

CONSULTATION ON ELECTED REGIONAL ASSEMBLIES

1 SUMMARY

- 1.1 This report suggests a response to two consultation papers circulated by the Office of the Deputy Prime Minister inviting comment on the provisions and rules that should govern local referendums. A full copy of the consultation papers has been placed in the Members Library.

2 INTRODUCTION

- 2.1 As part of its programme of devolution and constitutional change, the Government proposes to establish elected regional assemblies in those English regions that want them. The North East, North West, and Yorkshire and the Humber regions will be the first regions to progress towards a referendum for an elected assembly in Autumn 2004.
- 2.2 Where an elected regional assembly is to be established, the Government believes that the local government structure in that region should become completely unitary. The independent Boundary Committee for England is currently carrying out local government reviews in the three northern regions. It has been asked to make its recommendations by 25 May 2004. The Boundary Committee will recommend at least two options for restructuring each two-tier local authority area into a single tier. The Government will formulate its proposals for restructuring local government from these recommendations. People in two tier areas will then vote in a local referendum on their preferred option for local government restructuring. These local referendums will be held at the same time as the regional referendums.
- 2.3 The consultation is not concerned with the principles of referendums for regional assemblies but is seeking views on how these local and regional referendums might be combined and how those wishing to campaign should register and how much money they should be allowed to spend on their campaign.

3 COMBINED REFERENDUMS

- 3.1 Given that the local and regional referendums will be held on the same day and are about related issues, the Government believes they should be run together as combined polls and has produced draft legislation to provide that the local referendum rules follow those of the regional referendum wherever possible.
- 3.2 The Government believes that this will be more straightforward for both voters and those administering the referendum.

- 3.3 Under electoral law, elections or referendums which are to be held on the same date and in the same or overlapping area, are nonetheless to be administered completely separately without reference to each other, unless provision is made for their combination. However, electoral law generally makes express provision for polls to combine. The Regional Assemblies (Preparations) Act allows provision to be made for combining regional and local referendums and for combining such referendums with the poll at any election.
- 3.4 The Government proposes to combine the local and regional referendums but does not propose to provide for combining these referendums with any other election. They believe that as the local and regional referendum issues are inextricably intertwined, it is only sensible and practicable to administer them together. They believe that it is unnecessarily complicated to combine the referendums with other elections, which could occur at the same time. There are no major elections planned for next Autumn, so probably the only combination would be with by-elections. It is therefore proposed that if a by-election is being held on the same day as the referendums, it should be administered independently.
- 3.5 The combining of the local and regional referendums means:
- i. For areas that are only having a regional referendum (ie areas already with unitary local government), that referendum will be governed by the Conduct of Referendums Order.
 - ii. For areas with both a local and a regional referendum, the regional referendum will be governed by the Conduct of Referendums Order and additional combination provisions. The local referendum will be governed by the provisions of the Local Referendums Order, which are drafted on the basis that they are for local referendums held in combination with regional referendums.
- 3.6 A pro forma supplied by the Office of the Deputy Prime Minister dealing with these issues is attached at Appendix 1. A suggested response is included.

4 REGISTRATION AND SPENDING LIMITS

- 4.1 The amount of money individuals/bodies should be allowed to spend on a campaign, and the methods used to monitor and restrict that expenditure, are fundamental to the integrity of the democratic process. The purpose of a registration process and expenditure limits is to provide transparency and prevent a serious imbalance of resources between the different sides of a campaign, which could create the impression that victory can be bought.
- 4.2 The Political Parties, Elections and Referendums Act 2000 (PPERA) established a framework for national and regional referendums; the framework does not apply below the regional level. However, the Government

propose to use powers under section 2(9) of the Regional Assemblies (Preparations) Act 2003 to make rules for the local referendums which, as far as possible, are in the same terms as the regional referendums under the PPERA framework. It proposes to apply and make modifications to Part VII of PPERA so that it will govern both the regional and local referendums. This seems to be the simplest approach given that the referendums will be held on the same day and are about related issues.

- 4.3 Views are sought on how the participant framework for local referendums could be linked with the regional referendums and to help determine the appropriate levels of spending limits.
- 4.4 A second pro forma supplied by the Office of the Deputy Prime Minister dealing with these issues is attached at Appendix 2. A suggested response is included.

5 LEGAL IMPLICATIONS

- 5.1 The draft orders accompanying the consultation may be amended before being laid before Parliament in the light of the consultation response.
- 5.2 A response is required by 16 February 2004.

6 RECOMMENDATION

- 6.1 It is proposed that the Committee **RESOLVES**

To respond to the consultation as suggested in the pro forma attached to this report subject to any amendments or additions proposed by this committee.

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Background Papers:

None

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Appendix 1.

Pro-forma for responses to the consultation exercise on combining regional and local referendums and on local referendum rules.

Consultation Questions:

- 1.a. Do you agree that combining the regional and local referendums is sensible?

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YES

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NO

- 1.b. Please provide an explanation for your answer to the above question, or provide any additional comments on this issue:

For reasons of both cost and administration it would be better to combine the two provided that they are run under the same rules. It would be better for the owners of polling stations (schools, church halls, etc.) if they were only required on the one occasion. It would also be preferable to combine the issue if there were all-postal ballots.

- 2.a. Do you agree that they should not be combined with any other election?

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YES

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NO

- 2.b. Please provide an explanation for your answer to the above question, or provide any additional comments on this issue:

This is debatable. It could be confusing to the voter if there were a separate polling station for an election held on the same day as the referendum, plus the additional staffing implications.

The Association of Electoral Administrators sees no reason not to combine elections.

3.

Are you content with the proposed combination provisions?

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YES

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NO

3.b Please provide an explanation for your answer to the above question, or provide any additional comments on this issue

We support any moves towards establishing a consistent approach to election rules.

4. Do you wish to make any comments on the role of the Chief Counting Officer?

Only to support the proposal for the Chairman of the Electoral Commission, or someone appointed by him, to be Chief Counting Officer for local referendums.

5.a. Do you agree that the same counting officers should be used for both referendums?

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YES

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NO

5.b. Please provide an explanation for your answer to the above question, or provide any additional comments on this issue:

If one set of rules are being applied to both regional and local referendums and they are being administered by the same electoral administrators then there should be only one chief counting officer otherwise conflicts might arise.

6 Are you content with the proposals for all-postal voting?

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YES

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NO

6.b Please provide an explanation for your answer to the above question, or provide any additional comments on this issue:

There are issues around the closing date for receipt of postal and proxy applications "change of details", at present 11 days before polling day, yet ballot papers are to be sent out 16 days before the day of poll.

We support the setting up of delivery points. They would need to be similar to polling stations if voters are to be assisted to vote there in private or be issued with a replacement ballot paper. This has resource implications in addition to the all-postal ballot. Would the costs involved be recoverable from the Government? Presumably the chief counting officer decides the location and there could be criticism from voters who have long distances to travel and live in areas with limited public transport.

Regulations refer to one security statement being applicable to both referendums at a combined poll. If separate papers are issued they appear to require separate security statements.

If explanatory material is sent out with the postal votes, there needs to be an instruction not to return this with the ballot paper otherwise the opening and counting process could be delayed.

7. Do you have any views on the offences that should be included?

We support the offences listed. Also we have concerns regarding "assistance" given to postal voters in completing their ballot papers, particularly in regard to the elderly in old peoples homes. Are potential problems covered under "undue influence"?

8. What time do you think that the poll should close? If other, see below.

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5pm

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7pm

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9pm

- 8.b Please provide an explanation for your answer to the above question, or suggest an alternative time explaining your reasoning:

There could be difficulties if delivery points were located in libraries as they would be unlikely to remain open until 9pm, nor would the Royal Mail make special deliveries after office hours. If Parliament is prepared to change the 9pm close then would it not be better to coincide with office hours. Voters will have had ample opportunity to return their votes before polling day.

- 9.a. If a first local referendum is declared, or held to be invalid, do you agree that either the Chairman of the Electoral Commission or someone appointed by him should administer any further local referendum?

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YES

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NO

- 9.b. Please provide an explanation for your answer to the above question, or provide any additional comments on this issue:

Nothing further to add.

- 10.a. Do you agree that some of the rules currently proposed for the first local referendum can straightforwardly be applied to any further local referendum?



YES



NO

- 10.b. Please provide an explanation for your answer to the above question, or provide any additional comments on this issue:

If the same set of rules were not applied there would be confusion for all concerned.

11. In the event of a further referendum, how do you think permitted participants should be handled?

New participants should be allowed to enter the campaign for any re-run referendum. Perhaps there could be a registration period with the Electoral Commission before the re-run takes place.

- 11.b Do you have any other comments on further referendums?

No

12. Do you have any comments on the official mark?

If electronic counting is used in some areas the official mark must be able to be read by the counting equipment. There should be consistency and this could be achieved by replacing the stamping instrument with a bar code or one of the other identified alternatives.

13. Do you have any comments on proxy voting?

This should be retained and should also include the physically disabled as at present. There will need to be a closing date prior to the 16th day before polling (being the date for sending out postal votes). This would also allow more time for postal proxy voters living overseas to return their ballot papers on time.

14. Do you have any comments on electronic counting?

We support the use of electronic vote counting equipment being used but the political parties and campaigners may not agree as not all ballot papers will be open to public scrutiny. Who would meet any costs incurred in hiring/purchasing the equipment?

15. Should there be one ballot paper or two?



ONE



TWO

- 15.b Please provide an explanation for your answer to the previous question, or provide any additional comments on this issue:

If the statements and questions for both referendums are lengthy as is likely then two ballot papers should be used. Also a combined ballot paper may be difficult to count electronically.

16. Do you have any other views about the design of the ballot paper?

If a bar code is used this will also need to be reproduced on the counterfoil which might affect its size as the bar code would need to be large enough to be easily read by a scanner.

It would be preferable to have the voters response alongside the question rather than beneath it. This would make it easier to count the votes.

Text in the statement and the questions needs to be of large size print to enable people with impaired sight to be able to read it unaided. Thought should also be given to the RNIB's recommendations as to colour of text and paper.

17. Do you have any views on dispatching the explanatory material with the ballot paper?

Size of contents would need to be known well in advance for printing purposes. Size of materials may affect the size of the outgoing envelope necessitating special orders which might be difficult in large quantities at the last minute.

As in note 6b, there should be clear instructions to the voter **not** to return the explanatory material with the ballot paper.

18. Do you wish to make any comments on the procedures for the count?

There would need to be a consistent approach to counting procedures.

If there is electronic counting then there must be provision for processing the votes before the close of poll.

In all-postal voting to ensure secrecy of the ballot the security statement should not be returned in the same ballot paper envelope but should accompany the ballot paper envelope in a further covering envelope as under present regulations.

19. Do you wish to make any comments on people able to attend delivery points, the count and opening of postal ballots?

Support in principle that the counting officer has discretion to allow other persons to attend apart from those with a statutory right. Note that the list differs slightly from those contained in the parliamentary and local government election rules.

- 20.a. With electronic counting, should counting or processing the votes start before the close of poll?

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YES

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NO

- 20.b. Please provide an explanation for your answer to the above question, or provide any additional comments on this issue:

With the proviso that all interested parties consent.

21. Do you have any views on the provisions for those entitled to attend the count if there is electronic counting?

Support the provisions as detailed provided that numbers of representatives from individual campaigns can be limited.

APPENDIX 2

Consultation Questions:

1.a. Do you agree that there should be a single registration process for both local and regional permitted participants?



YES



NO

1.b. Please provide an explanation for your answer to the above question, or provide any additional comments on this issue:

This allows for consistency, thereby preventing confusion on all sides.

With the proviso as in Appendix1.11 that there should be a registration period allowed prior to any re-run of a referendum to allow for new participants.

2.a. Do you agree that all permitted participants in a region should be subject to the same set of spending limits whether they are campaigning on local issues, regional issues, or both?



YES



NO

2.b. Please provide an explanation for your answer to the above question, or provide any additional comments on this issue:

In the interests of fairness.

3.a. Do you agree that there should be a new category of 'neutral' participant?



YES



NO

3.b. Please provide an explanation for your answer to the above question, or provide any additional comments on this issue:

Support the statement in paragraph 31 of the consultation paper that obliging people to declare whether they are in favour of a "Yes" or "No" result in the regional referendum could place undue restrictions on participation if they are only interested in the local referendum.

4.a. Do you agree that organisations should only be designated for the regional referendums, and not for the local referendums?



YES



NO

4.b. Please provide an explanation for your answer to the above question, or provide any additional comments on this issue:

Agree that the "Yes" vote might be unfairly advantaged if designation (with the corresponding grant of public money) were allowed for local referendums.

5.a. Do you think the spending limits for designated organisations are reasonable?

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YES

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NO

5.b. If not, what limits do you think are more appropriate?

They seem reasonable. No other comments.

5.c. Please provide an explanation for your answer to the above question(s), or provide any additional comments on this issue:

No comment

6.a. Do you think the spending limits for political parties are reasonable?

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YES

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NO

6.b. If not, what limits do you think are more appropriate?

If these are the criteria previously used it seems sensible to apply them to the boundaries to be used in the regional referendums and therefore the limits seem to be reasonable.

6.c. Please provide an explanation for your answer to the above question(s), or provide any additional comments on this issue:

No other comment

7.a. Do you agree with the spending limits for other permitted participants?



YES



NO

7.b. If not, what limits do you think are more appropriate?

No other suggestions to make.

7.c. Please provide an explanation for your answer to the above question(s), or provide any additional comments on this issue:

It seems reasonable to cap expenditure to these organisations at the lowest rate for political parties since they may be expected to receive a small percentage of the vote.

8.a. Do you have any comments on the draft Orders?

Only to express the hope that any issues raised by the AEA and other bodies experienced in the administration of elections/referendums will be researched and preferably adopted into the legislation before the making of the final Orders.