

ANGUS COUNCIL

POLICY AND RESOURCES COMMITTEE - 19 JUNE 2001

THE DRAFT LOCAL GOVERNMENT (TIMING OF ELECTIONS) (SCOTLAND) BILL

JOINT REPORT BY THE CHIEF EXECUTIVE AND THE DIRECTOR OF LAW AND ADMINISTRATION

ABSTRACT

This Report advises of the terms of the draft Local Government (Timing of Elections) (Scotland) Bill and recommends a response from Angus Council.

1. RECOMMENDATION

It is recommended that the Committee:-

- (i) notes the terms of the draft Local Government (Timing of Elections) (Scotland) Bill; and
- (ii) remits to the Chief Executive to respond to the Scottish Executive in terms of **Appendix 2** to this Report.

2. INTRODUCTION

The McIntosh Commission report recommended that local government elections should be moved to a four year term to assist councils to take a long term view in planning and implementing policies. As part of its response to the McIntosh report the Scottish Executive consulted in late 1999 on the term and timing of local elections. The strong consensus at that time was in favour of extending the term from three to four years to allow councils to plan ahead and to deliver more effectively their policy priorities. Consideration was also given at that time to whether or not elections for local government should be synchronised with elections to the Scottish Parliament, as happened in May 1999.

3. DRAFT BILL

In November 2000 Angus McKay, Minister for Finance and Local Government announced the Executive's proposal to introduce a four year term for councils and to combine local government elections with those for the Scottish Parliament. These proposals include putting back the next local government elections to 2003. Implementation of these proposals requires the introduction of legislation and the Scottish Executive has now issued a consultation draft bill detailing its intentions.

The draft explanatory notes and draft policy memorandum for the bill are attached as **Appendix 1** to this Report.

4. ANGUS COUNCIL'S RESPONSE

The Leader of the Administration, Chief Executive and Director of Law and Administration were invited to give Evidence to the Local Government Committee of the Scottish Parliament on Tuesday 12 June. The Evidence submitted by them is attached as **Appendix 2** to this Report and it is recommended that this be now approved as the Council's formal response to this consultation.

5. FINANCIAL IMPLICATIONS

There are no direct financial implications arising from this Report.

6. HUMAN RIGHTS IMPLICATIONS

There are no human rights implications arising from this Report.

7. CONSULTATION

The Director of Finance has been consulted in the preparation of this Report.

A B WATSON
Chief Executive

CATHERINE A COULL
Director of Law and Administration

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information), were relied on to any material extent in preparing this report.

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DRAFT LOCAL GOVERNMENT (TIMING OF ELECTIONS) (SCOTLAND) BILL**DRAFT EXPLANATORY NOTES****INTRODUCTION**

1. These Explanatory Notes have been prepared by the Scottish Administration in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

2. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

Section 1 Synchronisation of polling at local government and Scottish Parliamentary elections

3. Section 5(3) of the Local Government etc. (Scotland) Act 1994 provides for local government elections to be held on a three-year cycle. Section 1 of this Bill deletes the reference to the three-year cycle and inserts a new provision for local government elections to be moved to a four-year cycle and be linked to the dates on which ordinary elections to the Scottish Parliament occur. This provision also includes the power to alter the dates of these local government elections.

Section 2 Power to synchronise polling at local government and extraordinary Scottish Parliamentary elections

4. Section 2 makes changes in section 43 of the Representation of the People Act 1983 which deal with the date and timing of local government elections in Scotland to provide powers to synchronise local government elections with an extraordinary general election of the Scottish Parliament.

Section 3 Revision of provisions relating to timing of elections

5. Section 3 makes consequential changes to sections 4(3) and 5(4) of the Local Government etc. (Scotland) Act 1994 and sections 43(1), (2) and (3) of the Representation of the People Act 1983. The changes made by subsection (3) are intended to clarify what the position has always been. To avoid the suggestion that they are substantive changes, subsection (4) gives them retrospective effect.

DRAFT LOCAL GOVERNMENT (TIMING OF ELECTIONS) (SCOTLAND) BILL

DRAFT POLICY MEMORANDUM

INTRODUCTION

1. This document relates to the draft Local Government (Timing of Elections) (Scotland) Bill.

POLICY OBJECTIVES OF THE BILL

2. The objectives of this Bill are to provide for the terms of office of councillors to be extended from 3 to 4 years; for the timing of local government elections to be coincident with those for the Scottish Parliament and for the local government elections scheduled for 2002 to be postponed to 2003. As an extension of this overall policy intention of making elections coincident and also to reflect the provision of section 3 of the Scotland Act, powers are to be provided within the Bill to make the timing of local government elections correspond with an extraordinary general election of the Scottish Parliament.

3. A four-year term will help councils to plan ahead and deliver policy priorities more effectively and complements other initiatives, such as the new finance settlement, and will assist councils in taking a longer-term strategic view. High turnout at local government elections reinforces their democratic mandate: coincident elections will assist in achieving a high turnout. Introducing coincident elections is part of the process of renewing local democracy and complements other work such as the power of community initiative and community planning designed to help revitalise interest in local issues. The experience of the combined elections in May 1999 demonstrates the success of the combined poll. From the elector's perspective, running Parliamentary and local government elections together will result in being asked to turn out less times and therefore will have a positive impact on voter fatigue.

ALTERNATIVE APPROACHES

4. Two options were considered in respect of the length of the term of office of councillors: either to retain the current three-year cycle or introduce a four-year term. The option of the four-year term was chosen as this will help councils to plan ahead and deliver policy priorities more effectively. In addition it also complements other initiatives, such as the new finance settlement, and will assist councils in taking a longer-term strategic view.

5. Two options were considered in respect of the timing of local government elections: to hold elections to coincide with Scottish Parliamentary elections or to hold local government elections mid-term. The Executive recognises that there are arguments for each of these options. The main consideration in the timing of local government elections is to provide councils with a strong democratic mandate. That would be achieved by both a high turnout and by the electorate voting on clearly understood local issues.

6. Dealing first with turnout, the 1999 election demonstrated the impact of a combined election on turnout - turnout in 1999 was 59%, against a backdrop of turnout between 41%

and 48% from 1976 to 1995. The heightened publicity and media attention for combined elections clearly has an impact on voter turnout.

7. Anecdotal evidence suggests that, in a combined poll, national issues will dominate. But separate elections alone offer little guarantee that national issues will not influence voting at local government elections. Improving the focus on local issues will not be achieved simply by going to the polls on a separate day: other aspects of the renewing local democracy agenda need to be successful to lead to a greater connection between local authorities and their voters.

8. The Executive has also considered the practical issues relating to the delivery of a combined election. It recognises that there are the demands that dealing with different ballot papers and, possibly, different electoral systems, on a single occasion present for the electorate. The 1999 experience of combining elections involving a first past the post (FPTP) electoral system and an additional member system (AMS) suggests that the electorate did cope satisfactorily with the mechanics of voting and this has been underlined by a number of responses to the consultation on the Executive's response to the McIntosh report. The other issue is the successful administration of joint elections. The 1999 elections were generally considered to demonstrate that the two elections could be combined successfully. The Executive recognises from the experience of returning officers for those elections that combined polls place significant pressure on returning officers and their staff, particularly in respect of the timing of the two counts. There will clearly need to be in place a well-functioning administrative process to allow for effective counting of votes for both elections and the Executive will be discussing the arrangements for this process with all those who have an interest in ensuring that this happens.

9. The Executive has concluded that the balance of the arguments was in favour of a combined election which would provide for higher turnout; reduce the demands on voters; and potentially provide savings. This is seen as part of the process of Renewing Local Democracy and complements other work, such as the power of community initiative and community planning, which should help revitalise interest in local issues.

CONSULTATION

10. The Executive consulted on the term and timing of elections in its response to McIntosh and set out its subsequent position in a paper outlining the outcome of that consultation. That paper was sent to the Local Government Committee in June 2000. It stated the Executive's position as follows:

“Ministers note the advantages of a 4 year term for the successful delivery of councils' priorities. They also note the finely balanced arguments regarding mid-term and same-day elections, and the increasing (but far from conclusive) support for the latter option. Final decisions on these matters will need to await the forthcoming recommendations of the Renewing Local Democracy Group, which will impinge on the timing of elections.”

11. McIntosh recommended that local government elections should be moved to a four-year term. He argued that this would assist councils to take a longer-term view in planning and implementing policies. The Executive's response to McIntosh recognised the arguments

for a four-year term and sought views on the timing of local elections. Many respondents commented on the length of term, with a strong consensus in favour of extending the term from 3 to 4 years, to allow councils to plan ahead and to deliver more effectively their policy priorities.

12. McIntosh argued that while coincident elections would increase the turnout for local elections, the local government election would be over-shadowed by the national election with the result that voters might be overly influenced by national issues when casting their local vote. On that basis, McIntosh recommended separate, mid-term elections which, he argued, would strengthen the democratic mandate of local government.

13. The Executive's response to McIntosh invited views on the timing of elections. Responses to this were fairly evenly balanced, although with more in favour of coincident elections than McIntosh had found. Much of that increased support for coincident elections appears to have resulted from respondents' favourable experience of the combined elections in 1999.

EFFECTS ON EQUAL OPPORTUNITIES / HUMAN RIGHTS / ISLAND COMMUNITIES / LOCAL GOVERNMENT / SUSTAINABLE DEVELOPMENT / ETC.

14. The impact of this Bill on local authorities is dealt with in the body of this Policy Memorandum. There is no impact on equal opportunities, human rights, island communities or sustainable development.

15. The move to a four-year cycle of local government elections will result in one election fewer being held over a period of twelve years. This together with combined elections will offer local authorities potential savings in administration costs.

**THE DRAFT LOCAL GOVERNMENT (TIMING OF ELECTIONS) (SCOTLAND)
BILL - RESPONSE FROM ANGUS COUNCIL**

1. Angus Council very much welcomed the recommendation of the McIntosh Commission that local government should be moved to a four year term. The Council agrees with the conclusions of McIntosh that annual elections of a proportion of council seats would not in any way benefit the democratic process. A four year term would provide councils with sufficient time to plan effectively, to take measured decisions, to have an effective role in community planning and to permit the public to reach a considered judgement upon their performance.

2. Angus Council does not, however, support the Government proposal that local government elections should for the future be combined with those for the Scottish Parliament. It is accepted that a major issue which requires to be taken into account in considering future election arrangements is the current poor voter turnout. It is also accepted that there was a higher turnout for the Local Government Elections in 1999, due to their combination with the Scottish Parliament Elections. However it is considered that a number of factors have an effect on the level of turnout and the Electoral Commission is considering areas where electoral administration could be modernised with a view to making voting easier and more straightforward. The support of the Scottish Executive for the recommendations of the McIntosh Report in this regard are welcomed. It is noted that in England and Wales a number of pilot schemes have been carried out at local elections to test the effectiveness of more flexible ways of voting and it is hoped that the Electoral Commission will study the outcomes of these pilot schemes with a view to all possible simplification of procedures taking place in an effort to boost turnout.

Whilst therefore a combination of polls would be likely to increase turnout, this can be achieved by other means. The Council considers that the disadvantages of combining the elections would very considerably outweigh this advantage. A combined election would:-

- tend to lead to a concentration on national rather than local issues

- create confusion where electors are in one council area but in a parliamentary constituency which is almost totally in another council area
 - create considerable difficulties in relation to the timing of election counts.
3. The concern that combined polls lead to a concentration on national rather than local issues was borne out by the elections in 1999. The publicity campaign aimed at informing electors of the arrangements for the election concentrated solely on the Scottish Parliament Election, advising that there were two ballot papers. There were of course three ballot papers but the Local Government Election was never mentioned in all the national publicity. This is unfortunate if it happens on one occasion. If it were to become the situation for every election in future it could have disastrous consequences for local government. Local government needs to be seen as an important tier of the government of the country and it is essential that local government issues should be properly debated in the context of elections. Local issues may not always be the same as national issues and in many council areas, independents stand for the council on the basis of particular local matters. Their voice and their issues requires to be given regard in the context of an election campaign. If Scottish local government is to achieve the parity of esteem which all parties regard as desirable, council elections should not be held on the same day as Scottish Parliamentary Elections.
4. One of the most difficult issues currently in terms of arranging elections is that Westminster and Scottish Parliament boundaries cross over council boundaries. This requires joint arrangements to be entered into with neighbouring Returning Officers which causes considerable difficulty, not only to election administrators, but also to candidates and electors. Candidates in local government elections in wards which belong to certain parliamentary constituencies require to deal with two Returning Officers. Considerable confusion is also caused to electors who find it difficult to differentiate between the council area and the parliamentary constituency. This is a situation which causes some difficulty for any Westminster or Scottish Parliamentary election. The situation becomes extremely complicated and potentially confusing for all concerned when the elections are combined.

5. If the elections were to be combined then it would be essential for serious consideration to be given to arrangements for the timing of the two counts. The Chief Executive of Angus Council is the Returning Officer for the Angus Constituency which comprises just over half of the Angus Council area. In 1999 the result for the constituency was declared at approximately 2.45am. We were perhaps fortunate in that no recount was necessary and all the arrangements for the count went extremely smoothly. It would not be possible to employ any more enumerators as the premises used are the largest available premises within the constituency and space is at a premium. This is therefore considered to be the earliest that an election result can be declared - any difficulties encountered in counting the votes and any necessity for a recount would considerably delay the process. The local government count commenced at 10.00am and was concluded by approximately by 4.00pm.

It is noted that in the COSLA response on this consultation exercise various suggestions have been made for counting arrangements. One of these suggestions is that the council election count take place at close of poll as it is thought that this could be done relatively quickly, allowing staff to go home and return for the day time count of the Scottish Parliamentary elections. This suggestion would not be supported by Angus Council. Counting of a local election is itself a complicated procedure given the number of wards involved with the possibility of recounts being required in any or all of them. It is not considered that this exercise would be any quicker than counting a Scottish Parliamentary constituency. This would certainly be impossible if any form of PR were to be introduced for local government. It is noted that an alternative suggestion is to establish two parallel counting teams both starting in the morning following the close of poll. There are no premises within the Angus constituency, or indeed within the Angus Council area, which are large enough to allow this to take place.

6. Angus Council was extremely concerned to note in the draft bill the proposal that local government elections take place to coincide with extraordinary Scottish Parliamentary elections. The Council is very strongly opposed to this proposal which it is considered would be virtually unworkable. This would mean that a full local government election could be called at any time - which might well be a time completely inappropriate for the efficient exercise of council business. This is a radical and fundamental change to the long standing principle of a fixed term of office for councillors. The reintroduction of a four year electoral term is supported on the basis that it represents better economy, efficiency and effectiveness in the use of resources, allowing councils to plan on a long term basis. If a council were to be required to hold an election unexpectedly and at very short notice, all long term planning would be jeopardised and the efficient delivery of services disrupted.
7. It is however accepted by the Council that if a decision were to be taken by the Scottish Executive to synchronise elections then some provision would require to be made for an extraordinary Scottish Parliament election. Given the difficulties involved it is strongly suggested that this is a major argument against a future combination of terms and timing of elections.
8. In addition to the above points which relate specifically to the Timing of Elections Bill, there are a number of points regarding the administration of elections which require consideration:-
 - the “cross-boundary” problem which is discussed above
 - funding of election staffing - work on elections is very considerably subsidised by councils. Election staff are not employed on a dedicated basis and elections therefore require staff to be taken out of normal work. This involves overtime, extra hours and possibly the employment of supply staff to cover for staff who are working on elections. Considerable work is also required by senior officers. These costs should be recognised by the Scottish Executive and appropriate provision made to reimburse councils.

- funding of election and count arrangements - the additional monies provided for the recent Parliamentary Election were welcomed but there is still concern that many of the costs incurred in administering elections are charged to a cash limited head. It was noticeable for the 1999 elections that almost every returning officer in Scotland requested an increase to this particular head of expenditure and all increases were granted. This is a clear indication that the allowable expenditure is insufficient. In addition, not all costs are covered by the claim made to central government - for example issues such as work between elections and the storage of equipment are hidden costs; and a number of issues such as the provision of refreshments at the count are never met. It is essential that elections should be properly resourced if they are to be efficiently administered. In particular, the count requires to be properly funded in an atmosphere where all concerned require speed and accuracy. This becomes even more vital if combined elections become the norm as the count arrangements are probably the greatest challenge for administrators.

- Miscellaneous Points
 - (a) the establishment of the Electoral Commission is welcomed and it is hoped that the Commission will pick up many of the issues which need to be addressed.

 - (b) work is required to align local government election law with the changes recently made to parliamentary election law.

 - (c) consideration should also be given to areas where the law has traditionally been different for local and parliamentary elections - for example the rules regarding the name of the candidates; the placing of the party emblem on the ballot paper. These issues are particularly important if elections are to be combined.

 - (d) given the number of changes made recently to election law consolidating legislation would be welcomed.

