



## ELECTORAL MANAGEMENT BOARD FOR SCOTLAND

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### PE1483/A

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**Your Ref:**

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Dear Mr Howlett

### **CONSIDERATION OF PETITION PE1483: USE OF GAELIC ON THE REFERENDUM BALLOT PAPER**

I write with reference to your letter of 23 September regarding the above. The comments offered here reflect a brief discussion at the last meeting of the Electoral Management Board (EMB). Assuming that the Referendum Bill is passed in what is substantially its current form, the Convener of the EMB will be appointed as Chief Counting Officer (CCO), with responsibility for the overall administration of the Referendum process and, ultimately, making a declaration of the national result. The Convener will have this role by virtue of her position as Convener of the EMB, but the role of CCO is a personal responsibility, distinct from any other positions that she may hold. The EMB will supply support and expert advice to the Convener in her role as CCO, but the responsibility for the Referendum lies with the her alone. The EMB is able to provide considered and objective comment on the basis of substantial professional experience and expertise. It is on this basis that the comments in this letter are made.

#### ***The Chief Counting Officer's approach to the administration of the Referendum***

In order practically to guide her operation and planning, the CCO has committed to a simple objective to shape her work: **the 2014 Scottish Independence Referendum will deliver a result that will be trusted.** The referendum will take place in a period of heightened political debate and the CCO must ensure that the process, security, integrity and accuracy of the administration of the referendum must not be in question. All project planning, guidance, directions, communications and performance management will support this objective.

The CCO will also operate to clear principles to deliver this objective. These flow from the objective but are consistent with the rule on which the EMB is predicated: that **the interests of the voter should be at the centre of all decision-making related to electoral events.** Specifically, the guiding principles of the CCO are:

- There should be no barriers to any voter taking part (accessibility);

- Voters should have the same experience wherever they are in Scotland (consistency);
- The referendum will be administered efficiently; and
- The referendum will produce results that are accepted as accurate (integrity).

The following comments need to be viewed in this light: the Chief Counting Officer and Counting Officers will deliver the Referendum in line with the legislation that is enacted by the Scottish Parliament. Practically however the CCO would hope that such legislation facilitates the delivery of a result that will be trusted and that is guided by principles of accessibility, consistency, efficiency and integrity.

### ***Practical Concerns with respect to a Bilingual Ballot Paper***

With those points in mind the EMB would offer the following comments regarding the proposal made in the petition. This letter does not seek to address issues of *policy* associated with the use of a bilingual paper. Counting Officers would always administer polls according to the relevant legislation; this would include the use of bilingual papers should that be enacted. A range of practical issues have been identified however which would need to be considered were such papers to be used.

### ***Other materials – it is not just ballot papers***

If ballot papers are to be produced in a bilingual form there would be an argument for consistency for every other official document associated with the election to be similarly produced in bilingual format: i.e., poll cards, notice of poll, postal votes, results etc. There would be cost implications and also challenges with respect to design, in terms of fitting all of the required text in a limited space and accuracy of translation.

### ***Counting a bi-lingual ballot paper***

Counting bilingual ballot papers would be achievable but there might be significant challenges related to adjudication of doubtful votes. Count staff would need to be trained to recognise "Yes" or "No" when written in the both languages. Where a ballot paper had something additional written on it there would need to be more rigorous inspection and adjudication to ensure that it was not such that it could identify the voter. This would require inspection and adjudication by a Depute Counting Office able to understand the language in question.

### ***Postal Votes***

People who do not speak Gaelic might be unhappy, as they would not understand part of the paper. This could lead to a greater number of spoiled papers, if voters expressed this unhappiness on their paper. A bilingual ballot paper would require bilingual instructions in the postal pack, on the envelope and on the Postal Vote Statement. This would create congested documents with the limited space available.

### ***Existing Practice***

"How to vote" material is already produced in a range of languages, often determined by the most common languages used in different local areas. This has always been determined to be sufficient to facilitate the participation of voters with different standards of English.

## ***Staff Training***

Polling staff would need to be able to understand the alternative language to explain the paper if necessary. This may make it necessary to recruit additional staff with specific language skills, something that could be expensive and very difficult to resource in some areas.

## ***Voter confusion***

There would be a real danger of voter confusion. A bilingual paper would be an innovation in Scotland. Experience of many innovations indicates the potential for general voter confusion and the danger of volumes of spoiled papers. For example, voters might cross out the second language leading to concerns about whether or not a paper was inappropriately marked adding to the number of adjudications and doubtful papers. At the least, such a paper would be likely to generate additional questions for polling staff.

## ***Equalities***

While this is digressing into “policy” it has been observed that there are other languages which are used, often more widely, including Braille, and we may be exposed to legal challenge if we support one and not others. With respect to equalities, there would usually need to be evidence that people are excluded from the voting process through the use of a single language.

## ***Accurate translation***

Another policy matter worth noting is that of accurate translation. In a matter so controversial and potentially divisive that a referendum is deemed appropriate, there needs to be a clear and easily understandable question, avoiding any terms which might be confusing or which potentially might lead the voter towards either position. This requires extensive research, analysis and testing of the question. Equivalent testing would be required in Gaelic to determine the transparency and objectivity of the question and its consistency between languages.

## ***Conclusion***

In conclusion, the nature of the ballot paper and the language(s) used on it are a policy matter for Parliament to determine. A bilingual English/Gaelic paper would however pose a range of practical challenges which might add to the complexity, cost and efficiency of the voting process. These challenges are not insurmountable, as the Welsh experience proves, but they are real.

Yours sincerely

**CHRIS HIGHCOCK**

Secretary of the Electoral Management Board for Scotland