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Explainer: The Electoral Commission and the Scottish Parliament

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This explainer briefing provides an overview of the Electoral Commission and its relationship to the Scottish Parliament. It outlines the Commission's role in relation to Scotland and explains the funding and oversight arrangements with the Scottish Parliament.

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Summary

The [Electoral Commission](#) ('the Commission') is the independent body that oversees elections and regulates political finance in the UK.

The Electoral Commission has specific devolved Scottish functions. The [Scottish Elections \(Reform\) Act 2020](#) introduced separate funding and oversight arrangements for the Commission's exercise of its devolved Scottish functions. The Scottish Parliamentary Corporate Body provides funding to the Commission and has oversight responsibilities in relation to its accounts, financial estimates and strategic plans.

The [Scottish Elections \(Representation and Reform\) Act 2025](#) amended these arrangements by requiring the Commission to prepare separate five-year plans for how it will carry out its devolved Scottish functions and align the timetable for the production of these plans with Scottish Parliament election cycles.

The Electoral Commission and the Scottish Parliament

The [Electoral Commission](#) ('the Commission') is the body that oversees elections and regulates political finance in the UK. The Commission was established under the [Political Parties, Elections and Referendums Act 2000](#). ¹

The Commission is independent of the UK Government and other devolved governments. It is [accountable to the legislatures of the UK](#) (in relation to different functions) and [is funded by them](#).

The Commission is [led by 10 commissioners](#). The Commissioners set and oversee the Commission's strategic direction and regulatory priorities. They are also responsible for ensuring effective governance and use of public funds. By convention, one of the Commissioners has specific responsibility for Scotland (with other Commissioners responsible for Northern Ireland and Wales respectively). [Section 3A of the Political Parties, Elections and Referendums Act 2000](#) provides that four Commissioners are nominated by political parties represented in the House of Commons, and three of those Commissioners are nominated by the three largest parties in the House. The Commission's website [provides information on the current commissioners](#). ²

The Commission is a UK-wide body, which undertakes a range of functions in relation to different elections, referendums and political finance.

This briefing uses the term 'devolved Scottish functions', which has different definitions for different purposes.

In connection with the [five-year plan that now must be provided to the Scottish Parliament](#), the Commission's 'devolved Scottish functions' are defined as any functions under:

- [Part 1 of the Political Parties, Elections and Referendums Act 2000](#) in relation to Scottish Parliament general elections and by-elections, and local government elections ¹
- the [Referendums \(Scotland\) Act 2020](#) in relation to any referendum held throughout Scotland. ³

For funding purposes, however, the definition differs. Paragraph 14A of Schedule 1 to the 2000 Act provides for reimbursement by the Scottish Parliamentary Corporate Body for the exercise of 'devolved Scottish functions' by the Commission but excludes functions under the 2020 Act as equivalent reimbursement arrangements for those functions are set out in section 31 of the 2020 Act.

In this briefing 'Scottish elections' is used to refer to elections to the Scottish Parliament and to local government in Scotland.

The Commission is accountable to the UK Parliament (through the [Speaker's Committee](#)),

the Scottish Parliament (in relation to its devolved Scottish functions), and the Senedd Cymru (in relation to its devolved Welsh functions through the [Llywydd's Committee](#)).

This briefing provides an overview of the Commission's functions (including UK-wide and devolved Scottish functions). It then focusses on the Commission's funding and oversight arrangements with the Scottish Parliament. A [briefing on the Commission](#) by the House of Commons Library provides information on the Commission's arrangements with the UK Parliament.⁴

What does the Commission do?

The Electoral Commission has a range of responsibilities relating to elections, referendums and its role as a regulator for political finance.

“ The Electoral Commission is the independent body which oversees elections and regulates political finance in the UK. We work to promote public confidence in the democratic process and ensure its integrity.”

The Electoral Commission , n.d.⁵

[In relation to elections](#), the Commission works to ensure that elections are well run and that voters, candidates, political parties and campaigners have the information they need.⁶

The Commission's role is not to run polling stations, count votes, or announce results. In Scotland, this is done by the Returning Officer.ⁱ However, the Commission gives guidance and support to Returning Officers and evaluates their performance.⁶ Further support is provided by the [Electoral Management Board for Scotland](#), which has the “general function of co-ordinating the administration of local government and Scottish Parliament elections”, involving two specific roles:

“ (a) assisting local authorities and other persons in carrying out their functions in relation to local government elections; and (b) promoting best practice in local government elections by providing information, advice or training (or otherwise).”

Local Electoral Administration (Scotland) Act 2011, n.d.⁷ Electoral Management Board for Scotland, n.d.⁸

The Commission also [publishes information on donations and spending by political parties and campaigners](#).

After elections, the Commission publishes reports and electoral data on issues such as turnout, electoral registration, postal voting and rejected ballot papers.⁶

[In relation to referendums](#), the Commission's role depends on the legislation providing for the referendum. This can involve running national referendums (if held under the [Political Parties, Elections and Referendums Act 2000](#)). The Commission's work in referendums otherwise involves assessing proposed referendum questions, designing ballot papers, providing information to voters, regulating funding, observing polling stations, and publishing reports on how the referendum was conducted.⁹

The [Referendums \(Scotland\) Act 2020](#) sets out further functions in relation to referendums held throughout Scotland (within the competence of the Scottish Parliament), including in

ⁱ Electoral Registration Officers have [specific responsibilities for compiling and maintaining the register of electors](#).

relation to campaign rules ([Schedule 3](#) and [Schedule 4 regarding investigatory powers](#)). The Commission is also required to report on the conduct of referendums ([Section 29](#)). See a [SPICe briefing on the Bill](#) as introduced for further details.³

In relation to its [role as a regulator](#), the Commission maintains registers of political parties and non-party campaigners, publishes political finance data, provides guidance on campaign finance rules, and takes action if it has reason to suspect the political finance law has been broken.¹⁰

The Commission also has the [power to make Regulations](#) under a number of pieces of primary legislation, including the [Political Parties, Elections and Referendums Act 2000](#) and the [Representation of the People Act 1983](#).^{11 1 12}

The areas of work set out in this section are carried out by the Commission in broadly similar ways across its devolved Scottish functions and its other functions. The main differences are in the [funding](#) and [accountability structures](#), which are set out below.

Accountability and scrutiny

The Commission is an independent body and is accountable to the different national legislatures for the policy areas for which they have responsibility. It is required to produce a five-year plan in relation to most of its functions, which is submitted to the UK Parliament through the [Speaker's Committee on the Electoral Commission](#). This plan must not contain key information relating to the 'devolved Scottish functions' which is instead contained in the separate five-year plan that is submitted to the Scottish Parliamentary Corporate Body (SPCB). The Speaker's Committee is responsible for reviewing the Commission's annual financial estimate and five-year plan, examining the performance of the Commission, and overseeing the selection of commissioners.¹³

The [Scottish Elections \(Reform\) Act 2020](#) introduced separate accountability arrangements for the Commission's exercise of its devolved Scottish functions.¹⁴ It required the Commission to:

- submit a report on its functions to the SPCB every five years, setting out the Commission's aims and objectives over five years and estimated requirements for resources during that period ([section 17](#))
- prepare and submit to the SPCB and lay before the Parliament a copy of its accounts as soon as is reasonably practicable once the Comptroller and Auditor General has certified them after the end of each financial year ([section 18](#)).

The five-year report used to be the same report as the Commission is required to submit to the [Speaker's Committee on the Electoral Commission](#) under the [Political Parties, Elections and Referendums Act 2000](#).¹ This plan is produced in the first financial year following a UK general election. The SPCB considered the [Commission's Corporate Plan 2022/23 – 2026/27](#) in November 2021.¹⁵

The [Scottish Elections \(Representation and Reform\) Act 2025](#) made changes to these arrangements.ⁱⁱ [Section 66](#) requires the Commission to prepare a separate plan for Scottish elections and for the timing of these plans to correlate with Scottish Parliament

general election cycles. The SPCB must examine this plan and consider whether "it is satisfied that the plan is consistent with the economical, efficient and effective discharge by the Commission of their devolved Scottish functions". If not, it may recommend modifications to the plan, which the Commission must either make or, if it does not follow them, lay a document before the Scottish Parliament setting out its reasons. In its consideration of the five-year plan, the SPCB may invite comments from a Scottish Parliament Committee or "such other persons as the SPCB consider appropriate."¹⁶

In addition to the statutory oversight role of the SPCB, scrutiny of the Commission's work in Scotland is generally undertaken by the Standards, Procedures and Public Appointments Committee. The Committee has examined the Commission's role and responsibilities as part of its scrutiny of electoral legislation and may take evidence from the Commission on matters relating to elections and electoral reform. For example, as part of its scrutiny of the [then Scottish Elections \(Representation and Reform\) Bill](#), the Session 6 [Standards, Procedures and Public Appointments Committee](#) received [written evidence](#) and [oral evidence from the Commission](#) on 28 March 2024.

On the proposed changes relating to parliamentary scrutiny of the Electoral Commission's activities in relation to Scottish elections, the Electoral Commission [stated in its written response](#):

" We support the proposals in this Bill which would make the Electoral Commission fully accountable to the Parliament which has legislative responsibility for the work set out in the five-year plan. We note that the arrangements in the Bill differ to those in place for the Speaker's Committee in the UK Parliament and the Llywydd's Committee in the Senedd. The Bill states that the Scottish Parliament Corporate Body (SPCB) may propose changes to the plan. However, it is for the Electoral Commission to consider whether to incorporate these recommendations and to lay the final plan in Parliament (including outlining the reasons for any deviations from the SPCB's recommendations). In both the UK and Welsh parliaments, the respective committees to which the Commission accounts are responsible for making any modifications to the five-year plan before laying it themselves. We are content with the arrangements proposed in the Bill, however, we would welcome the Committee's views on them."

The Electoral Commission, 2025¹⁷

In its [Stage 1 Report on the Scottish Elections \(Representation and Reform\) Bill](#) published in June 2024, the Committee stated:

" The Committee is content with the provisions in the Bill in relation to the scrutiny of the five-year plan for the Electoral Commission's devolved functions in Scotland, including that it would be for the Electoral Commission rather than the SPCB to have the final view on what should be included in the plan"

Session 6 Standards, Procedures and Public Appointments Committee, 2024¹⁸

ii Part 10 of the [Scottish Elections \(Representation and Reform\) Act 2025](#) also made a number of changes to the Commission's devolved Scottish functions, including additional duties relating to voter education and reporting on spoiled ballot papers.

Funding arrangements

The [Scottish Elections \(Reform\) Act 2020](#) changed the funding arrangements for the Electoral Commission's work in relation to its devolved Scottish functions. ¹⁴

[Section 15 of the Scottish Elections \(Reform\) Act 2020](#) provides that the Scottish Parliamentary Corporate Body (SPCB) must reimburse the Commission for expenditure attributable to carrying out its devolved Scottish functions. ¹⁴

Under [section 15\(3\) of the 2020 Act](#), the SPCB is not required to reimburse any expenditure not covered by an estimate or revised estimate that it has approved, however, the section provides that the SPCB may reimburse that expenditure. ¹⁴

The Commission is required to prepare an estimate of its income and expenditure in relation to its Scottish functions before the start of each financial year. The Commission sends this estimate to the SPCB for approval. In the course of a financial year, the Commission may send further revised estimates for approval. ¹⁴

[In preparing estimates, the Commission:](#)

“ must ensure that the estimated level of income and expenditure is consistent with the economical, efficient and effective exercise by the Commission of their devolved Scottish functions.”

Scottish Elections (Reform) Act 2020, n.d. ¹⁴

Electoral Commission reports on Scottish Parliament elections

Under the [Political Parties, Elections and Referendums Act 2000](#), the Commission has a statutory duty to collect data and [publish reports about elections that take place across the UK](#), including Scottish elections. ¹ These reports consider the experience of people voting and campaigning at elections, and of people delivering the elections. ¹⁹

In [preparation for these reports](#), the Commission carries out a public opinion survey to find out voters' views about elections and asks for candidates and campaigners for feedback. Councils, which are responsible for running elections, have to provide data to the Commission about electoral registration, postal voting and turnout. They are also asked to fill in a survey and polling station staff are asked for feedback. ¹⁹

The Commission's [Report on the Scottish Parliament election on 6 May 2021](#) was published on 9 September 2021. The Commission [aims to publish reports on elections within six months of polling day](#). The Commission's report on the 2026 Scottish Parliament election is therefore expected to be published by November 2026. ²⁰

Where can I find out more?

- The [Electoral Commission's website](#) contains information about its role, guidance and publications, including [annual reports and five-year plans](#).⁵
- The [Scottish Elections \(Reform\) Act 2020](#) and the [Scottish Elections \(Representation and Reform\) Act 2025](#) set out the current accountability, reporting and funding arrangements for the Commission's devolved Scottish functions.^{16 14}
- A SPICe briefing on [Electoral reform in Scotland and the Scottish Elections \(Representation and Reform\) Bill](#) provides an overview of recent electoral reform in Scotland, the Scottish Government's most recent consultation and the Scottish Elections (Representation and Reform) Bill as introduced.²¹
- A briefing by the House of Commons Library, [The Electoral Commission](#), provides further background on the role of the Electoral Commission across the whole of the UK.⁴

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