

# SCOTTISH AFFAIRS COMMITTEE: EXPERIENCE OF THE SCOTTISH ELECTIONS 2007

## Conclusions and recommendations

### **The Question of responsibility**

1. We agree that the Scotland Office and all those involved in planning and organising elections in Scotland should now focus on how to strengthen electoral procedures for future years, rather than on assigning blame for what went wrong on 3 May. This is not to deny that there were failings on the part of individuals and institutions. We do not believe that 'no-one was to blame' for the problems. Rather, lines of accountability were so fragmented and confused that no one person could be held solely responsible. (Paragraph 12)<sup>1</sup>

### **Role of the Scotland Office**

2. It is clear to us that there were significant delays in Ministerial decision making in the run up to the 2007 Scottish Parliament elections. It may be that these delays were the result of a desire to allow the consultation process to run its full course. Nevertheless, Ministers in the Scotland Office must realise that excessive delays will have serious consequences for the smooth running of an election. It is highly likely that many of the problems of 3 May 2007 would not have arisen had the legislation been put in place sooner, allowing for proper testing and contingency planning of the practical aspects of election organisation. (Paragraph 17)

### **The Elections Steering Group**

3. The lack of a clear decision-making structure for the Elections Steering Group was a key failure of the preparations for the 2007 elections to the Scottish Parliament. The benefits of consultation had been demonstrated by the experience of previous elections. Nevertheless, the desire to take account of as many views as possible should not prevent structures being established to draw the consultation process to a timely conclusion. (Paragraph 23)

### **Future responsibility for elections to the Scottish Parliament**

4. We do not consider that overall responsibility for elections to the Scottish Parliament should be transferred to the Scottish Executive. This is not necessary in order for elections to proceed smoothly in future. However, there may be a case for organisational changes 'on the ground' in Scotland, including reformed structures of accountability. In this context, the proposal to establish a Chief Returning Officer for Scotland as a single point of accountability deserves further consideration. (Paragraph 26)

---

<sup>1</sup> The paragraph references refer to the original Report

## **Role of the Electoral Commission**

5. We were not satisfied with the quality of the VoteScotland information campaign. In future, better information campaigns need to be run, particularly when there are changes to electoral procedures. (Paragraph 32)

6. We conclude that the communication process between the Scotland Office and the Electoral Commission was not effective. Failures on the part of the Electoral Commission meant that warning signs were not acted on. We are particularly disappointed that the Electoral Commission did not raise concerns about the level of spoiled ballots in the pilot study. There is little value in establishing an independent Electoral Commission if it fails to act robustly to warn Government of potential problems with the electoral system. It is difficult to see the Electoral Commission as having added any value to this entire process. (Paragraph 35)

7. The status of the Electoral Commission, combining an external auditing role with active participation in organisational aspects of electoral procedure is in need of review. In particular, the Committee would see advantage to some participation, albeit as a minority, of nominees from political parties. This has now been recognised by a number of observers, including the Committee on Standards in Public Life. As part of this review, the Government should give consideration to the proposal to appoint a Chief Returning Officer for Scotland and the allocation of responsibility for:

- the provision of legal advice;
- the development of electoral policy;
- commissioning research;
- the provision of guidance to returning officers;
- compliance and the regulation of political parties;
- monitoring and auditing functions; and
- operational roles (including voter information and awareness programmes).

(Paragraph 36)

8. It is unlikely that all of the factors leading up to the 3 May problems are unique to Scotland. (Paragraph 37)

## **The combined ballot paper**

9. We agree that, on the next occasion, separate ballot papers must be provided for the election of constituency and regional MSPs. However, we note that the suggestion to combine the ballot papers stemmed from a desire to highlight the importance of the regional vote, which is sometimes perceived as having secondary status. The return to separate ballot papers leaves this issue unaddressed. It may be that there are better ways to highlight the significance of the regional vote, for example, through central voter information campaigns as well as the campaigns run by the political parties themselves. (Paragraph 44)

## **Contingency planning**

**10.** There was a shocking lack of accountability for the decision to alter the ballot papers in the Glasgow and Lothians regions to accommodate a larger than expected number of candidates. We are concerned that we have never received a satisfactory explanation for this decision. The lack of robust contingency plans for eventualities such as this was in part due to the successive delays in ministerial decision-making. Delays of this nature (even if they are well-intentioned, for example, to allow for consultation) should not be allowed to jeopardise the integrity of the electoral process (Paragraph 48)

### **Party descriptions**

**11.** We support further research into a new format for ballot papers, particularly the questions of candidate order and the use of party descriptions in addition to registered party names. Any change would need to be subject to extensive testing. It may be that moving away from alphabetical order in favour of a lottery system would increase the potential for confusion. (Paragraph 52)

### **Secrecy of the ballot**

**12.** The secrecy of the ballot is of prime importance in a democratic society. To jeopardise it simply because of the demands of an electronic counting system is perverse. We strongly support the measures to ensure the secrecy of the ballot outlined in the Gould Report. (Paragraph 54)

### **E-counting**

**13.** There has been a severe loss of confidence in e-counting. The experience of its use in the Scottish Parliament and local government elections revealed a fundamental lack of transparency. The checks and balances of a manual system must be retained. Candidates and observers must have access to ballot papers in order to ensure that procedures are followed correctly and that recounts can be asked for. Until these problems are resolved, we do not support the use of e-counting for future elections. (Paragraph 60)

### **Overnight counting**

**14.** We are confident that the next Scottish Parliamentary elections, decoupled from the local government ballot, can be counted manually on the night without risk to the system. Future arrangements for counting should be considered as part of the research into counting systems that we have recommended earlier in this Report. (Paragraph 63)

### **Postal voting**

**15.** No voter should receive their postal vote so late that there is no realistic possibility of returning it in time to be counted. In 2007, understandable confusion was caused by the fact that the instructions did not match the ballot paper. These problems must not be repeated. We support further research into the use of advanced voting in person which may have advantages in terms of increasing turnout as well as reducing costs and bureaucracy. In addition, there should be a restriction on eligibility for postal votes. (Paragraph 67)

### **'Decoupling' the elections**

**16.** The decision to 'decouple' the dates of the Scottish Parliament and local government elections appears to offer a simple way to eliminate the complexity of holding a combined election. In principle, we believe that two or more votes in different elections or referenda should not be held on the same day. (Paragraph 73)

### **A Chief Returning Officer for Scotland**

**17.** We also have concerns about voter registration. In many cases, electoral registers are outdated. This needs to be a priority for returning officers. If a Chief Returning Officer were to be appointed, he or she might be well placed to intervene to improve this situation. (Paragraph 75)

**18.** The proposal to establish a Chief Returning Officer for Scotland deserves further consideration, both in terms of its potential benefits for Scotland and in its implications for the way in which elections are run across the UK. What is important is that there should be a clear line of accountability for each aspect of election planning and organisation. It may be possible to achieve this by strengthening and realigning one of the existing bodies, rather than creating a new post. (Paragraph 80)

### **Returning Officers**

**19.** We recommend that further consultation should take place with electoral officials in Scotland before implementing any proposals affecting the status of returning officers. (Paragraph 83)

### **Electoral legislation**

**20.** We welcome the undertaking from the Scotland Office that no new electoral legislation will be introduced in the six months prior to an election. This should go some way towards providing a more certain framework for election planning. We also welcome Ministers' acceptance of the need for consolidation of electoral law.

However, we are not convinced that current plans go far enough. The Scotland Office needs to co-ordinate its activities with other government departments (in particular, the Ministry of Justice) as part of a wider project to overhaul UK electoral law. (Paragraph 87)

### **Putting the voter's interests first**

**21.** We were deeply concerned by the events of 3 May. Bureaucratic delay cannot be allowed to undermine Scotland's long democratic tradition. We agree with Mr Gould that the voter should be placed at the heart of the electoral process. This may seem an obvious statement, but it was the failure to consider the voter's perspective that led to many of the problems of the 3 May elections in Scotland. We are pleased to note the Minister's statement that "putting ordinary

voters front and centre of this has got to be the motif for moving this process on” and we expect the Scotland Office to act accordingly. (Paragraph 88)

**22.** The independent review of the Scottish elections needs to be seen as an opportunity to restore fully the integrity of the electoral process, and not to bring about a ‘quick fix’ by accepting only the simplest and least controversial recommendations.

Although some proposals can be implemented immediately, others will require significant further research. Throughout our inquiry, witnesses have indicated that the problems underlying the 3 May experience are unlikely to be unique to Scotland. The Scotland Office therefore needs to co-ordinate its action with other government departments as well as bodies such as the Electoral Commission and local electoral officials to ensure that the integrity of the UK’s complex electoral landscape is restored. (Paragraph 89)