

# Health Boards (Membership and Elections) (Scotland) Bill

## JOINT RESPONSE BY SOLACE (SCOTLAND), SOLAR, AEA (SCOTLAND AND NORTHERN IRELAND BRANCH) and SCOTTISH ASSESSORS ASSOCIATION

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This report sets out the response of the four Associations to the call by the Scottish Parliament's Health and Sport Committee for views on the general principles of the Health Boards (Membership and Elections) (Scotland) Bill.

The Associations represent Returning Officers, Electoral Registration Officers and their deputies, and electoral administrators in Scotland with considerable experience of compiling electoral registers and conducting elections for local government and the Scottish, UK and European Parliaments. From this perspective, we have restricted our comments to the practicalities and operational aspects of the proposals in the Bill for Health Board elections. We make no comment on the principle of direct elections to Health Boards, believing that such matter is one of policy for elected representatives to consider.

In compiling these comments, we have sought to place the voters' interests at the heart of the electoral process, as recommended in the Gould Report on the Scottish Parliament and council elections last year.

We consider that an all-postal ballot is not perhaps the most effective way of running these elections and that a conventional voting in person ballot option should be considered with postal voting as an available option. We strongly support the position of the Electoral Commission that "the administration of any such elections should be to a comparable standard as those of other statutory elections in Scotland".

If the proposed elections to Health Boards were to be on an all-postal basis, the issue of Absent Voter Identifiers (AVIs) would have to be addressed. At present approximately 15% of voters across Scotland have AVIs and for an all-postal ballot 100% obviously would be required. There would be a danger of disenfranchising those who do not comply with the AVI requirements. Approximately 15% of absent voters did not submit identifiers as required and have now been removed from the absent voters' list.

We have concerns over the proposed appointment of the Returning Officer and consider that the Returning Officer should be the local government Returning Officer appointed by councils in terms of Section 41 of the Representation of the People Act 1983, and that Scottish Ministers should appoint one of the local government Returning Officers where cross boundary issues arise.

We also consider that the elections should be organised on the same basis as any other election including the new procedures for the prevention of fraud, again following another of the Gould Report's recommendations on consistency between elections. We also feel that any departure from this would add to the "cluttered administrative landscape of Scottish elections" that prevails at present.

Regarding the cycle of elections, we consider that the four year cycle would be appropriate and that the elections should be held by early March to avoid the April/May period of local government and Scottish Parliament election year(s). We also consider that the electoral registration canvass period between August and late November each year has to be avoided. Given that the new Health Board year begins on 1 April, early to mid March is felt to be an appropriate time for the elections so that new members can take up office on 1 April. We feel that 2010 is too early for the first elections as sufficient arrangements would not be in place by that time. In

response to other consultations, the Associations have urged that planning for a local government STV election with e counting in 2012 needs to start by January 2009 at the latest. If pilot elections to some health boards are to go ahead we would ask that the Scottish Government ensures that there is a joint co-ordinated approach and not two separate planning processes for two similar events in 2011 and 2012 and that it ensures that pilots in 2011 inform not only future health board elections but the local government elections in 2012. There is no time to lose if pilot elections are to be properly planned and resourced in 2011. The prospect of this emergent legislation being pursued in isolation and adversely impacting on preparations for 2012 is one which should be avoided at all costs.

We also consider that the proposals have to be introduced to avoid the period of National Park Authority elections and the proposed Crofting Board elections and any other elections which may be introduced, as this could lead to voter fatigue.

We are also of the view that if single transferable voting is to be introduced, it has to be consistent with the system used now for local government elections which is Weighted Inclusive Gregory (WIG) and e-counting should take place. We support the recommendation in the Gould Report that "electronic counting should be used alone for local government elections when the STV system is used". We believe that this recommendation should apply to direct elections to Health Boards too. We would also reiterate the Gould recommendation that the introduction of electronic voting for the 2011 elections is suspended until the electronic counting problems that arose for the 2007 local government elections are resolved. This timescale would mean that the proposed pilot elections to Health Boards could still take place.

We believe that the 'pilot' elections to Health Boards would allow the interest and demand from electors to be assessed and welcome the proposed evaluation which will report on the level of public participation in Health Board elections and will address whether having elected members on Boards has increased engagement with patients and the public. We would also suggest that the 'pilot' elections are used to assess the implementation of 'absent voter personal identifiers' required to ensure the integrity of postal ballots.

Due to the varying geographical sizes of Health Boards, we have concerns that each Health Board area would only be one ward, and welcome the discretion in the Bill to vary from one or more wards which could be made in Regulations.

With regard to the eligibility of 16 and 17 year olds to vote as proposed in the Bill, we consider that the registration issues which electoral registration officers would face could be overcome with sufficient resources. However, we consider that the position regarding lowering the age of voting to include 16 and 17 year olds should not be supported for Health Board elections for the following reasons –

- it would depart from the consistency for different elections throughout the UK;
- it would go against "putting the voter first" as in the Gould recommendations;
- the age of voting was recently reviewed by the Electoral Commission which recommended that 18 years of age remain as the age for voting; and
- the practicalities of collecting information in relation to 16 and 17 year olds would lead to the birth dates of 14 and 15 year old attainers being published on the register of electors. This may give rise to issues in relation to child protection.

We recommend that the local government register of electors is used as the franchise for Health Board elections although some 16 and 17 year olds may not be included and therefore be disenfranchised. This register will contain 17 year olds and some 16 year olds as attainers, but no one under 16. This recommendation also has the merit of making potentially difficult and costly adjustments to electoral registration computer systems unnecessary.

On a final point of detail in relation to the Bill we suggest, in relation to clause 1 (5) which states that the period of office for Board members should end "on the day of the next following Health Board election.....", that membership should end the day before the election. This would remove any dubiety about the use of health board resources during election day.

The cost of these elections we feel has not been fully investigated. There would need to be an assurance that the cost of any pilots, including the processing of AVIs, would be fully reimbursed by the Scottish Government to the Returning Officer and Electoral Registration Officer. We would also reiterate that if Health Board elections are to be organised by current Returning Officers, then Councils must be fully reimbursed for all costs involved. This would include not only the prescribed expenses that can be reimbursed through a Returning Officers' fees and charges order, but also recognise the other election cost subsidies that occur.

We would welcome further consultation on the Regulations should the Bill be enacted. We believe that in drafting and implementing the Health Boards (Membership & Elections) Bill, further advice and guidance should be sought from the four Associations.

Finally any legislation to be introduced in connection with these elections must be enacted before the six month period recommended in the Gould Report.