



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

REFERENDUM (SCOTLAND) BILL COMMITTEE

Thursday 31 January 2013

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REFERENDUM (SCOTLAND) BILL COMMITTEE
2nd Meeting 2013, Session 4

CONVENER

*Bruce Crawford (Stirling) (SNP)

DEPUTY CONVENER

*James Kelly (Rutherglen) (Lab)

COMMITTEE MEMBERS

*Annabelle Ewing (Mid Scotland and Fife) (SNP)

*Linda Fabiani (East Kilbride) (SNP)

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab)

*Rob Gibson (Caithness, Sutherland and Ross) (SNP)

*Annabel Goldie (West Scotland) (Con)

*Patrick Harvie (Glasgow) (Green)

Stewart Maxwell (West Scotland) (SNP)

*Stuart McMillan (West Scotland) (SNP)

Tavish Scott (Shetland Islands) (LD)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Richard Baker (North East Scotland) (Lab) (Committee Substitute)

Brian Byrne (Scottish Assessors Association)

Joan Hewton (Scottish Assessors Association)

Bill Kidd (Glasgow Anniesland) (SNP) (Committee Substitute)

CLERK TO THE COMMITTEE

Andrew Mylne

LOCATION

Committee Room 1

Scottish Parliament

Referendum (Scotland) Bill Committee

Thursday 31 January 2013

[The Convener opened the meeting at 09:59]

Interests

The Convener (Bruce Crawford): Good morning, ladies and gentlemen, and a warm welcome to the second meeting in 2013 of the Referendum (Scotland) Bill Committee. We have a good audience today. I ask everyone to switch off mobile phones.

Apologies have been received from Patricia Ferguson and Stewart Maxwell. Richard Baker and Bill Kidd are attending as their substitutes. We have also had an apology from Tavish Scott but unfortunately Willie Rennie, who is the substitute, is not available.

I welcome Richard Baker to the committee—I am sure that you will enjoy the proceedings when you are here. Do you have any declarations?

Richard Baker (North East Scotland) (Lab): I am a director of Better Together 2012 Ltd.

The Convener: Okay. Thank you very much for putting that on the record.

Proposed Government Bills

10:01

The Convener: I extend a very warm welcome to the Scottish Parliament to Brian Byrne and Joan Hewton, who are both involved in the Scottish Assessors Association. I am grateful to you for coming along and being prepared to take questions from the committee.

I have established that the panel do not want to make any opening statements, so we will move straight on to questions, which James Kelly will kick off.

James Kelly (Rutherglen) (Lab): Thank you for coming in this morning and being prepared to share your expertise with us. I have a couple of questions about the annual canvass. First, I want to be clear on what the timetable is for the next annual canvass. When does it start and finish? How will it impact on the 2014 referendum?

Brian Byrne (Scottish Assessors Association): We do not know what the timetable is. The start of the canvass could be any time between October and December or even into January. That depends on individual registration, which is coming in in 2014. The canvass will almost certainly be delayed, but until when is unclear.

James Kelly: Am I right in saying that there is usually an annual canvass? I want that to be clear.

Brian Byrne: There is usually an annual canvass that would probably start in September and finish by 1 December.

James Kelly: That would be the usual process. However, what you are saying is that, because of the referendum in 2014—

Brian Byrne: No. It is not because of the referendum; it is because of the individual electoral registration process.

The Convener: Perhaps you could explain a bit more about what that is.

Brian Byrne: The Electoral Registration and Administration Bill, which deals with individual electoral registration, is going through the United Kingdom Parliament. The idea is that each person will be responsible for registering themselves, rather than using the current household system. As part of that process, a data-matching exercise will be carried out, which will possibly take place from July 2014. In order for that data matching to be as good as possible, the canvass is likely to be delayed. The draft legislation suggests that it will take place on 1 December, although various suggestions are going around about bringing that date back slightly.

James Kelly: The normal process is for an annual canvass starting in September, but legislation going through the UK Parliament will involve a new data-matching process and individual electoral registration officers are awaiting the impact of that. It is therefore not clear when the annual canvass start date might be. Is that right?

Brian Byrne: The start date is not clear yet, but it should be clear by March.

James Kelly: By March. Am I right in saying that the canvass usually takes three months?

Brian Byrne: Yes.

Joan Hewton (Scottish Assessors Association): Yes. It varies across Scotland depending on the geographical layout of any particular area. Some people start particularly early because they are in a rural area and they have further to go to carry out their canvass. However, it is generally the case that the tighter the area, the shorter the period in which we carry out a canvass. Some people will start at the beginning of August and others will start nearer the beginning of September—generally it is sometime between August and September. The canvass must be concluded and the register printed by 1 December. Every canvass will conclude a week or a fortnight before 1 December.

James Kelly: If the commencement of a canvass was delayed in an area until 1 December, what impact would that have on the electoral arrangements for a referendum poll in autumn 2014, particularly bearing in mind new arrangements to involve 16 and 17-year-olds?

Brian Byrne: It is quite useful for that, because the qualifying date to be on the register depends on your age at 1 December. Coincidentally, that is the same date as the publication date, but it remains 1 December no matter when the register is published. If you carry out a canvass after 1 December, you automatically capture more 17-year-olds than you would have captured earlier.

James Kelly: There are preparations in relation to the new legislation that is coming from the UK Parliament and legislation is about to be considered here that we hope will be completed by the end of June. At this point in time, have the EROs had any guidelines, or have they made any preparations, for the legislation that will progress through this Parliament in relation to 16 and 17-year-olds?

Brian Byrne: Yes. We have been discussing with Scottish Government officials various ways of capturing that information. Depending on the date of the start of the canvass, it could include a few 14-year-olds along with 15-year-olds. If the canvass is delayed until after December, there is

less of a problem with 16 and 17-year-olds because they will be part of a normal canvass by then. It is really about having a method to capture the 15-year-olds and the suggestion seems to be that there will be a separate canvass form for 15-year-olds.

James Kelly: What strikes me is that new arrangements are coming down the line from both Parliaments. Has there been any assessment of additional resources that might be required for the canvass?

Joan Hewton: We have looked at how the two pieces of legislation will align. A lot of the costs will be dictated by when we start and when we stop each of the procedures and how they work in tandem. One consideration is to use the canvass to send out forms to all households to collect information about young persons, on the basis that including the form with the household canvass will cost less, because the canvass form is already in the envelope. However, you are trying to tackle only 1 per cent of the population, so maybe only 1 per cent of the households are likely to give a return on that. We need to weigh that up and we will not really be able to estimate costs until we know the final details. That would be during the canvass, which will probably happen in late 2013 or early 2014.

After that, we would probably try to target schools to find out that information because 14 and 15-year-olds have to be in education. 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. The easiest way to get them is through the education authorities.

If individual electoral registration comes in on 1 July 2014, that would become a third step in the process. We have discussed that with the Scottish Government, which wants to avoid those young people having to go through the matching exercise that the rest of the country will have to go through.

There will be different ways to manage it. The individual electoral registration could be delayed to allow the referendum to take place. What the UK Government might allow us to do as regards delaying the onset of the IER all depends on what date is set for the referendum. The costs will vary depending on what we can do and how much flexibility we have.

The Convener: A number of people have indicated that they want to ask questions. I will just make sure that they are supplementaries. Rob, is your question a supplementary to what has just been discussed or do you want to come back in later?

Rob Gibson (Caithness, Sutherland and Ross) (SNP): I think that it is a supplementary question in the sense that it is about the accuracy of what is captured at the present time.

The Convener: Okay, on you go.

Rob Gibson: The register is created and then updated every month or so. How accurate is the register on the current electorate?

Brian Byrne: Overall, population estimates are reasonably reliable but not perfect, and the overall electorate is something like 93 per cent of the population. However, there will be duplicates and people will be missing—it is swings and roundabouts. We feel that the percentage of completeness in the electoral register is in the 90s.

Accuracy is a slightly different question. If someone moves, it can take time to catch up with that move, so they might still be on the register but not in the right place. That is partly to do with the fact that registration is annual. People can move within the year and part of the purpose of the canvass is to catch up with them.

From Electoral Commission research, therefore, we know that the register loses about 1 per cent accuracy throughout the year, and it catches up again at the canvass.

Rob Gibson: From what you know of the canvass procedures and so on, do you expect to be able to capture a percentage in the high to mid-90s of the 16 and 17-year-olds who can vote?

Brian Byrne: Young people aged around 18, 19 and 20 are very mobile; they are not so mobile at 15 and 16. We know where they are because we can use school records; we have good access to school records in Scotland. Such access can be a problem in some parts of England because of the dual-tier councils, but we have no issues with that in Scotland. We are therefore pretty confident that we will have good information about where the 16-year-olds are. Knowing where those people are is one reason why, as Joan Hewton mentioned, there might be an option to target the voting forms, rather than using blanket coverage and reaching every house in order to get to something like 45,000 people out of 4 million electors.

Bill Kidd (Glasgow Anniesland) (SNP): Thank you for the information that you have given so far.

Earlier, Brian Byrne mentioned that registration would be done in a different format. Unless I picked you up wrong, you said that it would not be done in households in the same way as it is at the moment. Is that right?

Brian Byrne: That is right. The idea is that, by 2015, each individual will have been verified against the Department for Work and Pensions database. As the first stage of that, we will match

the register that will be current in July 2014 against the DWP database. Anyone who matches on that will be confirmed as registered. For anyone who does not match, we will have to go through applications and invitations to get more information and confirm them. We will keep going with that until every individual is matched or registered.

The process is different from the one that we are using at the moment. We will send out a form and anyone who lives in the household will be able to return it with the details of the household. If anyone new is on the form, which is not an application to register but an information form, we will have to send out an application form.

Bill Kidd: Does that mean that the burden will be more on the individual to ensure that they are registered, like they have to do in America, than it is at present?

Brian Byrne: There are suggestions that there should be civil penalties for not responding, so registration will not be entirely voluntary. However, there will be more of a requirement on the individual to take part.

Bill Kidd: Will you look to councils or local authorities to ensure that the 14 and 15-year-old attainers who are to be ascertained for registration are registered through the schools?

Brian Byrne: At the moment, we get information on 16-year-olds from schools. Different EROs use that information in different ways. Some EROs will use it to contact people directly and basically ask, "Please can you confirm that these are the names of the people in the house?" If the information is confirmed, that is fine; if it is not confirmed, the ERO will need to use some other process to follow it up. Other EROs will do things the other way round, but they will still use the school records to check whether someone might be missing from a form and then follow that up. Access to school records is very good, and we expect to be able to use those in a similar way for the 14 and 15-year-olds.

10:15

Joan Hewton: The key point is that we cannot put people on the register unless they apply to be included on the register, so we must have a returned form. At present, during the canvass a whole household can register on a canvass form, whereas outwith the canvass an individual form needs to be submitted. When we come to the new system, everyone will need an individual form.

The Convener: Can I just tease that out a bit? I thought that EROs had a general power to maintain the register and that they could use that power to approach people to get the information

required. Therefore, all the traffic need not be one way, with only the individual registering. I thought that you were required to maintain the register.

Brian Byrne: Before about 2001, we had a duty to put people on the register if we felt that they qualified, were eligible and were resident. In 2001, that changed to become an application process. During the year, if you move into an area, you need to submit an application form to be included on the register. We use council tax records and whatever to identify people who have moved into the area and then send them an application form, but they still need to fill it in. If the canvass results in anyone new being included on the form, that is deemed to be an application to be included on the register. The system is different from the way it was before 2001, as everything now requires an application.

Richard Baker: I want to be clear on that point. I remember that, in 1997 for example, there were big campaigns to get whole lists of university students to be submitted for registration en masse without any need for individual application. Is it no longer possible to have that sort of block registration?

Brian Byrne: In some circumstances, we can still use university lists. We can treat a hall of residence as a household and put people from it on the register at the canvass. However, when individual registration comes in, that will not be possible, so the university list will just be information for us.

Richard Baker: So that is possible now, but it will not be possible for the referendum.

Brian Byrne: It is possible now in certain circumstances.

Richard Baker: Likewise, could schools not just give you a list so that you can include its pupils on the register?

Brian Byrne: Only boarding schools can do that.

Richard Baker: We will not go into the class divide that exists there.

My final question is whether parents will continue to be able to put children on the register. Will that still be the case for 14 and 15-year-olds under the new system, or will each 14 or 15-year-old need to apply individually?

Brian Byrne: I understand that the idea is that there will be a form similar to the canvass form that the parents—or anyone in the household—could fill in to say that certain people will be 16.

Richard Baker: So parents will still be able to do that.

Brian Byrne: Yes.

Annabel Goldie (West Scotland) (Con): I will turn the issue round the other way, because I think that I am not alone in being in a slight fog about the timescales involved. We do not know the date of the referendum, but let us assume a notional date of 31 October 2014. In an ideal world—for the moment, let us just park the Electoral Registration and Administration Bill, which we will come back to—how soon before that would you want a finalised register?

Brian Byrne: The final register for the referendum probably needs to be available 11 days before the referendum.

Annabel Goldie: How many?

Brian Byrne: Eleven days would be normal for an election. A longer period would be preferable, because the timescale is quite tight.

Annabel Goldie: To get to that point, how soon before then would you seek information from voters?

Brian Byrne: Ideally, we will seek the information during the canvass at the end of 2013, because 90 per cent of people on the register come on to the register at canvass.

Annabel Goldie: That brings us back to James Kelly's original question. At the end of 2013, some procedure will take place to canvass who should be on the register.

Brian Byrne: Yes. Assuming that that happens after 1 December, it will be possible for anyone who is already 16 to be added to the register as an attainer. Anyone who is only 15 at that point would have to go on to a different system—a young persons register. The difference with that is that, because it is not published on the normal publication date, we will have a little longer to catch up on anyone who is missing.

Annabel Goldie: Okay.

I want to establish a rough shape for the process. There will be a canvass process towards the end of 2013 to prepare something, which will become the genesis of the voting basis for a notional referendum on 31 October 2014.

Brian Byrne: Yes.

Annabel Goldie: On top of that, we need to overlay the Electoral Registration and Administration Bill. Do we know when that will come into effect?

Brian Byrne: The current proposal is that it will come into effect on 1 July. I understand that discussions are taking place in the background about whether that should be delayed in Scotland, but I do not know whether there will be a delay.

Annabel Goldie: So we do not have a date set for implementation, other than that it will probably happen in July 2014.

Brian Byrne: Yes.

Annabel Goldie: If the committee agrees, I think that it might be helpful if the convener wrote to the UK Government to seek clarification on that.

The Convener: I have scribbled down a note that we need a briefing of some kind, whether from the UK Government or the Scottish Government. There is a job to be done in bringing together information on where the UK is, with information on where the EROs in Scotland are. It would be extremely helpful to get a general briefing from the Scottish Government that pulled those two bits of information together.

Annabel Goldie: May I ask a final question, convener?

The Convener: Sure. On you go.

Annabel Goldie: If we overlay the Electoral Registration and Administration Bill and anticipate it coming into effect in July 2014, that seems to me to be a colossal amount of work to be accomplished in Scotland.

Brian Byrne: It is a colossal amount of work. Also, the fact that two totally separate things are to happen at the same time—individual electoral registration and the creation of a register for the referendum, which will involve two different sets of rules—also has the potential to confuse some of the electors.

Annabel Goldie: It might be unfair to ask you this—if you do not feel able to answer, I will quite understand—but if we take it that a major piece of legislation that will affect the franchise will be implemented in July 2014 and that a very important constitutional referendum will take place somewhere around the end of October or the beginning of November 2014, can that amount of additional work be accomplished?

Brian Byrne: It would be preferable, from our point of view, if the implementation of individual electoral registration were delayed in Scotland until after the referendum, but that might depend on a relatively early date for the referendum.

Joan Hewton: It could also be that, if IER were brought in earlier in Scotland, that would provide an opportunity to send out another batch of forms, with a view to increasing the size of the electorate at that point in time.

The difficulty will be created by having a gap in the middle of the IER process. At present, under the draft bill, IER will start on 1 July and be completed by 1 December. The difficulty will be created by stopping in the middle of the process for six weeks to prepare for the referendum.

Annabel Goldie: I presume that it would be very challenging to get that brought in sooner, because it is a UK responsibility.

Brian Byrne: The problem with bringing it in sooner is the fact that the European elections are to be held in June 2014, so there is only a very small window to bring it in sooner.

Joan Hewton: There is talk of bringing forward the European elections to the end of May. If that happens, it will provide a bit of scope for the process to be brought in a bit sooner.

The Convener: A suggestion has been made that we could have an informal briefing from Government officials on 28 February. That might give us a chance to alert them to that issue in particular, so that they can involve themselves in a discussion with the UK Government before they come to talk to us about how the process can best be managed. I think that that would probably be a good way to proceed.

Annabelle Ewing (Mid Scotland and Fife) (SNP): My question goes back to the issue of the attainers, but it is also relevant to the discussion that we have just had about timing and so on.

Earlier, you said that the suggested timetable would see the canvass taking place towards the end of 2013 or early 2014, and that you might find it necessary to go to schools to see what further work could be done after that. To what extent would it be helpful if there was an information campaign with the schools simply on the neutral issue of registration in advance of that, in order to ensure that those who will be eligible to vote in the referendum are aware of what they will be required to do? I would hope that that would save some time at your end and would allow you to turn your attention to some of the other matters that are coming up.

Joan Hewton: Yes, you are right. We will start to contact education authorities and get names and addresses. To get on the electoral register, a person's name, address, date of birth and nationality are required. I am not sure that every school will have that information. If we get information from the schools, that allows us to prepopulate forms. 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. It is a good idea to tackle schools first and then do the canvass with prepopulated forms, where possible. At that point, in relation to non-returns, instead of chasing households that are extremely unlikely to have young people in them, we will take a more individualised approach through schools and so on. There are various steps that we can take.

Brian Byrne: Prepopulation of forms also leads to electronic returns. People can check the form

online and say whether it is correct. That gets rid of a lot of paperwork.

Annabelle Ewing: That would perhaps be something that would be appealing to younger people, who, I think, now communicate solely on that basis.

Patrick Harvie (Glasgow) (Green): Is there any scope for the Electoral Commission, which has a responsibility to promote participation, to co-ordinate with the registration process in a way that would benefit efforts to promote awareness in schools—and in colleges and universities, given that people who are 16, 17, 18 and 19 will be in a range of institutions? Have you talked to the Electoral Commission about that?

Brian Byrne: Yes, the Electoral Commission quite regularly runs campaigns, and we try to co-ordinate local campaigns with what it is doing. It is important that there is a major campaign to promote awareness in the institutions that you mention, and that that campaign ties in with when and how we issue forms.

Patrick Harvie: One of the areas in which there could be complexity is universities. Richard Baker mentioned the drives to get university students to register. Members will all recognise that as an issue, based on our experience of trying to get new students on to the register for the first time. Now, however, we are talking about a situation in which a great many of them will already have been registered at their parents' home and will have to decide whether to reregister at their new address in their university town or to stay registered at their parents' address. Is that an additional area of complexity? Is there a danger that people will get lost between the cracks?

Brian Byrne: Electoral Commission research shows that the group that is hardest to get on the register is that of young, mobile people, which is almost the very definition of a student. If they move after we have got them on the register, we have to go through the whole process again.

In relation to getting young people on the register for the referendum, because of the individual registration method that is coming in, we will definitely have to go through the whole process again. We have asked the Cabinet Office whether, if we get someone on the young persons register, based on robust information from education departments, that will help with individual registration, rather than relying on the DWP database. I understand that the Cabinet Office is considering the issue. That might help to bridge the gap.

Patrick Harvie: So that information would come from local authority education departments. Would it also come from colleges and universities?

10:30

Brian Byrne: Electoral registration officers have wide powers to ask for information from almost everyone, but especially so with regard to local councils, which would therefore cover education departments. As for universities, although they are usually very helpful in providing lists of the students for whom they provide accommodation, it is more difficult to get information about students in private accommodation.

Patrick Harvie: Of which there are a great many.

Brian Byrne: Indeed, especially slightly older ones.

The Convener: I do not want to lose what we have agreed, so in a moment I will encapsulate for the clerks where we are with regard to the canvass procedures and the register. First of all, however, I draw colleagues' attention to page 7 of annex A to the cabinet secretary's letter to me of 14 December, which touches on the UK individual registration process. It goes on to say:

"We are currently considering whether these arrangements should apply to under-16s registering to vote in the referendum as well, and ... how best to approach this. The UK and Scottish Governments will work together to co-ordinate ... interaction".

It would be good if we could find out what discussions are taking place between the Scottish and UK Governments, because that would help not just the committee in its consideration of the bill but our ERO colleagues. I think that when they come to brief us informally on 28 February, officials should also come armed to discuss that issue a bit more. I hope that that captures where we have reached.

I am not sure whether we have finished that line of questioning, but I believe that Stuart McMillan and Linda Fabiani have supplementaries.

Stuart McMillan (West Scotland) (SNP): I will follow on from my colleague Annabelle Ewing's questions. Although the referendum is the most important vote that will have been held in Scotland in the past 300 years, the fact is that every election is important. Given that—and given the bill that is going through the UK Parliament—I point out that in recent years it has been brought to my attention that, despite filling out and sending off their voter registration forms, some people have found that, when they go to vote, their names are not on the register. I do not know whether the witnesses have given any thought to that, certainly with regard to the new individual registration process that is being introduced, but is consideration being given to a process whereby the valuation board notifies individuals that they are registered?

Brian Byrne: Under the individual registration process, the ERO writes to a person to tell them either that they are on the register or that they are not and should fill in the enclosed form.

Stuart McMillan: Could such notification be made by text or email rather than by letter?

Brian Byrne: We have suggested the use of electronic methods, but that has proven to be a slight struggle.

Stuart McMillan: As Annabelle Ewing pointed out, the use of modern technology is increasing among 15, 16 and 17-year-olds—although I have to say that text messages are probably not so modern any more. Could that technology be used to notify not only younger people but older people who might not have registered before or who, because of the new system, might be confused about whether or not they are on the register?

Brian Byrne: With the individual registration process, there will be a digital Government service that people can use to register. They will be able to go online and give details such as their date of birth, national insurance number and so on; that information will go to the ERO and the Department for Work and Pensions, will be matched—or, indeed, not matched—and will then be sent back to the ERO. If people do that online, they should—I hope—get an electronic response.

Stuart McMillan: What about those people who have absolutely no access to a computer and no intention of accessing one?

Brian Byrne: At the moment, EROs use as many communication methods as possible. In my area, the electronic response rate—through phone, text, emails or the internet—is about 40 per cent and is growing. Different EROs are at different stages—some are ahead of us; others are behind—but the rate is growing. Where we use electronic methods of communication, people seem to respond well and like it, but there are always going to be others who rely on the post.

Stuart McMillan: The point that I am trying to get across is that when it comes to the referendum, I would hate for somebody to say that they filled out the form and sent it away, but found out when they went to vote that they could not because their name was not on the register and they had not been informed that, for example, their application form got lost.

Brian Byrne: We are considering that for younger voters. Before an election, people get a polling card that indicates that they are on the register. If they were used to getting a polling card but do not get one, they should contact the ERO. However, we recognise that young voters are not used to getting polling cards, so we consider that it might be better to write to them to say that they

are on the register, which I think is the point that you are trying to make. We have thought about that possibility.

Stuart McMillan: From memory, I do not think that someone needs a polling card to go and vote.

Brian Byrne: No, but a polling card indicates that the election is happening, that the person is on the register and that there are different ways of voting—those are the three purposes of the polling card.

Stuart McMillan: Right.

Linda Fabiani (East Kilbride) (SNP): I have just a quick question. You said that you have had discussions with the Cabinet Office. Is there cognisance of the importance of the referendum, given that the Cabinet Office is dealing with the interface between the legislation down there and what we are achieving here?

Brian Byrne: Yes. The Cabinet Office is very aware of that. We find the Cabinet Office responsive and believe that it understands the situation.

The Convener: I have a general question about information technology issues. Obviously, you are very dependent on IT for the job that you undertake in producing the register. Are there any additional IT issues in dealing with young voters? If so, how will those be addressed?

Brian Byrne: We are very dependent on IT. I understand that the software companies involved have been contacted by Scottish Government officials about the likely process. They therefore know what will be involved and they have responded. We have not seen any results, but we understand that that is happening.

The Convener: From your perspective, what are the issues that we need to understand more clearly?

Brian Byrne: We have to have a database of names of people who are not on the register but who will go on to a combined normal register and young persons register in time for the referendum. There will be one database, but it is in two streams, which will have to be combined at some stage.

The Convener: Okay. That will require programmers who have the skills to merge all that.

Brian Byrne: Yes.

The Convener: In itself, that should not be a difficulty, provided there is enough time to do it.

Brian Byrne: They are quite specialist companies, and they need time as well.

The Convener: Okay. Do you want to say more about how much time might be needed? That

might not be clear yet because we are still not clear about what is happening with the UK process.

Brian Byrne: The general rule, going back to what the Gould report said, is that six months is enough time.

The Convener: That is a good rule.

Do colleagues have questions that go beyond what we have been talking about? Annabel Goldie has a question, then we will go to more general questions.

Annabel Goldie: It is on a completely different issue and relates specifically to 16 and 17-year-olds. Normally when you do your canvass and find somebody who is going to be 18 in the forthcoming year, a date of birth goes in. However, there are clearly areas of sensitivity if you do that with people who may be 15 or 16 at that point. Because the information is for one fixed-date referendum, is it possible to include those young people without reference to their date of birth and just to note that they will be 16?

Brian Byrne: I think that we suggested that in our response and I think that people have processes in mind for that. When we send out canvass forms and we put people on as young attainers, the advice that we have had is that we should not put on the date of birth; instead, we put "Date of birth known." That means that, in case the form goes astray, there is only a name. That would probably have to be the case with the form for the young persons register. However, the form itself tells you that the young person is under 16.

Annabel Goldie: I have a second point on the question of disclosing the addresses of the young attainers. Obviously, there are young people who are subject to non-disclosure orders. For example, there may be young people in care who will be eligible to vote but whose whereabouts are not known to one or both parents, for obvious reasons. Again, is it possible for arrangements to be made such that in particular circumstances their address need not be disclosed?

Brian Byrne: I understand that the draft legislation covers that. There is a process in normal registration for a declaration of connection with a property, which is normally for homeless people. If it is extended to young people in cases where there is a wish for the address not to be known, that is quite possible.

Linda Fabiani: We are aware that this process has already been gone through in other places such as Jersey and the Isle of Man. Has there been a learning process from their experiences?

Brian Byrne: To an extent, the process has already happened in Scotland, with the health board elections, as you are aware. This is slightly

different, however, because in the health board elections, people were already 16 at the time of registration. The proposals before us go a bit further, to capture people who are 15 at the time of registration. There are childcare issues with that. That is the only major difference, however. Capturing 15-year-olds and 16-year-olds is pretty similar, except for the fact that, technically, 16-year-olds are adults, unlike 15-year-olds.

Linda Fabiani: You seem quite relaxed about the whole process. Would I be right in saying that?

Brian Byrne: I try to be as relaxed as possible.

Joan Hewton: EROs from throughout Scotland meet regularly. We invite advisers from the Electoral Commission, the Cabinet Office, the Scottish Government and other organisations to those meetings, and they all attend. We have good dialogue and communication between all parties. We feel that we have talked it round, and that we are as ready as we can be to take on the legislation when it is enacted.

Brian Byrne: All 15 EROs in Scotland meet regularly. We use the Scottish Assessors Association for that. Most of them are also assessors, but the ones who are not assessors are also involved and play a full part.

The Convener: Have you had contact with the jurisdictions that Linda Fabiani mentioned?

Brian Byrne: We have not had contact with Jersey or the Isle of Man.

Linda Fabiani: We intend to take evidence from them further down the line. That will perhaps be helpful to you, if there is anything that you wish us to raise with them.

Brian Byrne: Yes, it would be interesting to see that.

Linda Fabiani: I also wished to ask about publication of the register in relation to campaigning and so on, as per normal elections. I wondered if we could tease out that issue as well. In relation to Annabel Goldie's important point about confidentiality, do you see any differences in how those who are involved in campaigning will be able to access and use registers?

Brian Byrne: Looking at the draft legislation, it seems that the intention is to restrict access to the register as much as possible, until just before the referendum. Anybody who is on the register for the referendum will, by definition, be 16 on the day of the referendum. The closer we get, the more 16-year-olds, rather than 15-year-olds, will be on the register.

Stuart McMillan: My question follows on from the earlier discussion regarding the information and assistance that EROs will require. We have touched on some aspects, such as data records,

IT experts and software, but are there any other things or people that you require in order to capture as many people on the register as possible, particularly the 15, 16 and 17-year-olds, who will be voting for the first time?

Brian Byrne: If there is any doubt about capturing information on people under 16, we would be happy if that doubt was removed, so that we have the clear right to capture that information and so that education departments, for instance, could not say that there are data protection issues.

Joan Hewton: The clear way in which to get people on the register is a good publicity campaign that is properly targeted at the right time and at the right people. There is no point in trying to attract 16-year-olds on to the register by advertising at 1 o'clock on the day. It has to be timeous—it has to be at the right time; we should not just keep writing to them.

If people do not want to register, we cannot force them to. We need a clear explanation that, even if someone is not thinking of voting now, they might decide to do so later, but they will not be able to if they are not on the register. We need to keep putting out that message. I think that the Electoral Commission has been given the task of the main publicity in the run-up to the referendum, but the political parties will publicise it as well. The more that do it, the better.

10:45

Stuart McMillan: The political parties use various media platforms, and not just newspapers and television.

On that issue, I am aware that 16-year-olds in Norway can vote—that was certainly the case in the 2011 local authority elections. That was part of an effort to get younger people involved. Linda Fabiani asked about Jersey and the Isle of Man, and you said that you had not contacted them. Have you contacted anyone else to find out what they have done and how they have done it? I imagine that the answer will be no, given your answer to Linda.

Brian Byrne: We have not yet done that. I know that other countries such as Austria have introduced voting for young persons. We are aware of it, but we have not talked to anyone about the process.

Stuart McMillan: Will you do so?

Brian Byrne: Perhaps we will, now that you have brought it to mind.

Annabel Goldie: My question is a supplementary to the line that Linda Fabiani investigated on the register of young voters.

According to section 8 of the draft referendum franchise bill, the register will not be published but

“may be disclosed to a person so far as necessary for the purpose of the carrying out by that person of any function in connection with registration in the register.”

Is that meant to cover individual political parties or people who are registered with the Electoral Commission?

Brian Byrne: I think that it is mainly to cover the returning officer, to allow them to organise the election. The campaign groups will have access to the register at a certain point and I imagine that political parties will, too.

Annabel Goldie: There is the important issue of political parties or other individuals needing to check the permissibility of donations. I do not see how they can do that unless they can see the register.

Brian Byrne: I understand that that question has been raised. A balance probably needs to be struck between the child protection issue and clarity on who is registered. We will just have to follow that. It is not something that we can decide.

The Convener: The Electoral Commission has raised that issue with the Government. Obviously, that provision is in the draft bill, and we will see the Government's response in the bill that comes before us.

Brian Byrne: The point that we have made is that the register of young voters should be treated differently as regards open sale or sale to credit reference agencies. It should not be needed for that; at the moment, it is only for the purpose of the referendum. It should be restricted to the political process.

Annabelle Ewing: I return to the issue that I raised initially and which Joan Hewton referred to when she said that we need a good publicity campaign. A good route for discussing the issues, and particularly the registration process, would be the modern studies and citizenship classes that every secondary school has. That would be in keeping with the general duty of information that the process entails.

Brian Byrne: Different EROs have different approaches. Some get involved in modern studies classes. I think that Joan Hewton does that in one council. Renfrew is particularly to the fore in that respect. We are all at different places with that but, for this referendum, we will have to be more up to speed with it.

Joan Hewton: It would be great to see the issue as a specific item in the curriculum.

The Convener: We are more capable of achieving uniformity of practice and good practice sharing now, through the medium of the Electoral

Management Board for Scotland. Is it your hope that, as a result of the discussion that goes on through that medium and your general discussions as assessors, you can ensure that good practice is much more widespread throughout the country?

Brian Byrne *indicated agreement.*

The Convener: For the benefit of the folk behind, that was a yes.

Brian Byrne: Sorry—it was a yes.

The Convener: As there are no further questions, I thank Joan Hewton and Brian Byrne for attending the Scottish Parliament today. I am grateful to you for giving us your time.

Work Programme

10:50

The Convener: Item 3 provides the committee with an opportunity to discuss the response from the Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities to the letter that we agreed I should send her about the timetable for scrutinising the referendum bill. Paper 3 sets out, in addition to the two original options, a third option that would give a bit more flexibility by postponing the stage 3 process until November.

From a practical point of view, I can see merit in adopting option 3 as the basis for planning at this stage. However, I think that we should understand that doing so does not stop us bringing the process in earlier if we think that we can achieve that. Others may have a different view on how we should go about things; the purpose of this item is to discuss that.

Stuart McMillan: Option 3 provides the committee with more flexibility over the timescales, so I certainly recommend it.

One point on which I want to provide encouragement to committee members—although it will depend on what comes down the line to us in our debates over the coming months—is that I have a personal thing against holding reports over a summer recess. Under option 3, we would consider our draft stage 1 report on the referendum bill at our meeting on 27 June and finalise that report at our meeting on 5 September. I would prefer us either to sign off the report before the summer recess or to begin our consideration of it after the recess.

I say that because I have previously put on record a similar point about other reports in other parliamentary committees. Apart from that, I agree that option 3 provides the committee with a bit more flexibility.

Patrick Harvie: I, too, was a member of the Economy, Energy and Tourism Committee. Stuart McMillan makes a fair point, but there is a difference in that the EET report to which he refers was on a very long inquiry into renewable energy rather than on scrutiny of a bill. Although there will probably be more politics in the referendum bill's scrutiny than there was in that inquiry, the bill will probably be slightly more straightforward in substance.

Therefore, I do not think that it will be a disaster if our timetable for consideration of our stage 1 report stretches over the summer recess. It would be preferable to complete the stage 1 report

before we break for the summer recess, but I do not think that it is worth dying in a ditch for.

The Convener: As I remember it from our previous discussion on the issue, there was general agreement around the table that we do not want to be dealing with our stage 1 report on the referendum bill at the same time as the stage 3 consideration of the franchise bill is to take place in plenary session, which will be during the last week before the summer recess. The proposed timetable avoids that.

James Kelly: I welcome the correspondence from the cabinet secretary and her indication that the timetable for the referendum bill could be extended to November. The greater clarity provided by the Electoral Commission's announcement yesterday, which has been welcomed in statements from the different campaign organisations and political parties, should make our committee's job a lot easier and take some of the heat out of the process.

Obviously, our committee will still need to do a proper job of interrogating the legislation, but option 3 gives a reasonable timetable for that. I accept that, if we can, we should try to accelerate that and bring things forward. That is fair enough.

On Stuart McMillan's point about the stage 1 report, although it would be better to finish the report before the summer recess, we have to bear it in mind that we will have stage 3 of the franchise bill in the final week before the recess, as the convener said. We do not want to be in a situation in which we have too much work crammed into the final week and we potentially take our eye off the ball. Option 3 is reasonable and it allows for flexibility if the timetable can be accelerated.

Annabel Goldie: I, too, welcome the cabinet secretary's letter, which is extremely helpful. Option 3 will give us flexibility and let us keep a connection between the stage 1 report and the debate. I am with Stuart McMillan in that I do not like the idea of the hiatus that would occur if the report comes out but the debate is held a couple of months later. Option 3 deals with that but builds in flexibility.

The other thing that we need to bear in mind is that, as James Kelly correctly said, the Electoral Commission's pronouncements yesterday clarified to some extent what we may expect to be the content of the referendum bill. However, it seems from the evidence that we heard this morning that some challenges may arise for the franchise bill, and the referendum bill timetable might have to be tweaked a bit, depending on what is happening and when. Option 3 gives us flexibility and a bit of comfort.

The Convener: In mentioning that if we can get the bill in earlier, so much the better, I am

conscious that, as James Kelly said, the committee has a job to do in scrutinising the legislation and we might suggest things to the Government that require secondary legislation and regulation. The referendum could be not in October but in September, and the bill needs to be passed quite cleanly through royal assent by the end of the year to allow time to get any regulations through before the six-month rule kicks in. We need to be acutely aware of that. The Government might have regulations at this stage or it might not—I do not know. We might suggest stuff that it needs to take on board.

Annabelle Ewing: I agree with the thrust of what colleagues have said. On option 3, I say well done to the clerks for coming up with the suggested timetable. I think that it works.

I have two points to make. First, I echo what the convener said about the possibility, at least, of further secondary legislation. The mid-November date has to be the absolute cut-off, in my view, because there is an expectation that we will do our job properly and within an appropriate time to allow other things to happen at the right time as well.

Secondly, as I said last week, it has been suggested that we have consecutive meetings, and we can meet earlier, if necessary. I am sure that we will find the will to do what we need to do.

Richard Baker: You might well have discussed this previously, convener, but is there any clarity on the publication date of the white paper? Does that require to be considered in looking at the committee's work programme?

The Convener: I think that "associated legislation" is the wording in our remit. The white paper is not actually legislation in its nature.

Richard Baker: Issues might come out of it, though. I was just asking the question.

The Convener: I do not know any more about the timing than what you folks know from what has already been put out in the media.

Patrick Harvie: On a related point, does our remit cover the order that is talked about in paragraph 4 of paper 3, or does it cover only the bills?

The Convener: The remit covers associated legislation. We would have to reconvene to—

Patrick Harvie: I wonder whether we might at some point consider whether to seek the Parliament's consent to broaden the remit to cover other aspects of the Government's work in relation to the referendum. We could consider whether we want to take evidence on that. There might be things that are not formally legislation and are

outwith our current remit that we believe there is a continued role for the committee to scrutinise.

The Convener: Let us come back and look at that later. Let us get the job that we have been set up to do done first and ensure that the legislation is fit for purpose. That is the job that the Parliament has set us. We can always examine further down the track whether we want to consider wider issues than just the legislation.

As there are no other comments, I thank members for their participation. We have already agreed that Government officials will come to give us an informal briefing on the 28th. The next meeting is scheduled for 7 February.

Rob Gibson: The briefing will be on 28 February, not 28 January.

The Convener: Yes. I note that the paper says January. That is why I intentionally said February, Mr Gibson.

On 7 February, we will continue stage 1 oral evidence taking on the franchise bill with a videoconference with Michael de la Haye from Jersey and Paul Whitfield from Guernsey. I look forward to seeing members on that occasion. Thank you.

Meeting closed at 11:00.

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