



# THE ASSOCIATION OF ELECTORAL ADMINISTRATORS

## **Formal response to the Political and Constitutional Reform Committee's invitation for views on the proposals published in the *Parliamentary Voting System and Constituencies Bill* and the *Fixed-term Parliaments Bill*.**

### **1. Introduction and Summary**

- 1.1. The Association of Electoral Administrators (AEA) is the professional body representing the interests of electoral administrators in the United Kingdom. Details about the AEA can be found in the Appendix to this paper.
- 1.2. This paper sets out the AEA's comments on the implications for electoral administration of the proposals currently before the UK Parliament. The AEA's primary concern is about the scale and speed of the reforms set out in the *Parliamentary Voting System and Constituencies Bill* without the root-and-branch review of the electoral process we recommended in our post-election report.
- 1.3. There is insufficient time to properly assess the impact of the provisions in the Bill and in particular to scrutinise the detail of the rules for the referendum and for the alternative vote system.
- 1.4. It is unlikely that the Bill and supporting secondary legislation will meet the six months' rule set out by Gould.
- 1.5. There will be a significant level of complexity arising from the decision to hold the referendum on the same day as national elections in Scotland, Wales and Northern Ireland, and local government elections in England and Northern Ireland.
- 1.6. The impact on both the administration of the polls and the various counts, and the potential for voter confusion should not be underestimated.
- 1.7. It is essential that the amounts (and any assumptions) and the guidance as to the fees and charges for the referendum should be confirmed as early as possible.

- 1.8. The proposals contained within the Bill regarding changes to the way in which UK Parliamentary boundaries are reviewed would undoubtedly bring about the creation of many more constituencies that cross local government boundaries. This would add considerable complexity to the arrangements for the conduct of UK Parliamentary elections in the future.
- 1.9. The AEA welcomes the certainty for planning purposes that would result from the introduction of fixed-term UK Parliaments.
- 1.10. The AEA strongly urges the UK Government to use this opportunity to review the length of the UK Parliamentary election timetable.

## **2. The Parliamentary Voting System and Constituencies Bill**

- 2.1. The *Parliamentary Voting System and Constituencies Bill* (subsequently referred to in this paper as “the Bill”) would, if passed, introduce significant changes to the electoral process in the United Kingdom. The AEA is extremely concerned about the speed with which these significant reforms are being introduced without the root-and-branch review of the electoral process that we recommended in our post-election report, *Beyond 2010: The future of electoral administration in the UK*<sup>1</sup>.
- 2.2. Whilst the AEA recognises that the provisions contained within the Bill do not meet the Cabinet Office criteria<sup>2</sup> to trigger an Impact Assessment, the UK Government and the UK Parliament should not underestimate the impact of these proposals on electoral administration at a time when local authorities are facing significant cuts in budgets and resources.
- 2.3. Further, the AEA is concerned about the timescales for the drafting, scrutiny and passage of the legislation currently before the UK Parliament and the impact of these issues on the implementation of the new provisions, particularly in respect of the proposed referendum.
- 2.4. The AEA firmly supports the principle set out by Gould<sup>3</sup> that, except in cases of unforeseen emergencies, changes to election law should not be applicable to any elections within a six-month period from the date the legislation comes into effect.
- 2.5. The proposed date for the poll at the referendum is 5 May 2011 and, if passed, the Bill requires the referendum to be run on that date. There is no provision in the Bill as currently drafted for any kind of postponement in the event of an emergency. The AEA assumes that in the event of extreme circumstances requiring the date of the referendum to be

---

<sup>1</sup> Beyond 2010: the future of electoral administration in the UK, [http://www.aea-elections.co.uk/downloads/reports/aea\\_election\\_report\\_final\\_PUBLICATION.pdf](http://www.aea-elections.co.uk/downloads/reports/aea_election_report_final_PUBLICATION.pdf)

<sup>2</sup> [http://www.cabinetoffice.gov.uk/making-legislation-guide/impact\\_assessment.aspx](http://www.cabinetoffice.gov.uk/making-legislation-guide/impact_assessment.aspx)

<sup>3</sup> [http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/23\\_10\\_07\\_votereport.pdf](http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/23_10_07_votereport.pdf)

moved, further legislation would have to be passed by the UK Parliament to achieve this.

- 2.6. 5 May 2011 is also the scheduled date for the polls at the elections to the Scottish Parliament, National Assembly for Wales, Northern Ireland Assembly, local government elections in England, including most of the parish and town council elections and some mayoral elections, and it is likely that there will be local government elections in Northern Ireland. In addition, there is the possibility of the polls at Mayoral referendums in England and local government by-elections across Great Britain also being held on this date.
- 2.7. The AEA continues to be concerned about the trend for holding different electoral events on the same day, particularly where there are different voting systems and franchises in operation. Whilst we recognise the political and economic interest in doing so, the impact on voters and on the administration of polls should not be underestimated and careful consideration of these should inform the planning and the delivery of the various electoral events.
- 2.8. The potential for voter confusion and the additional workload in dealing with public enquiries arising from these different combinations of electoral events on the same day held on different franchises and operating different voting systems should not be underestimated. It is likely that returning officers would need to reduce, where practicable, the number of electors allocated to each polling station. This would increase the number of polling stations with a corresponding increase in the number of polling staff to ensure that the polls run efficiently and that adequate help is available to voters on polling day. These additional costs would need to be funded.
- 2.9. In addition, there would need to be a coordinated programme of voter education to support voters in understanding how to participate in the various elections and the referendum and the choices that they would be asked to make at the polls.
- 2.10. The Bill currently does not include provision for changing the arrangements regarding the close of poll to give effect to the recommendation by the Electoral Commission that electoral legislation should be changed to allow eligible voters present in the queue at the close of poll to be able to vote. If the UK Government intends to give effect to this recommendation in time for the elections in 2011, an early indication of this intention is essential.
- 2.11. Given the level of complexity outlined above, statutory officers need to begin planning now. However, to do so would be on the basis of a Bill that may or may not be passed, or that may be passed less than six months before 5 May 2011, and that is likely to be subject to

amendment during its passage. The secondary legislation needed to set out the detail of the arrangements for the combination of polls and the fees and charges order setting out the funding available to deliver the referendum cannot be made until after the Bill has been passed by the UK Parliament. This is not the best way to achieve the professional conduct of electoral events that we believe the voters of the UK deserve and that electoral administrators want to deliver.

- 2.12. In addition, there must be clarity as to the proposed timetabling for the counts at the various electoral events, and particularly as to the proposed timing of the referendum count. If the referendum count is to take place at a time after the counts at the other elections, it is vital that a realistic time is agreed for the start of the referendum count which recognises the length of time that is likely to be needed for those other counts.

### **3. The structure and funding for the administration of the referendum**

- 3.1. The AEA notes that the Bill provides for the referendum to be conducted on local authority areas, through reference to "voting areas" in Clause 5, *Interpretation*, which refers to "a relevant area in Great Britain within the meaning of Part 7 of the 2000 Act<sup>4</sup> (see section 128(9) of that Act), or Northern Ireland". The AEA supports this arrangement for England. The AEA understands that Cabinet Office officials are considering putting forward amendments to the Bill to determine appropriate and workable arrangements for "voting areas" in Scotland, Wales and Northern Ireland.
- 3.2. The AEA welcomes the proposals within the Bill for the fees and charges for the referendum to be on the basis of an "overall maximum recoverable amount" allowing for flexibility within that amount. Whilst we recognise that the funding arrangements, guidance and payment of any advances could not be delivered until the Bill receives Royal Assent, it is vital that arrangements are put in place to ensure that these are delivered as soon after that point as possible.
- 3.3. Further, the impact of any proposed directions by the Chief Counting Officer on costs and resources needed to deliver the referendum and the other elections taking place on 5 May 2011 will need to be factored into the funding assumptions. It is essential that there is clarity as to which level of Government is to meet any such costs where such directions impact on or affect other elections.

---

<sup>4</sup> The *Political Parties, Elections and Referendums Act* (PPERA) 2000.

#### **4. The referendum ballot paper and other prescribed forms**

- 4.1. The AEA has submitted a formal response to the consultation by the Electoral Commission on the intelligibility of the referendum question<sup>5</sup>.
- 4.2. The AEA understands that the Electoral Commission plans to design all of the prescribed forms for use at the referendum and any combined polls, and to user-test these forms. It is essential that there is early clarity as to the format of all forms to be used at the referendum and other polls. Using the Gould principle of six months, we strongly recommend that the forms are available by the end of October 2010. Further, it is essential that there is clarity about any requirement to use the Electoral Commission's forms for the other elections.
- 4.3. Schedule 1, paragraph 3(4) of the Bill refers to the possibility of "two or more forms of ballot paper" being used in the referendum. There is, however, only one form of ballot paper prescribed in Schedule 2 of the Bill and we are currently only aware of one referendum question to be put before voters. Therefore, the erroneous wording should be removed from the instances where it appears in the Bill<sup>6</sup>, or the UK Government should clarify whether there is to be a further question and a separate ballot paper. If the latter is the case, this would have a profound impact on the administration of the various polls proposed for 5 May 2011 and the AEA will want to review its position regarding the combination of those polls.

#### **5. The administration of the alternative vote system**

- 5.1. The AEA recognises the importance of having clarity on the face of the Bill about the electoral system on which people may be asked to decide in the referendum. Therefore, we understand the rationale for including the proposed amendments to the Parliamentary Election Rules (PER) that would be needed to operate the alternative vote system. However, it is the AEA's view that the administrative detail (the Rules for the conduct of elections) should be set out in secondary legislation so that those Rules can be amended more quickly should errors or defective drafting be discovered or required improvements identified. In addition, this would have given more time for proper consideration of the detail of processes and procedures.
- 5.2. The wording of new rule 45A (inserted into the PER by clause 7 of the Bill) which contains the process for counting the votes using the alternative vote system is less than clear. Given that the purpose of the rules is to set out the process that Returning Officers and electoral administrators would be required to follow, it is unfortunate that these are not in plain language. Equally, this does not fulfil the intention of

---

<sup>5</sup> [http://www.aea-elections.co.uk/downloads/intelligibility\\_referendum\\_question\\_aea\\_response.pdf](http://www.aea-elections.co.uk/downloads/intelligibility_referendum_question_aea_response.pdf)

<sup>6</sup> It also appears in Schedule 2, paragraph 41(6). There may be other instances.

providing clarity about the alternative vote system being proposed. The AEA recommends that the UK Government brings forward an amendment to set out the process more clearly in the legislation.

- 5.3. The count process as contained in the Bill currently assumes manual counting of the votes at UK Parliamentary elections conducted under an alternative vote system. Given the current requirement to commence the counting of the votes at a UK Parliamentary general election within four hours of the close of the poll, the AEA would be interested to know what work the UK Government has undertaken to establish how long alternative vote counts are likely to take and any assessment of the impact on staffing and venue requirements.

## **6. The implications for electoral administration of the proposals to reduce the number of UK Parliamentary constituencies and equalise the size of those constituencies**

- 6.1. The new approach to reviewing UK parliamentary constituency boundaries with its emphasis on numerical equality according to the "quota" set out in the Bill would undoubtedly bring about the creation of many more constituencies that cross local government boundaries.
- 6.2. A key factor adding to the complexity of the UK Parliamentary General Election in May 2010 was that of coordinating across local authority boundaries in UK parliamentary constituencies comprising more than one local authority area or part thereof. This impacted on all aspects of the planning and management of resources and the processes to be used. It also complicated issues relating to customer service.
- 6.3. The relevant statutory officers, including the Electoral Registration Officers and Returning Officers for the different elections need to work together to achieve a single outcome; the effective conduct of the elections. The level of planning and coordination required is substantial and urgent work needs to be undertaken to understand the likely scale of the impact on the resources and costs for future General Elections.
- 6.4. While the AEA is committed to developing and sharing good practice on cross-boundary working amongst its membership, it is also important that legislators and the Boundary Commissions consider the administrative impact of the proposed new approach and seek to achieve, in as many cases as possible, coterminosity with local government boundaries. Electoral areas need to function as administrative entities as well as representative ones.

## **7. The implications for electoral administration of the proposals to establish fixed-term UK Parliaments of five years**

- 7.1. Currently, the date of the UK Parliamentary General Election is not fixed and the election can be called at any time. This has a significant impact on the planning and contingency arrangements that Returning Officers must have in place to deal with the uncertainty around timing. The AEA welcomes the UK Government's proposal for fixed-term UK Parliaments in that it will bring certainty for planning purposes.
- 7.2. However, the *Fixed-term Parliaments Bill* states in clause 1(2) that the "polling day for the next parliamentary general election after the passing of this Act is to be 7 May 2015". This is also the date fixed for elections to the Scottish Parliament in 2015. Given the different electoral systems that will be used for the two elections (First past the post (FPTP) or Alternative Vote (AV) and Additional Member System (AMS) respectively), the proposition does not take account of the recommendations made by Gould that elections with different systems should not be held on the same day.
- 7.3. In addition, in 2015 there are scheduled elections to the National Assembly for Wales (AMS), Northern Ireland Assembly (Single Transferable Vote (STV)) and local government elections in Northern Ireland (STV). The same issue will apply to the large number of local government elections in England scheduled for that date if the UK Parliamentary General Election is held on an AV system.
- 7.4. The introduction of fixed-term UK Parliaments would present an opportunity for a wider consideration of electoral cycles to establish more consistent and workable arrangements.
- 7.5. The AEA is concerned that the *Fixed-term Parliaments Bill* retains the 17-day statutory election timetable for UK Parliamentary general elections and so does not address the many issues raised in our post-election report regarding the impact on the administration, integrity and service to voters of the shortness of the current timetable. In our report we strongly recommended that the timetable should be extended to 30 days, that timetables across all elections should be consistent, and that the various deadlines within the timetable should be reviewed. The move to fixed-term UK Parliaments would offer a real opportunity to make these changes.
- 7.6. In addition, the proposed introduction of fixed-term UK Parliaments offers an opportunity to put in place a planned approach to funding with early confirmation of the fees and charges for the election and timely guidance.
- 7.7. The *Fixed-term Parliaments Bill* contains provisions to enable the Prime Minister to alter the date of the general election within a two-month period before and after the scheduled date. The *Explanatory Notes* to the *Fixed-term Parliaments Bill* (paragraph 14) indicate that this provision is

intended to cover emergencies such as was the case with foot-and-mouth in 2001. The AEA is content that the use of a statutory instrument requiring approval by both Houses of the UK Parliament would give sufficient scrutiny of the reasons for the alteration and also provides sufficient certainty about the degree of alteration, allowing for appropriate contingency plans to be drawn up in advance and brought into effect by Returning Officers.

- 7.8. The *Fixed-term Parliaments Bill* proposes that a general election could be called if there was a vote for a motion expressing no confidence in the Government, requiring two thirds of MPs to vote in favour of that motion, and if 14 days then pass without a motion by the House of Commons expressing confidence in any new Government. We are unclear if this latter motion would also be subject to the “two thirds” threshold contained in clause 2, (1)(c).
- 7.9. The AEA notes that the dissolution of the UK Parliament would not automatically follow immediately after the triggering events set out in clause 2, but, as outlined in the *Explanatory Notes* (paragraph 19), “can be timed so that, for example, essential business can be completed or the date of the election can be set to fall on a Thursday”. We welcome the clarity that this will provide in such circumstances in order that Returning Officers and electoral administrators can amend their plans for the conduct of the election, and so that timely information can be provided to the public about participating in the election.

**John Turner**  
**Chief Executive**

**Karen Quintmere**  
**Assistant Chief Executive**

**1 September 2010**

Ref: Polit\_Con\_Reform\_Comm\_Evdnce

### Background information about the Association

The Association of Electoral Administrators (AEA) was founded in 1987 and has since established itself as a professional body to represent the interests of electoral administrators in the United Kingdom. It is a non-governmental and non-partisan body and has some 1,650 members, the majority of whom are employed by local authorities to provide electoral registration and election services.

The AEA encourages and provides education and training in electoral administration, in addition to delivering a range of commercial and professional services.

The key **aims** of the AEA are to:

- contribute positively to electoral reform within the UK;
- foster the advancement of consistent and efficient administration of electoral registration and the conduct of elections in the UK;
- raise the profile of electoral administration both within the UK and internationally;
- enhance and maintain the AEA's reputation as the leading professional body for electoral administrators within the UK.

The AEA supports and advocates the principle that all those with a role in organising elections should consider the voters' interests above all other considerations.

In accordance with the AEA's non-partisan and neutral position, this paper does not offer any views on the political implications of the alternative vote system, nor do we offer any comments on the arrangements for the regulation of loans and any other financial matters pertaining to permitted participants in the referendum.