government was to have two five-year terms, so that we would have local government elections in 2012 and 2017. That would place the local government elections in the middle of the Scottish Parliament's session. We outlined other options in the paper, but that was the preferred option. As I said earlier, I am prepared to consider other options. We are going through an option appraisal process and letting people who we are consulting tell us what they think about the options.

I am aware that the Liberal Democrats are not in favour of decoupling, although every other party is. I think that the arguments for decoupling are sound, and that decoupling recognises the democratic legitimacy of local authority members and the services that they provide. For some time, COSLA has expressed a concern that holding the local government elections on the same day as the Scottish Parliament elections detracts from councils' ability to shine a light on what they do.

11:45

No one disputes that there are issues around turnout. However, although the coupling of local authority elections and Scottish Parliament elections has produced a high turnout for local authority elections, it has not produced the highest turnouts—in the past, there have been higher turnouts. In 1974, there was a 51 per cent turnout for the district council elections, and a 50.6 per cent turnout for the regional council elections. It is possible to get a decent turnout for local authority elections, if we do a bit of work. Obviously, we will have to consider seriously the awareness-raising aspect in order to make as much impact as possible. Politicians also have a role to play in ensuring that the turnout is as high as possible, and can help by engaging positively with communities on the issues that are important to them at the time of a local government election.

Jim Tolson: It is important to stress the importance of the issue of electoral fraud in relation to local government and national Government elections. I understand that there have been 42 convictions for electoral fraud in the past seven years. What steps is the Government taking to eliminate electoral fraud? For example, will there be compulsory registration by every voter? What are you doing around postal ballots, in particular?

Bruce Crawford: We are looking carefully at that issue, and I will ask for the committee's help

in that regard. In the not-too-distant future—within the next couple of months—we will lay a statutory instrument on the issue of personal identifiers with regard to the postal voting system. I certainly want to have a good discussion with the committee about some of the significant issues that surround that. We are intent on improving the process.

I am glad to say that, historically, electoral fraud has not been prevalent in Scotland. That does not mean that we should be complacent. Electoral fraud is a big problem where it exists, and we must do all that we can to ensure that any attempted fraudulent activity is kept to a minimum.

In that regard, there is most concern around postal voting. The current security measures that are in place, as well as the impending personal identifiers that I just mentioned, should ensure that the risk of postal voting fraud in Scotland is minimal. The UK Government is taking forward legislation in that regard for the Scottish Parliament elections, so it is fitting and appropriate that we ensure that we cover local government elections at the same time.

The Convener: That was a good question and an interesting response. Has any work on the area been done in Scotland? Recently, the Joseph Rowntree Reform Trust published "Purity of Elections in the UK: Causes for Concern", which caused some controversy. It raised questions over the postal ballot and identified specific communities in which there is greater abuse of the electoral system, according to anecdotal evidence. Has similar work been done in Scotland, or are you simply following on from the legislation that will be passed by Westminster?

Bruce Crawford: The Local Electoral Administration and Registration Services (Scotland) Act 2006, which was passed in the dying days of the previous parliamentary session, included good provisions to deal with issues of postal fraud. The work that we are doing on personal identifiers is allowed for under that act. Our proposals are not just a response to what is happening at the UK level; it was always recognised that that piece of work would need to be undertaken.

The Rowntree trust specifically considered fraud issues. I am not aware of any postal fraud issues in Scotland, but I ask Gerald Byrne to comment on that, in case there is work that I have not had sight of.

Gerald Byrne: As far as I know, no specific investigation of fraud in postal ballots has been carried out in Scotland along the lines that the convener described. Most of the complaints about postal ballots were about the efficiency and effectiveness of the system rather than fraud. The Scottish statutory instrument on identifiers will

bring local government elections into line with the safeguards that are to be put in place for Scottish parliamentary elections and which have already been put in place for United Kingdom elections. That is regarded more as a preventive measure in Scotland than as a measure to tackle a concern for which we have a lot of evidence.

Kenneth Gibson (Cunninghame North) (SNP): There is an issue about people getting postal ballots in time so that they can return them. The issue is not just about fraud.

Why do we not require proof of identity when people stroll up to a polling station? I have always found it astonishing that identification is not asked for.

Bruce Crawford: That matter is to do with the Representation of the People Acts. I wish that I had responsibility for such matters—I am sure that Kenny Gibson does, too—but we are where we are, and I have not examined that issue.

The Convener: Whether or not we have those powers, we have no evidence base. Gerald Byrne just said that the Government does not consider fraud to be an issue in Scotland, whereas the Rowntree trust points to 42 prosecutions. Were those mainly in the south—in England and Wales?

Bruce Crawford: They were all in the south. However, it is wrong to say that we do not pay any attention to the matter.

The Convener: I did not say that you do not pay attention to it; I said that you do not consider fraud to be a significant issue in Scotland.

Bruce Crawford: We do not consider it to be an issue, given where the prosecutions came about. However, we cannot be complacent and we must take measures to improve matters and ensure that fraud does not have a chance to take hold.

The Convener: Yes, but no work has been done on that.

Bruce Crawford: No.

Gerald Byrne: To be fair, I said that there is no evidence base. We cannot go as far as saying that we do not think that fraud is a problem. The identifiers are being introduced to prevent it from becoming a problem. The convener asked whether a parallel piece of work to the Rowntree trust study has been done in Scotland, and the answer is that we have not done that.

The Convener: I presume that that is because you do not believe that there is an issue. There is no evidence base, and no work is being done or planned.

Bruce Crawford: Had there been evidence that fraud was an issue in Scotland, the Government would respond to that. If people have evidence

and we do not know about it, I would like to hear about it. However, I am not aware of any evidence of a widespread problem in Scotland. If evidence exists and we have not been informed about it, we cannot do much about it.

The Convener: If there is no issue, why would you feel it necessary to have additional identification at polling stations, if you had powers to introduce that?

Bruce Crawford: It was Kenneth Gibson who raised the issue of identifiers at polling stations.

The Convener: But you said that you wished to have powers so that you could act.

Bruce Crawford: I wish that I had powers under the Representation of the People Acts as a whole.

Alasdair Allan (Western Isles) (SNP): I will not attempt to put words in your mouth, minister, but you mentioned personal identifiers. Given the constraints within which you work, can you say any more about what you meant by that?

Bruce Crawford: I will let Gerald Byrne or Andy Sinclair talk about the specifics of that, because it is a pretty technical issue.

Gerald Byrne: Personal identifiers are methods of identifying people who send in postal votes. For example, people submit a signature beforehand.

Andy Sinclair (Scottish Government Constitutional and Parliamentary Secretariat): They submit a signature and their date of birth.

Gerald Byrne: Yes. Those are then used to identify the postal ballots when they come in. That is the way in which the UK system works. Regulations will set out the number of identifiers that are examined when postal votes are received. Members will want to consider such issues to give them confidence that we are detecting patterns of fraud.

Bruce Crawford: An issue arises about how many people we need to verify or check. I understand that the UK Government will propose a 20 per cent check for the Scottish Parliament elections. Obviously, the committee and the Government will need to consider whether that threshold is high enough.

The personal identifiers will help us to verify whether the date of birth and the signature that are submitted are accurate.

The Convener: As an aside, Kenny Gibson wants to know whether we can check them all. How much would that cost, and would it be necessary?

Bruce Crawford: The UK Government does not think that it is necessary. It would be a costly exercise and would take a considerable amount of time.

Gerald Byrne: We will explore such issues when the SSI comes forward. There is an issue about the balance between our need for reassurance and the cost of a complete check.

Bruce Crawford: When the SSI comes forward, I would like to have a real discussion with the committee about how we deal with that issue, because it is important.

The Convener: Yes, I appreciate that.

Alasdair Allan: I return to turnout and decoupling. Obviously, some imponderable issues are involved, but was it the minister's thinking that an increased engagement in local politics might have a positive impact on turnout in the longer term? People might start off by voting locally for local reasons. Is there any evidence that would enable us to make comparisons with other countries?

Bruce Crawford: It is certainly my view that turnout, whether for local government elections or for parliamentary elections, has much to do with the way in which politicians behave. If we behave in a way that is constructive and participative with communities, we can all help to improve turnout. I believe that, by shining a light on the job that local government does so that that gets more airplay and by putting into the public domain in an appropriate way the importance that is attached to that work, we can do something about turnout. We will also require resources to educate people and raise awareness.

The Convener: On the specific point that Alasdair Allan raised, has any work been done to establish whether we could get back to 1974 turnout levels? Are there any comparators to show where people are doing well with better engagement? I agree with you—the Joseph Rowntree Reform Trust also made this point—that online voting, e-voting and even postal voting will lift turnout to a particular level, but such measures will not establish a trend of improving turnout. Have any studies been done on that area?

Bruce Crawford: There are some areas there that we could usefully explore. The previous Executive ran the vote Scotland campaign, which was reasonably successful in increasing turnout at the most recent combined elections. The campaign can probably be strengthened, in terms of what it does to raise awareness and the way in which that work is targeted, but it was a reasonable starting place and we can successfully build on it for future Scottish Parliament and local government elections. Gerald Byrne may want to speak about some of the other things that have been going on.

Gerald Byrne: To return to the point about whether decoupling could increase turnout because of the increased prominence of local issues, the conclusion that Ron Gould came to in his report was that it does a disservice to local government to have the elections on the same day as Scottish Parliament elections, as the issues get lost. I am not able to give you any international comparisons today, but we need to examine further the effect of decoupling.

As the minister just explained, a lot of other complicated factors would need to be built into our consideration, beyond decoupling. We need to consider the wider political environment and the general electoral background. For example, the figures for local government election turnouts 30 years ago need to be examined and compared with the figures for general election turnouts 30 years ago. It would be quite difficult to demonstrate any straight-line analysis that says that, if we decouple, people are more interested in local issues. It depends what the issues are and how the political parties behave. More comparative work could be done, but there will always be room for debate. That is not to say that such work should not be done, but many complicated factors would affect turnout in decoupled elections.

Mr Gould's conclusion is that we would end up with a better informed and more engaged electorate if we decoupled local government and Scottish Parliament elections, and if local government elections were given due prominence.

12:00

The Convener: In his evidence, Gould said that voter turnout should be a secondary consideration. He suggested compulsory voting, but I do not suppose that you are suggesting that.

Bruce Crawford: Certainly not.

A country that has a remarkable record on turnout is Denmark, where turnout is traditionally about 85 per cent, even though voting is not compulsory. I was intrigued by that figure and wanted to find out why it was so high. I do not cite the example of Denmark just because it is a small independent nation with a population of 5 million, in case that is where people think I am coming from. I believe that the engagement with young people and their involvement in civic society from a young age have an impact on politics in Denmark and how people go about their lives. Another factor is the level of political participation in Denmark, where the largest political party has 65,000 members. That says that the Danes are getting something right when it comes to politics and their capacity to involve and engage with their people, which we, as a country of similar size, could learn from, regardless of the structure of the constitution.

David McLetchie (Edinburgh Pentlands) (Con): My question is about engagement with Her Majesty's Government. Today we are discussing the Scottish Government's response to the Gould report, which refers to further consultations that the Government is undertaking, or is about to undertake, on decoupling and other issues. The Scotland Office consultation paper "Sorting the Ballot" focused specifically on the Scottish Parliament elections.

On 10 January, the Parliament agreed to a motion that called

"on Her Majesty's Government and the Scottish Government to discuss, agree and publish a timetable for appropriate implementation of the report's recommendations having regard to the conclusions from both the Scottish Parliament's Local Government and Communities Committee and the House of Commons' Scottish Affairs Select Committee".

Can you shed some light on what discussions have taken place with Her Majesty's Government with a view to discussing, agreeing and publishing

"a timetable for appropriate implementation of the report's recommendations"?

Bruce Crawford: I referred to that in my opening statement. The Local Government and Communities Committee has not finished its work and neither has the Scottish Affairs Select Committee, although I believe that it will report soon. Following Parliament's decision in January—when it came to the right conclusion—we published our consultation programme, as David McLetchie mentioned, and the First Minister met the Secretary of State for Scotland to discuss the issue and to establish whether useful ways of progressing matters could be found.

Unfortunately, as I have said, the Scotland Office's response has so far been to say that it does not believe that it would be appropriate for all the powers on legislative and executive competence, as they relate to the administration of the elections, to come to Scotland. The Scotland Office has been silent of late, but we expect it to say something before the summer. As I said, if it does not say anything by September, it will be too late for the Scottish Parliament and the Scottish Government to deal with the Scottish Parliament elections in 2011.

There are other issues, such as that of a chief returning officer, on which we and the Scotland Office are consulting. I will talk about that if David McLetchie wants me to, but I think that I have got to the core of his question.

David McLetchie: So, is it true to say that there has so far been one meeting between the First Minister and the secretary of state on the Gould report, but that there have been no other ministerial discussions between the Scottish Government and the Scotland Office?

Bruce Crawford: I am aware of one meeting; I do not know whether others have taken place. Given the nature of that meeting, it was pretty evident that there would not have been much point in others discussing the matter until the Scotland Office had come to some sort of conclusion.

David McLetchie: Have there been discussions at official level about how these approaches might be co-ordinated?

Bruce Crawford: There have been official discussions about that.

David McLetchie: Can you expand on the chief returning officer issue? If the single jurisdictional entity is to have any meaning, I presume that there would need to be a election organisation for Scotland and there would be a chief returning officer for Scotland, who would be responsible overall for the conduct of all elections in Scotland, whether they were Scottish Parliament elections, Westminster elections, council elections or European Parliament elections. He would sit at the apex of an administrative pyramid and would be responsible for ensuring that all elections were properly conducted and so on. Is that your desire and your understanding of what the concept means?

Bruce Crawford: I certainly see the CRO's role as being to ensure clear lines of accountability in running elections. That is why we have gone out to consultation. If the UK decides, for whatever reason, not to proceed with the idea of a chief returning officer, what will we in Scotland do with our local authority elections? If we do not have a CRO who is responsible for all the activities, including UK elections, the Scottish Parliament elections and elections to the European Parliament as well as the local authority elections, it undermines the case for a CRO—it does not destroy it, but it undermines it—because the CRO would be responsible only for local authority elections in Scotland.

An article that might be of interest to the committee appears in this week's *Holyrood* magazine. It indicates that the Society of Local Authority Chief Executives and Senior Managers has a positive perspective on the issue. SOLACE does not wholly support the idea of a CRO, but is prepared to examine the benefits when the idea has been analysed. There is a question about whether we should proceed with a CRO in Scotland if the position is to relate only to local government elections. I would prefer the CRO to be involved in all elections.

David McLetchie: To your knowledge, is Her Majesty's Government considering the review of election law and administration in England or

Wales with a view to having a chief returning officer, not for England but perhaps, for example, for the north-east of England? Is such regionalisation and co-ordination under discussion, or is there only a Scottish dimension?

Bruce Crawford: The officials have perhaps had an opportunity to discuss that issue, so I will let Gerald Byrne comment.

Gerald Byrne: The first place to go for that information would be the Electoral Commission, which has published a paper on the UK administrative arrangements for elections. It canvassed some ideas for the UK as a whole: it asked for comments by, I believe, the end of this month.

It is probably worth saying that the context in Scotland is slightly different because of the Scottish parliamentary elections dimension, which gives us a more complex series of elections than other parts of the UK, where there are not parliamentary elections as well as European, Westminster and local authority elections. We also have the single transferable vote in Scotland for our local elections, which is not the case in other parts of the UK, so there are different issues.

David McLetchie: I presume that the situation here cannot be any more complicated than the situation in Northern Ireland.

Gerald Byrne: There is a CRO specifically for Northern Ireland, in the form of a non-departmental public body, as was described.

David McLetchie: Is the CRO for Northern Ireland responsible for the conduct of all elections there, including council elections, Northern Ireland Assembly elections, Westminster elections and elections to the European Parliament?

Gerald Byrne: That is a good question. I hesitate to guess; I think that it is, but I am not sure.

David McLetchie: I would be interested to know.

Bruce Crawford: We can find out and get back to you.

David McLetchie: Thank you.

Patricia Ferguson (Glasgow Maryhill) (Lab): I have a couple of questions on two different areas, if that is okay. The first follows from one of David McLetchie's points. How would the Government see the chief returning officer—if such a post were established—interacting and working with the existing local authority returning officers? Does the Northern Ireland model give us a hint?

Bruce Crawford: I am not sure that we need to go as far as having an NDPB, as exists in Northern Ireland, because we have the election

steering group in Scotland. The group is made up of representatives of the Government, the Scotland Office, COSLA, the Electoral Commission, the Society of Local Authority Chief Executives and Senior Managers, the Society of Local Authority Lawyers and Administrators in Scotland and the Association of Electoral Administrators. That last organisation was set up by the former Executive and Gould praised it—despite all the difficulties, that organisation did the best job that it could in the circumstances.

I can envisage circumstances in which the CRO might be the chair of such a steering group to ensure that they are at the centre and driving it forward. That body acts as a conduit of information from the coalface, but it also sieves down the way information that is provided to returning officers. There could be a role for a CRO in such a body to ensure that returning officers were acting in a uniform way and following the good practice that was expected of them. Some issues still require to be looked at. Perhaps Gerald Byrne has more to say about that.

Gerald Byrne: There are a number of models for us to consider, one of which the minister described. There could be different relationships too, which is an area that the consultation will cover because there is no consensus and we do not yet know whether the scope of the CRO will cover local government alone. There might be slightly different arguments.

Bruce Crawford: It is just one way of doing it.

Gerald Byrne: It might be the most likely way for local government, but we do not yet know.

Patricia Ferguson: Ron Gould cited international evidence that the higher up the ballot paper a name happens to appear the more votes it is likely to get. I understand that his remedy was that there should be a public lottery in advance of the elections. Does the Government have any thoughts about that?

Bruce Crawford: Patricia Ferguson is right that Gould made that one of his central recommendations. We addressed it in our consultation document at paragraph 459. Members might examine it later if they do not have the document to hand. We are considering how the paper can be designed with the voter as the primary consideration. As I said at the beginning, ballot paper design and candidate position will form part of a consultation that we intend to have in 2009 for the local government elections; obviously, we are not yet in a position to do that for the Scottish Parliament elections.

There are a number of options. I recently read the Electoral Reform Society's examination of local authority elections, which offers us a good menu of potential options, including the traditional

system of alphabetical listing. There are concerns that movement away from that system could cause confusion and might impact on the number of spoiled papers. We need to look at that carefully.

Another option is to rank candidates randomly—there is a process beyond that to randomise the random process, which begins to get very technical. I believe that that system is used in the Republic of Ireland. Other options include rotation and a system by which candidates are grouped by parties or other means. We need carefully to consider a number of options.

Spoiled ballot papers from local authority elections in Scotland have to be an indicator of the direction that we will take. If I can find it in my stats, I will tell you the number of spoiled papers that we had here—

The Convener: It was 1.85 per cent.

Bruce Crawford: It is interesting that, in the recent London mayoral and assembly elections, 1.95 per cent of the votes for the assembly candidates and 1.69 per cent of the votes for the mayoral candidates were rejected. If I remember correctly, the corresponding figure for the Northern Ireland elections was 2.1 per cent. So, the Scottish figure for rejected votes is about the norm.

12:15

I asked officials to examine the figures for by-elections in Scotland since May 2007. I have copies with me—there is a fair old range of figures. The highest number of rejected votes was in the South Lanarkshire Council elections, where 1.46 per cent of the votes were rejected. However, the average figure for spoiled papers across 11 or so by-elections was only 0.78 per cent. That suggests that the process is beginning to work, with people having experienced the process once before in Scotland and having had a second opportunity to take part in it, although awareness raising made less impact because it was for by-elections. However, that is anecdotal evidence and the situation needs a lot more analysis.

The Convener: We may have a discussion about that, but we will have one more question from Patricia Ferguson.

Patricia Ferguson: One could argue that the attention that is focused on by-elections helps people to sort out how they intend to vote and makes it simpler for them. Also, the fact that returning officers at the polling stations have to deal with only one election may make it easier for them to be of assistance.

Is the Government taking account of the fact that the figures for turnout and the number of spoiled ballot papers often mirror the deprivation indexes?

Given that deprivation is often linked to literacy, is the Government concerned about possible further disenfranchisement of people with disabilities—especially sight disabilities—because of the possibility of their being unable to exercise their vote? Is there an argument for the electoral steering group including representatives of some of the organisations that deal with people who have such disabilities to ensure that anything that is produced is proofed by them?

Bruce Crawford: In the report that we issued in March, we highlighted particularly the issue for blind people. The election report "Make it Count – Election experience of people with sight loss" recommended that organisations that represent people with visual impairments be involved in designing the ballot paper. We agree strongly with that, and we are addressing it.

On social deprivation, a paper that was produced by the University of Strathclyde suggested that there is a link although, as far as I am aware, no in-depth research has yet been done on that in Scotland. The ballot paper problems in the Scottish Parliament elections showed that there were greater numbers of spoiled ballot papers in the Lothians and Strathclyde; however, we will never know whether that was down to social indicators or to the fact that in those two places the ballot paper was designed differently—the arrows that directed people were taken off the ballot papers because of the size of the regional lists. It would be hard ever to get figures on that. Nevertheless, the information that was issued by the Scotland Office a week and a bit ago, which gives sub-ward information about the Scottish Parliament elections, might allow us to start to examine what went wrong and see what we could do to prevent its happening again.

Gerald Byrne may want to say a bit more about that.

Gerald Byrne: Not particularly. It is perhaps worth reiterating that the sub-ward information will probably give you a better chance to map the figures. I do not think that there is any evidence other than that.

The Convener: You mentioned in-depth research. Is any being planned to supplement the information that was issued by the Scotland Office last week and the anecdotal evidence? You have vindicated my concern this morning in saying that the average number of spoiled papers was below 1 per cent. In the most deprived wards in my area, the number of spoiled papers was up at 10 or 11 per cent and above.

Bruce Crawford: Is that figure for the local government elections?

The Convener: The figure was for the Scottish parliamentary elections.

Bruce Crawford: You may be right about the impacts, but as I have already said, we will never get to the bottom of whether that was to do with deprivation or with the ballot paper being designed differently. It would be difficult to make a qualitative judgment on that. We need to do further work.

Duncan McNeil: There is raw material, so could research be commissioned on that?

Bruce Crawford: It would certainly help if we could get the information at sub-ward level for the local authority elections so that we could see what happened with the spoiled papers. We have no responsibility for the Scottish Parliament ballot papers, so it is difficult to make a judgment. We will have to introduce legislation at some point, and I am keen to consider how we can amend the law in Scotland to allow for local authority sub-ward information to come out. It has come out from the Scotland Office under a freedom of information request. Scotland has a different background: we have returning officers who are responsible for the information, and a sheriff's order would be needed for that information to be released, which makes it much more difficult. However, I intend to consider that and to get feedback from the committee about whether it wants me to go in that direction.

Patricia Ferguson: Should someone from the disability organisations be on the election steering group to consider ballot paper redesign and other issues?

Bruce Crawford: I will take that away and actively consider the matter.

Kenneth Gibson: On turnout, what seems to be masked in all the discussions is the fact that 30,000 people—1.5 per cent—who voted in the Scottish Parliament elections did not vote at all in the local government elections. That may be related to the confusion about the new system.

On turnouts at by-elections, the issue is not people getting to know the system but the fact that by-elections are fought under the old first-past-the-post system, in which only one candidate stands for each political party. We have to consider what people know about the system—what the education process is. One of the things that we talked about in private session last week was whether uniform instructions are given to people in polling stations. Some people in my constituency have told me that the advice that they received was of a high standard, but it appears that it was not of such a high standard in other parts of the country. That may have impacted on turnout levels.

On turnout for local government elections, just because people have voted does not necessarily mean that they know the system, or that they can vote 1, 2, 3, 4, and 5. They may have gone in thinking that they could vote only once. Analysis of those issues adds strength to the call for the elections to be decoupled. In 1999, the cheesy advertising campaign said that when you went in to vote you would be given two ballot papers. Of course, there were three, but the campaign totally discounted the local government elections. Decoupling of the elections would emphasise the local government elections.

Bruce Crawford: On uniformity, the Gould report recommended that the CRO should co-ordinate future public information campaigns. In the consultation document that we launched in March we said that we would consider that recommendation. We also said that anecdotal evidence suggests that the performance of information officers differs between areas. Gould recommended standardisation—we agree with that.

Tom Aitchison, who is the elections portfolio holder with Society of Local Authority Chief Executives and Senior Managers, says that SOLACE accepts that there is a need for much more uniformity in practice and standards. The Government is saying that, Parliament is saying it and the deliverers on the ground are saying it, so the issue is now to put in place structures that will ensure that it happens.

Kenneth Gibson: Will the information officers be in place for not just the next Scottish Parliament election, but the next local government elections?

Bruce Crawford: We believe that such officers will play a vital role. Our response to the Gould report states:

"The Scottish Government believes that Information Officers play a vital role on polling day and will continue to encourage their use for local government elections."

That is quite explicit.

Kenneth Gibson: I know, but I wanted to get that on the record as not everyone will read that document—

Bruce Crawford: Why not?

Kenneth Gibson: Let me move on to another issue. What studies has the Scottish Government done, or what research does it plan to do, to find out from people whether they knew that they could vote 1, 2, 3 and that they could spread their votes among different political parties or independents? The fact that ballots were cast does not necessarily mean that people knew how the system worked, given that last May was the first time that it had been used.

Bruce Crawford: The Electoral Commission is undertaking a fairly broad body of work on ballot paper design. Perhaps Gerald Byrne can confirm whether that will involve members of the public. We need to ensure that whatever we do in the future is tested properly, not just with the professionals but with voters. I accept entirely that we need to do that in a much more standardised and analytical way.

Gerald Byrne: I am not aware whether the Electoral Commission's work will include public involvement. The commission conducted an analysis of the vote Scotland campaign that was mainly positive, but I do not know whether that was more about the effectiveness of the campaign.

The Convener: The Electoral Commission declared the local government elections a success based on the rejection rates. The committee is struggling to understand why the ballot papers were never examined despite the fact that John Swinney made them available to Gould. Across the committee, there is concern that a false picture has been given of the success of the single transferable vote in the local government elections. Anecdotal evidence suggests that many people voted only once. Kenny Gibson's point is that that distorts the picture. I do not know whether the Electoral Commission has done any work on that—I have not studied the matter—but there is no evidence that jumps out at me that suggests that the commission has looked at anything other than the rejection rates.

Bruce Crawford: I guess that we will never know. The Scotland Office found it difficult to get hold of the ballot papers from the sheriffs even for the purposes of the Gould inquiry. However, I can say that we will test any future ballot paper to ensure that people understand it in the way that it might be expected to be understood.

Bob Doris (Glasgow) (SNP): The committee has given quite a lot of consideration to whether the amount of spoiled ballot papers in the local government elections was masked. As the convener pointed out, if people put one X on their ballot paper, it is difficult to unpick whether they meant to write only 1 or whether they thought that they had only one vote. However, research could be done on that by republishing, without any additional information, blank ballot papers that were used at the election. In a test situation, those ballot papers could be given to, say, 1,000 voters in an area who could be asked to record their votes. We could then unpick, via interviews, why people wrote down three Xs, why they wrote down only one X, why they wrote down three 1s or why they spoiled their ballot paper. We need further research lest we repeat the blunders that were made at the previous election. Will there be any

Government research before the consultation in 2009?

Bruce Crawford: I accept that we need to do more of that type of work, but I cannot see how we can reopen the previous situation, given the regulations. Any new ballot papers that are designed—I use the plural intentionally—will need to be tested to ensure that they work before we reach a conclusion on them and recommend to the Parliament what the final ballot paper design should be. There is no point in going through that exercise unless we have gone through a process of testing the design with voters.

Bob Doris: Precisely. We must not make any assumptions. If we gave some voters a ballot paper using the same design that was used at the most recent elections and asked them to vote in a dry run, we could then interview them afterwards under set conditions. Rather than make assumptions about why people got it wrong, we could hold face-to-face interviews to ask people why they voted in a particular way so that we can draw an analysis from that before we design any future ballot papers.

12:30

Bruce Crawford: I accept that we need to test the papers. I will not go into detail about that today, because we need a proper, professional examination of the best way to get qualitative information from such a test. However, we need not only to test what happened under the existing system, but to test other systems to ensure that, if we introduce something else, it will improve the outcomes. I am happy to continue to engage with the committee to try to build consensus on the best way forward.

Bob Doris: The committee would be keen to be kept informed of the progress of any study and research that you do.

Bruce Crawford: I am more than happy to do that.

Kenneth Gibson: One of my concerns is the confusion that is caused by the existence of a plethora of small and nonsensical parties. The example of Adam Lyal's Witchery Tour Party shows that people can set themselves up as a political party—they need only three members to do that—and then get access to the Royal Mail to get a free leaflet delivery. People who are interested in finding out who the candidates are for their area might get 25 leaflets through their door in one day from parties that they have never heard of. That confuses the situation.

We do not have free Royal Mail delivery for local authority elections. Is there any way of tightening up the rules to ensure that it is not possible for a

political party to be formed with fewer than 100 members, as happens in other countries, that parties must register a certain length of time before the election—a year, perhaps—and that they are left to deliver leaflets themselves so that those that have a serious message to put across can connect better with the electorate?

My concern is that the current situation undermines candidates. When a voter at a polling station is presented with a ballot paper that has 25 or 26 names on it, that might make it difficult for them to decide. We need to consider that a bit more and we need to consider deposits. The Daewoo party stood in a Westminster election, and various characters are standing in the Crewe and Nantwich by-election. The rules for political parties in the regional ballot of an all-Scotland election need to be examined a bit more.

Bruce Crawford: You have made your point. Unfortunately, those elements apply to party-political registration schemes and probably impact on the Representation of the People Acts. Even under the Gould report's recommendations, those powers would not transfer to the Scottish Parliament.

Kenneth Gibson: However, you can liaise with Westminster to secure co-operation on the issue.

Bruce Crawford: We can liaise with Westminster on lots of issues but, even if all Gould's recommendations were to be agreed to— including legislative and executive competence over the administration of the elections, as voted on by the Parliament—it would still not enable us to change the legal framework on those matters. Therefore, as you might imagine, I have been concentrating on what we need to sort out under the Gould report and have not given much consideration to the issues that you have raised.

The Convener: I will put to you two points on the count that were made in a private session. Gould recommends that we should move away from overnight counting, but there is a degree of consensus in the committee that that is not necessary, particularly if we decouple the elections. The overnight count is part of our electoral system and makes election night a bit of an event not only for politicians, but for the involved wider public. We struggle with that recommendation.

The other point concerns electronic counting. I notice that you do not rule out electronic counting for the Scottish Parliament election. I am sure that there are good cost reasons for that, which we understand, but Gould said that we should not have an electronic count for the Scottish Parliament election.

In addition, the committee was frustrated and concerned at the lack of response from DRS Data

Services and the company's non-appearance at the committee. We know that in future there will be a procurement process, because we will continue to use electronic counting. It is not going too far for me to suggest that, in that process, you need to take into account the fact that a company that was involved in elections in Scotland was reluctant to discuss with the appropriate parliamentary committee any problems that arose during the process.

Bruce Crawford: I will deal first with overnight counting. When we initiated the consultation process, we said that we agreed with Gould on that point, because the electoral administrators supported his recommendations. However, we made clear that there is a strong tradition of overnight counting in Scotland. We need to consider the issue further in our consultation process, but our preference—because we have said that we will accept all the recommendations in the Gould report—is to move to electronic counting on the next day for local authority elections, using STV. However, I recognise the strong tradition of overnight counting that exists in Scotland. We need to consider the needs not only of administrators but of politicians. The matter is worthy of further discussion.

Gould is right to suggest that in the Scottish Parliament elections votes do not need to be counted electronically, although we should not rule out electronic counting at some time in the future, provided that we have a system that has been shown to be more robust. The votes in Scottish Parliament elections can be counted reasonably well manually.

I have noted the convener's comments on DRS. Given that I, together with local authorities, will be responsible for any tendering process, it would be inadvisable for me to say any more than that.

The Convener: You said that we should not rule out electronic counting for the Scottish Parliament elections at some time in the future. Does that mean, as Gould suggests, that there will not be electronic counting in 2011?

Bruce Crawford: I wish that it were up to me to decide that. Gould is right to say that at the next Scottish Parliament election we should not proceed with electronic counting and that votes should be counted manually. We should definitely proceed on the basis that votes in Scottish local government elections will be counted electronically, but we will need to do much more testing to ensure that the system works properly.

Jim Tolson: As you are aware—I am sure that I am not the only member who has received complaints about the matter from constituents— people were unhappy with the security of the ballot. Voters were told not to fold their ballot

paper before taking it from the booth to a box beside the clerks' desk. I have suggested to colleagues that one way round the problem would be to make a small change to the way in which the ballot paper is delivered. Members of the public are able to cast their vote in privacy, usually in a booth with three sides. Instead of their having to take the ballot paper somewhere, a slot rather like a small letter box could be engineered in the booth. That would allow people to place the ballot paper in a secure box behind the slot that was in the clerks' area. There would then be less need for people to fold the ballot paper and no need for them to take it across an open area in a polling station. Such an arrangement would provide members of the public with much greater security. Will the Government consider whether that would be a feasible way of tightening up and improving polling place procedures and giving reassurance to the public?

Bruce Crawford: In paragraph 4.7.3 of our response to the Gould report, we state that we

"will work closely with electoral administrators"

to find a solution to the problem. We will explore other methods, to determine whether there is a suitable way of dealing with it. Jim Tolson has made one suggestion; others may suggest different solutions. Voters in the London mayoral and assembly elections were also asked not to fold their ballot papers. I do not know whether there is a technical fix that would enable us to get around the problem. I am not sure that I understand fully Gould's suggestion that folding machines could be used, but I am willing to consider any method that would be better than the current arrangement. We are exploring how we can improve the sense of voter security when ballot papers are not folded.

Kenneth Gibson: You talked about randomisation of names. I assume that you were referring to the local government elections, not the Scottish Parliament elections. If the Scottish Government decides to adopt randomisation, will it be needed when only one person is standing for each party in a ward? For example, there would be no need for randomisation in a ward in which there were two independent candidates and representatives of three political parties. I take it that you are considering randomisation only in wards in which there are multiple candidates for at least one political party.

Bruce Crawford: Randomisation could happen regardless of the number of candidates. There might be only two, but a person with a name such as Alexander would have a distinct alphabetical advantage over the other candidate, because their name would appear at the top of the ballot paper. In that situation, we might want 50 per cent of the ballot papers to have McNeil at the top, followed

by Alexander, and 50 per cent to have Alexander at the top, followed by McNeil. Such intricate methods could be used to ensure that the system was fair. I do not yet know whether we want to go that far.

Kenneth Gibson: So you are considering randomisation for Scottish Parliament elections as well as local government elections.

Bruce Crawford: We need to examine it for both. I am delighted that the committee is so keen to get involved in Scottish Parliament election issues. I hope that that will be reflected in the process involving the UK Government.

The Convener: We are interested in UK and European elections, too.

Minister, I thank you and your team for your attendance. The session has been useful. We welcome your assurance that we can work together usefully on the matter in the future and look forward to doing so.

Meeting closed at 12:42.

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Monday 26 May 2008