

SCOTTISH ELECTIONS REVIEW

SUBMISSION from FAIRSHARE Scotland's Campaign for a Better Democracy

1. INTRODUCTION

1.1 **Fairshare** is a cross-party and non-party organisation set up in February 2001 to campaign for the introduction of the Single Transferable Vote system of Proportional Representation (STV-PR) for local government elections in Scotland. In January 2005 Fairshare extended its objectives to promote reform of the voting systems used for all public elections in Scotland and specifically, to reform the voting system for elections to the Scottish Parliament through the adoption of STV-PR. (See Annex 1 for details.)

1.2 Since its inception, Fairshare has made submissions to the Scottish Parliament, the Scottish Executive, the Scotland Office, the Arbuthnott Commission and other organisations about a variety of issues relating to local government elections in Scotland and Scottish Parliament elections, including ballot paper design. See Annex 2 and Annex 3 for two immediately relevant submissions.

1.3 We have presented our comments here under the headings and in the order given in the Electoral Commission's News Release issued on 29 June 2007. Fairshare has no reservations about full public disclosure of this submission and will be pleased for it to be included with the published evidence submitted to the Review.

2. THE LEGISLATION

2.1 The legislation relating to these elections is, like much UK legislation, complex and scattered through an array of Acts and Orders. Despite the excellent UK Statute Law Database (<http://www.statutelaw.gov.uk>) that has been open to the general public since December 2006, it still requires specialist skills to locate and consolidate all the legislation that is relevant to any particular set of elections. That said, we do not believe that the complexities of the legislation contributed in any significant way to the problems that led to the setting up of the Scottish Elections Review.

2.2 The respective Election Rules specified the layouts of the ballot papers to be used in the two sets of elections. However, both sets of Rules included design instructions that were ignored, presumably because their strict application was not considered appropriate for machine processing, specifically the requirement to divide equally among all candidates the space between the wording at the head of ballot paper and foot of the ballot paper. This was done under the respective provisions that allow such variations:

Scottish Parliament (Elections etc) Order 2007:

89.—(1) The forms set out in the Appendix may be used with such variations as the circumstances may require.

Scottish Local Government Elections Order 2007 - Schedule 1:

14. (2) Every ballot paper shall be in the form set out in Form 4 or a form to the like effect and shall be printed in accordance with the directions in Form 5, and in accordance with sub-paragraphs (a) to (e)–

2.3 The Rules for the Scottish Parliament elections included illustrations of separate constituency and regional ballot papers, but did not include an illustration of the combined ballot sheet that was described only in words. It is possible that the inclusion of a definitive illustration might have helped to avoid one of the key mistakes that almost certainly contributed to the large numbers of rejected ballot papers in the Glasgow and Lothians Electoral Regions.

2.4 Against that it has to be recognised that the Order was made on 14 March 2007 when some details of the design of the combined ballot sheet were still under discussion. Indeed, modifications were made to the design and the processing capabilities just days before the close of nominations on 11 April 2007 to accommodate the larger than expected numbers of regional nominations. Clearly a balance has to be struck between being overly prescriptive and so permissive that key elements of an agreed design can be omitted.

3. THE COMBINED ELECTIONS

3.1 The question of whether the Scottish Parliament and local government elections should be held on the same day has been discussed endlessly since the first combined elections were held on 6 May 1999. Thereafter local government elections would have been held on a three-year cycle [Local Government etc (Scotland) Act 1994: section 5] and the Scottish Parliament elections held on a four-year cycle [Scotland Act 1998: section 2]. The McIntosh Commission recommended that local government elections should revert to a four-year cycle and should be held at the mid-point of the Parliament electoral cycle [McIntosh Commission Report, June 1999: paragraphs 70 & 72].

3.2 The Scottish Executive did not accept that recommendation, but issued a consultation paper which invited comment on holding the local government elections on the same day as the Scottish Parliament elections [Scottish Executive's Responses to Report of the Commission on Local Government and the Scottish Parliament, 27 September 1999]. The consultation paper addressed several issues: turn-out, voting on local rather than national issues, voter confusion and administrative issues, implications for political parties, and voter fatigue. The Executive 'published' its analysis of the responses to that consultation on 21 June 2000 when it recorded that the responses were "finely balanced" between same day elections and mid-term elections. The Renewing Local Democracy Working Group also considered the question of timing of the two sets of elections, but did not add anything new to the discussion or make any recommendation [Kerley Report, June 2000].

3.3 The Scottish Executive issued a consultation on a Draft Local Government (Timing of Elections) (Scotland) Bill on 30 March 2001. After the full Parliamentary process, when all the arguments were rehearsed again, this culminated in the passing of the Scottish Local Government (Elections) Act 2002 on 22 January 2002 which synchronised polling at future local government and Scottish Parliamentary elections.

3.4 The issues relating to combined elections were also reviewed in detail by the Arbuthnott Commission. That Commission, in line with the majority of the views submitted to it, recommended that the elections should be decoupled, with a heavy emphasis on reducing voter confusion [Report: paragraph 4.92]. It must be borne in mind, however, that the Arbuthnott Commission recommended decoupling in the light of its recommendation to continue the use of the Additional Member System (AMS) for elections to the Scottish Parliament after the Single Transferable Vote (STV) system of proportional representation had been introduced for local government elections in 2003.

3.5 There is no doubt that voter confusion is likely to be greater when two different voting systems are used in elections held on the same day. This is especially the case when completion of the respective ballot papers requires conceptually different judgements by the voter: selection of one winner, marked with an "X", in AMS; placing an array of candidates in order of preference, marked with the numbers "1", "2", "3", etc, in STV. Holding combined elections with different voting systems also adds to the complexity of the voter education programme, as two quite different targets have to be covered simultaneously.

3.6 While some arguments that are not related to the voting systems have been advanced in favour of decoupling, voter confusion has been the main concern, especially in the light of the experience at the 2007 elections. These concerns would be removed completely if the same voting system were used for both the Scottish Parliament elections and the local government elections. The voting system that would be best suited to both purposes would be STV-PR, as was recognised by the Arbuthnott Commission. The recent local government elections showed that the overwhelming majority of Scottish voters made very effective use of STV with only very small proportions of spoilt and rejected ballot papers even though this was the first use of STV for public elections in Scotland since 1928. If STV-PR were used for both sets of elections, combined elections would reduce voter confusion.

3.7 One of the practical considerations that has been advanced in favour of decoupling these two sets of elections relates to timing and staff availability to undertake the two sets of counts. The current legislation requires polling for the combined elections to be held on the first Thursday in May. In four years out of seven, this means that the counts run into the main spring bank holiday weekend, the first Monday in May (but in practice, including the preceding Friday for many people). If the combined polling day were moved to the second Thursday in May, or to first Tuesday in May, these practical problems would disappear.

4. THE POSTAL BALLOT

4.1 We are aware that there were problems with printing and distributing postal ballots in some areas, but we have no direct experience to contribute. We do, however, consider that these problems were exacerbated by the tight deadlines now in force for processing applications for postal ballots and for the handling the postal ballots. These problems will undoubtedly become more severe once the collection and verification of personal identifiers for absent voting is implemented in Scotland.

4.2 Accordingly we would suggest that the deadline for applications for postal votes should be moved from its present 11 working days before 5.00 pm on polling day, to 14 working days before 5.00 pm on polling day. We would also suggest that the deadline for receipt or personal submission of completely postal ballots should be set at 5.00 pm two working days before polling day. Given the processing that is required, it is unreasonable and unnecessary to allow electors to hand-in completed postal ballots at any Polling Station in the relevant ward at any time until the close of polling at 10.00 pm on polling day.

4.3 The size of the ballot paper, A4 width (210 mm) but 14 inches long, was set at the maximum the DRS scanners could handle to allow a clear presentation of the finally agreed design of the Scottish Parliament ballot paper and to accommodate the maximum expected number of entries. There is, however, no standard UK envelope available that could take such a ballot paper either flat or with only one fold. With the new structure of UK postal charges it would be desirable for the envelope not to exceed the C5 standard (162 x 229 mm). Thus posted ballot papers had to be folded twice. In some cases the ballot papers that had been folded caused paper handling problems in scanning. In many cases the fold marks showed up on the scanned images and as these were marks outwith the standard specification, all such ballot papers were queued for adjudication by a Returning Officer (see 8 below).

5. BALLOT DESIGN

Design of Ballot Papers for the Local Government Elections

5.1 Soon after Parliament had made the decision to use STV for the local government elections, some councillors raised issues about the design of the STV ballot papers, especially in areas where their party expected to nominate two or three candidates in the multi-member wards. They wanted the candidates grouped together by political party because they said this would minimise confusion for voters. Others suggested the real intention was to make it easier for such parties to get their supporters to “vote the party ticket” with a view to restricting voter choice.

5.2 There was no public consultation on the design of the STV ballot papers, but the Scottish Executive did consult the political parties represented in Parliament. When this became public knowledge, by a reference to it in a Scotland Office news release, Fairshare prepared a Briefing Note on the topic (Annex 2) and made that Note widely available to those involved in the political discussions and to other interested organisations and individuals. You will see that we recommended that the candidates should be listed in alphabetical order of family name and given name. After a great deal of acrimonious debate among the political parties, that was what was finally agreed by the Local Government and Transport Committee of the Scottish Parliament to whom the Minister had referred the matter for decision.

5.3 The STV ballot papers used in the 2007 elections were, however, different from previous UK designs for STV ballot papers in having the candidates' descriptions in a separate column, to the left of the column containing the candidates' names and addresses. This innovation may have been helpful to voters, especially in wards with the larger numbers of candidates: there were 46 wards with 10 or more candidates. One or more parties nominated two or three candidates in 282 of the 353 wards.

5.4 In our Briefing Note we drew attention to the well-established effects of 'alphabetical voting' and it is no surprise that this should have occurred in the recent STV elections. Bochel and Denver looked at the 327 cases where parties had nominated two candidates in a ward and recorded which candidate of each pair had received the greater number of first preference votes [Scottish Council Elections 2007: Results and Statistics; H M Bochel and D T Denver, University of Lincoln: Table 9]. In 277 of the 327 cases the higher-placed candidate received the greater number of first preferences, compared to only 50 cases where the lower-placed candidate received the greater number of first preferences. This very highly significant difference was consistent across all four of the parties that had nominated two candidates in a ward.

5.5 The effects recorded by Bochel and Denver are related to the alphabetical positions of the candidates' names because that is how the lists were ordered for these elections. To overcome the alphabetical effect, it has been suggested that candidates should be listed in random order. But that would not remove the positional effect: it is likely that the higher-placed candidate would still receive more first preference votes than a lower-placed candidate of the same party. To remove the positional effect would require a complex system of list rotation, such as those used in STV elections in Tasmania and in the Australian Capital Territory. In addition, the Australian legislation prescribes that the ballot papers must be collated so that the papers successively distributed at any Polling Station have the candidates' names ordered differently [see for example, Tasmania, Electoral Act 2004, Schedule 3 - Printing and collation of ballot papers]. Given the extent of 'alphabetical voting' apparent in the recent STV elections, it would be appropriate to consider whether a fully rotational system should be introduced for the elections due in 2011. The digital technology is already available both to print such ballot papers in collated batches and to read them.

5.6 The wording of the instructions on the STV ballot papers was different from that we recommended in the designs shown in the Briefing Note [Annex 2]. After we had prepared that Briefing Note we discovered that substituting the word "choice" for the word "preference" reduced the reading age of that paragraph by 1.5 years as measured the Flesch-Kincaid Grade Level and we informed the Scottish Executive and the Electoral Commission of this finding. The other differences in the wording are small, but the use of shorter, sharper sentences might have been more appropriate. We consider that placing the "**Do NOT mark this ballot paper with an 'X' or a '✓'**" instruction immediately above the tabular part of the ballot paper would have been more effective. (We note below that significant numbers of the STV ballot papers were marked with one "X" or several "X"s.) We would also recommend that the column of vote boxes should be headed by an instruction "Vote here" as shown in the examples in the Briefing Note.

5.7 To facilitate scanning, it was important that the ballot papers completed at Polling Stations were not folded. The instruction "DO NOT FOLD" was printed in large capital letters on the back of the ballot papers. However, significant numbers of voters did not turn their ballot papers over and so never saw that instruction. We recommend that the instruction "Please do **NOT** fold this ballot paper" should be printed on the face of each ballot paper, at the foot of the paper as shown in all our mock-ups [Annex 2].

Design of Ballot Papers for the Scottish Parliament Elections

5.8 The discussion about the design of the ballot papers for the Scottish Parliament elections was triggered by the announcement by the Secretary of State for Scotland on 9 June 2007 that he proposed to implement the recommendation of the Arbuthnott Commission that the two ballot papers required for AMS should be printed on a single 'ballot sheet' and that the regional ballot paper should appear 'first', i.e. on the left hand side of the sheet. The Arbuthnott Commission set out very clearly its reasons for making this recommendation. In its response to the Scotland Office full public consultation on the design of the AMS ballot papers for the 2007 elections, Fairshare supported the change to a single ballot sheet printed with the regional ballot paper on the left, as explained in our submission [Annex 3]. That consultation closed on 4 August 2006 and the responses to it were published by the Scotland Office on 2 November 2006. It should also be noted that a combined ballot sheet was preferred by 83 of the 100 test voters in the qualitative research on ballot paper design undertaken by Cragg Ross Dawson; only 17 of the 100 test voters preferred two separate ballot papers as used in the AMS elections in 1999 and 2003.

5.9 One of the considerations in the public consultation was the arrangement of the parties' names on the regional ballot paper and of the candidates' names on the constituency ballot paper. The consultation document showed a specimen ballot paper with both lists arranged independently and alphabetically. After much discussion about alternatives, this arrangement was adopted.

5.10 The specimen paper shown in the consultation document had the 'vote boxes' arranged in two columns either side of the vertical midline of the ballot paper. The two columns of vote boxes are similarly positioned on the combined ballot sheets used for the AMS elections in Germany and New Zealand, although other aspects of the layout are quite different. However, when the report of the qualitative research on the ballot paper design carried out by Cragg Ross Dawson was published on 10 August 2006, i.e. several days after the public consultation had closed, it was apparent that the test voters did not favour this layout, by a majority of almost two to one.

5.11 The test voters were presented with five alternative designs of combined ballot sheet. In three of the designs the vote boxes were in two adjacent columns either side of the vertical midline of the ballot paper. In the other two designs the vote boxes were in well separated single columns to the right of the respective columns of parties (regional ballot paper) and of candidates (constituency ballot paper). The designs with the two adjacent columns of vote boxes were preferred by 37 of the 100 test voters, but the more conventional UK layout with the vote boxes to the right of the parties' or candidates' descriptions was preferred by 63 of the 100 test voters.

5.12 We have included these details here because they have either been overlooked or deliberately ignored in much of the misinformation and disinformation that has been published in the media and on websites since the problems of rejected ballot papers became apparent during the AMS counts on 3-4 May. The clear preferences of the test voters (one combined ballot sheet 83/100, vote boxes on the right 63/100) were taken fully into account in arriving at the design finally adopted. We note with interest that the Ontario Citizens' Assembly on Electoral Reform has proposed that the columns of votes boxes for their AMS ballot papers should be located along the outside edges of the combined ballot sheet, i.e. to the left of the party descriptions

under the 'party vote' and to the right of the candidates' descriptions under the 'local candidate vote'.

5.13 In the qualitative research three of the 100 test voters put two "X"s in one column on a combined ballot sheet instead of one "X" in each of the two voting columns. This was clearly a mistake, thought it occurred under test conditions with no prior guidance. Four of the test voter marked only one "X" instead of two. This was probably a mistake in the circumstances of this test, but as we note below, a small but significant number of voters intentionally do not use both of their votes in AMS elections. The researchers drew attention to the occurrence of these mistakes, but with the benefit of hindsight it now seems likely that insufficient attention was given to the occurrence of these mistakes on the combined ballot sheets.

5.14 The specimen combined ballot sheets used for the qualitative research and for the public consultation included "New Zealand style" instructions at the head of each ballot paper on the combined ballot sheet, explaining the significance and effect of the two different votes. We included similar "New Zealand style" instructions on the example ballot sheet that appears as the last page of the Briefing Note [Annex 3]. In the report of the qualitative research it was noted that some test voters, described as "less well informed, and perhaps less literate", felt that the instructions in the boxes looked too detailed and a little difficult to follow. We understand it was for this reason that the "New Zealand style" instructions were omitted from later designs and replaced by prominent "directional arrows" linked to the word "two" in the statement "You have **two** votes" that appeared as the second line at the head of the ballot sheet. When we became aware of this change, we produced revised mock-ups and made these available to the political parties and others who might use them in their training programmes, as shown at Annex 4. (NB All of our mock-ups were prepared for printing on A4 paper. The actual ballot papers and ballot sheets were the same width but longer, at 14 inches.)

5.15 As noted at 2.4 above, the design of the Scottish Parliament ballot papers and ballot sheets for the Glasgow and Lothians Electoral Regions was revised at the last minute when it became apparent that there might be more than the previously planned maximum number of nominations. In the event there were 23 regional entries (parties plus independent candidates) in both Electoral Regions. We again revised our mock-up of the AMS ballot sheet to include 23 regional entries and to show how the space for the header of the ballot sheet would be reduced – see Annex 5. Although this revised mock-up is again on A4 paper, 2 inches (50 mm) shorter than the actual ballot sheets, we were able to retain the prominent "directional arrows" linked to the word "two" in the header. There is little doubt that the omission of these "directional arrows" contributed to the unusually large numbers of rejected ballot papers in the Glasgow and Lothians Electoral Regions. As our mock-up shows, that omission was completely unnecessary, especially on the 14 inch long ballot sheets, and should not have been allowed to occur.

5.16 The specimen ballot sheets used in the qualitative research had eight entries (parties plus independent candidates) on the regional ballot paper and seven entries (candidates) on constituency ballot paper. The specimen ballot sheet included in the public consultation document issued by the Scotland Office had nine entries on the regional ballot paper and 11 entries on the constituency ballot paper. As we pointed out in our response to the public consultation [Annex 3], these relative numbers gave

seriously misleading impressions of what the combined ballot sheets were likely to look like. Our analysis of the readily available data from the 2003 elections [Table 1 in Annex 3] showed that the numbers of regional entries were always likely to exceed the numbers of constituency entries by a large margin. This difference was even more marked in the 2007 elections. The Review may wish to consider whether the misleading impressions of the possible combined ballot sheets used in the qualitative research and in the public consultation distorted the responses in ways that affected important decisions on the ultimate design.

5.17 The issue of “party names” on the ballot papers was raised both in the media and by individual electors at educational meetings as soon as it was announced that the Scottish National Party would use the registered description “Alex Salmond for First Minister” on the regional ballot papers. This continues to be a cause for media comment. Some considered it inappropriate, others considered it confusing. There is, however, little doubt that this approach contributed to the success of the SNP in getting across the message to its supporters that they had to vote for the party in the region as well as in the constituency if the party was to win more seats in the Parliament. (This is the very issue about the working of AMS that the Arbuthnott Commission addressed and led them to make the recommendations they did about changing to a combined ballot sheet and to presenting the regional ballot paper before the constituency ballot paper.)

5.18 The SNP was not the first party to use a personalised party description of this kind. In the 2003 elections the then Scottish Socialist Party used effectively the permitted six-word description “Scottish Socialist Party – Leader Tommy Sheridan” in some Electoral Regions. It should also be pointed out that the Conservative and Unionist Party, the Liberal Democrats, the present Scottish Socialist Party and Solidarity all have registered descriptions based on the respective leader’s names. Some commentators and electors have suggested that parties should be permitted to use on the ballot papers only the parties’ registered names. This would have far reaching consequences in Scotland as there are no registered parties with the names “Scottish Conservatives”, “Scottish Conservative and Unionist”, “Scottish Labour Party” or “Scottish Liberal Democrats”. These are registered descriptions for, respectively, the Conservative and Unionist Party, the Labour Party and the Liberal Democrats. In contrast, the “Scottish Green Party”, the “Scottish National Party” and the “Scottish Socialist Party” are registered party names. Some adverse comment about the use of “Alex Salmond for First Minister” centred on the alphabetical placing of this description at the top of the regional ballot paper in all Electoral Regions except the Lothians (see Annex 5, which is based on the actual nominations for that region and constituency). The Review may wish to consider whether there is a case for random ordering or rotation of the entries on the Scottish Parliament ballot papers similar to that discussed for the STV ballot papers at 5.5 above.

5.19 To facilitate scanning, it was important that the ballot sheets completed at Polling Stations were not folded. The instruction “DO NOT FOLD” was printed in large capital letters on the back of the ballot sheets. However, significant numbers of voters did not turn their ballot sheets over and so never saw that instruction. We recommend that the instruction “Please do **NOT** fold this ballot paper” should be printed on the face of each ballot sheet, at the foot of the sheet as shown in our mock-up on the last page of Annex 3.

6. THE COUNT ARRANGEMENTS

6.1 The counting process started as soon as the polls closed at 10.00 pm on Thursday, 3 May. We do not favour over-night counting and see no need for it. This practice should be discontinued and all counts should start at 9.00 am on the day following polling day. That would ensure that the Returning Officers and all their senior staff who have undertaken heavy commitments in the days before polling day and on polling day, will have had at least one night's sleep before embarking on the counts. This should be standard practice both when the ballots are counted electronically and when counted manually.

6.2 At the counting centres where we had Accredited Observers, the arrangements were satisfactory. Symbol correction and ballot paper adjudication were all open to full scrutiny by all those present at the count. It may, however, be desirable to review the arrangements for adjudication in consultation, particularly, with the political parties. At some adjudications, some parties had several representatives who took up prominent positions around the adjudication station (a large computer screen or an even larger projector screen), so forcing others back, and were very vociferous and potentially intimidating in their comments and challenges to the Returning Officer staff who were undertaking the adjudication. Some agreed guidelines for the organisation of adjudications would be helpful. It would, however, be undesirable to move the adjudication process away from full scrutiny by anyone attending the count.

7. THE ELECTRONIC COUNTING SYSTEM

7.1 At some counting centres the electronic system was overwhelmed by the numbers of ballot papers queued for either symbol correction or adjudication. We have been informed that this led to excessive fragmentation of some of the critical files, which in turn degraded the overall performance of the electronic system. At some centres this degradation resulted in the public progress reporting system not being available because it would not work reliably and so was taken out of service. We understand that this possible cause of failure had not been tested to the extent that was experienced during the counts on 3-4 May because no-one had predicted that so many ballot papers would have to be queued for adjudication.

7.2 We observed paper jams during scanning, mainly from folded papers, but these were all dealt with very quickly by the operators. The unread papers usually went through the scanners without any hitch when presented for a second time. We observed technicians cleaning the scanners during processing, to remove paper dust, and again the interruption of processing was minimal.

7.3 While the electronic network at each counting centre appeared secure, and we have heard no reports of any breaches of security, we understand that each network had a firewall protected, dial-up modem that could have been used to connect to other computer systems via the telephone network. We understand that this outgoing connection was provided to allow distribution of progress reports and results. Given the ease with which files can now be transferred physically between computers, eg by USB pen key flash drives, we think it would have been better if there had been no external connection at all on the networks. That would have provided an absolute assurance of the independence of the processing networks.

8. REJECTED AND SPOILT BALLOTS

8.1 The terms “rejected ballot paper” and “spoilt ballot paper” are defined very precisely in the relevant Election Rules and refer to very different ballot papers. It is regrettable and very unhelpful that “rejected ballot papers” have been referred to as “spoilt ballot papers”, both by the media and by official organisations, including the Electoral Commission. Since this was pointed out, the Electoral Commission has corrected its use of the terminology in relation to the 2007 elections.

8.2 Data on spoilt ballot papers *sensu stricto*, i.e. one for which a replacement was issued to a voter at a Polling Station, are not collated or reported. They are used only at the reconciliation of the Polling Station returns when each ballot box is opened. In the past, the numbers of spoilt ballot papers have been low and of little interest. In the light of what happened in the 2007 elections, an analysis of the spoilt ballot papers in both elections might yield some useful information about the mistakes made and recognised by the voters. However, we understand from information given by Polling Clerks to Accredited Observers during visits to Polling Places that the numbers of spoilt papers in both sets of elections were again quite small.

8.3 Many of the rejected Scottish Parliament ballot papers were rejected because they were blank, especially the constituency ballot papers. Such ballot papers were correctly rejected, but it is important to recognise that by no means all of the papers rejected because they were unmarked indicate mistakes made by voters. In these elections, as in previous Scottish Parliament elections, a significant number of voters deliberately did not mark the constituency vote. This is most likely to have been done when the voter’s favoured party contested the region but not the constituency. To describe such a ballot paper as “spoilt” is unhelpfully misleading and to imply that such a voter had made a “mistake” is completely wrong. The analysis of the rejected ballot papers presented by the Scottish Elections Review must take this fully into account.

8.4 We are pleased that the Review will be given access to the images of the rejected ballot papers as this will allow a more appropriate and useful analysis and classification of the reasons for rejection. We consider it will be particularly important to distinguish those ballot rejected papers that were “unmarked” from those that were “void for uncertainty”. When reviewing the Scottish Parliament rejected ballot papers, it will also be important to distinguish ballot sheets on which both ballot papers were rejected from those on which only one ballot paper was rejected. A full cross-classification will be quite complex and will require careful analysis. While we appreciate that access to the ballot paper images must be restricted to those working directly for the Scottish Elections Review, we strongly recommend that all the data obtained from those examinations are published in full once the review has been completed.

8.5 We suspect a lack of uniformity across the 32 Returning Officers in the officially reported reasons for rejection of ballot papers. Using data kindly provided by Professor David Denver (who had collated them from the 32 Returning Officers), we note that over the 32 councils the percentages of the rejected STV ballot papers that were rejected for the reason “On which the figure “1” standing alone indicating a 1st preference is set opposite the name of more than 1 candidate” ranged from 0.15% to 75%. Correspondingly, the percentages of the rejected STV ballot papers that were

rejected for the reason “Unmarked or void for uncertainty” ranged from 99.56% to 25%. The most likely explanation for this directly inverse relationship is that Returning Officers in the different areas classified similar rejections differently. The interpretation of the data on reasons for rejection for Scottish Parliament ballot papers is more complicated, but we suspect there may also have been some differences in classification among Returning Officers in different areas.

8.6 Adjudication on the validity of the ballot papers was a multi-stage process, with three stages for the Scottish Parliament ballot papers and four stages for the STV ballot papers. Ballot papers that conformed completely to specification were automatically passed by the software. Scottish Parliament ballot papers that did not meet the high level of conformity required for automatic processing were directed to the 'standard adjudication queue'. Local government ballot papers were subject to an intermediate stage of 'key correction' where individual symbols ("1", "2", etc) were examined for conformity. The Returning Officer staff who adjudicated on these 'standard' queues were not authorised to pass ballot papers that had a wide range of minor non-conformities on the images (e.g. horizontal fold marks or missing corners where the perforations had not torn correctly), nor could they 'reject' ballot papers that were very clearly blank, even though their decisions were open to full public scrutiny. All such ballot papers were then re-queued for 'Returning Officer adjudication'. This resulted in the 'Returning Officer adjudication' queues being much longer than they need have been and slowed the whole adjudication process and significantly delayed the determination and announcement of the results. While it may be argued that it was appropriate for the sensitivity levels to have been set so high at all stages of the adjudication process on this first use of this technology, there is no doubt about the contribution this made to the overall problems associated with these election counts. We would recommend that the sensitivity levels are lowered slightly the next time this technology is used and that the Returning Officer staff undertaking the 'standard adjudications' are authorised to pass ballot papers that have only minor non-conformities that do not interfere with the interpretation of the vote and to marked as “rejected” ballot papers that are clearly blank.

Rejected Ballot Papers from the Scottish Parliament Elections

8.7 The proportions of rejected regional and constituency ballot papers in the 2007 Scottish Parliament elections were unprecedented. At 2.9% and 4.1% for Scotland overall, they were very much higher than in the Scottish Parliament elections in 2003 or 1999, and very much higher than in the Parliamentary AMS elections in New Zealand and Germany which also use combined ballot sheets. There was great variation among constituencies and among electoral regions within Scotland and these differences were, statistically, very highly significant.

8.8 The highest percentages of rejected regional and constituency ballot papers were recorded in the Glasgow and Lothians Electoral Regions. These were the only two electoral regions where the Scottish Parliament ballot sheets did not have the prominent “directional arrows” in the header. This is the most likely factor that contributed to the very highly significant difference between these two electoral regions and the other six electoral regions. It should be noted that the differences between the Glasgow and Lothians Electoral Regions were also very highly significant, indicating that there were other contributing factors involved.

8.9 The most common combination of reasons for rejection of Scottish Parliament ballot papers observed at the Edinburgh and Glasgow counting centres was the marking of two “X”s in the regional vote column and no mark at all in the constituency vote column. Such markings would cause the rejection of both ballot papers on the combined ballot sheet, giving rise to a 1:1 ratio for the percentages of rejected regional and constituency ballot papers. But there were very highly significant deviations from this 1:1 ratio among and within the eight electoral regions. There were 10 constituencies where the numbers of rejected constituency ballot papers were less than the numbers of rejected regional ballot papers, limit 1:0.7; 35 constituencies where the ratio was between 1:1 and 1:1.5; 19 constituencies where the ratio was between 1.5 and 2.0; and 9 constituencies where the ratio exceeded 1:2.0, limit 1:2.9.

8.10 One factor contributing to the numbers of rejected constituency ballot papers being higher than the numbers of rejected regional ballot papers in the same constituency was almost certainly the deliberate withholding of the constituency vote in some constituencies (as noted at 8.3 above). Conversely, there is evidence that specific constituency factors may have resulted in there being fewer rejected constituency ballot papers in some constituencies that would be expected from the regional average. For example, a detailed analysis of the regional and constituency votes in Glasgow Govan, where the ratio of rejected ballot papers was only 1:1.03 against a regional average of 1:1.92, showed a large personal constituency vote for the winning candidate.

8.11 The occurrence of these significant qualitative differences among constituencies indicates the need for caution in attempting to fit explanatory variables to the all-Scotland data for rejected ballot papers. We are aware this has been done and has been reported to produce statistically significant correlations and complex regressions. However, it is doubtful if such analyses will reveal any real relationships unless the qualitative differences in voting patterns among constituencies are first identified and then controlled in the statistical analysis.

Rejected Ballot Papers from the Local Government Elections

8.12 There was understandable concern that there might be high numbers of rejected ballot papers in the local government elections because this was the first time the present generation of electors would use STV for public elections. In the event, the percentages of rejected ballot papers were very much lower than from the Scottish Parliament elections, and well within expectation when an STV election is held on the same day as an X-vote election.

8.13 Over the 353 wards the average percentage rejected ballot papers was 1.8%, ranging from 0.6% to 4.2%. On a whole-council basis, the range was from 1.1% in East Dunbartonshire to 2.8% in West Dunbartonshire. The percentage of rejected ballot papers exceeded 2.0% in only 10 of the 32 councils. These figures compare favourably with the percentages of rejected ballot papers in STV elections in Northern Ireland where STV has been in use for public elections since 1973. In the most recent local government elections in Northern Ireland, held in 2005 on the same day as X-vote elections for the UK Parliament, the percentage rejected STV ballot papers was 2.1% (0.9% for the X-vote ballot papers).

8.14 From personal observation at the Edinburgh and Glasgow counting centres it was apparent that many STV ballot papers were rejected because they were marked with two or more Xs. This occurred particularly where a party had nominated two or more candidates in a ward. The data on reasons for rejection provided by Professor Denver tend to confirm this observation across Scotland, though as noted at 8.5 above, there is evidence that some Returning Officers classified the rejected ballot papers in ways that obscure this cause. In the Northern Ireland local government elections in 2005, held on the same day as an X-vote election, “marking a first preference for more than one candidate” accounted for 49% of the rejections. As we indicated above (3.6), these problems would be greatly diminished if the elections held on the same day were both by STV.

8.15 Direct comparisons between the percentages of rejected ballot papers in the local government elections and the Scottish Parliament elections have been made for the wards in the City of Glasgow Council area and the Glasgow constituencies for the Scottish Parliament that cover almost identical electorates. The data for the local government ballot papers were re-allocated to Scottish Parliament constituencies in proportion to the geographical area of each ward lying within each constituency. The average percentage rejected STV ballot papers for the whole City Council area was 2.3% compared with 4.3% and 8.1% for the regional and constituency ballot papers for the nine Glasgow constituencies. The Shettleston constituency had the highest percentages of rejected regional ballot papers (5.9%) and rejected constituency ballot papers (12.1%) in the whole of Scotland. The corresponding percentage of rejected local government ballot papers was only 2.9%, which was not the highest among the nine Glasgow constituency areas. In the Maryhill constituency the percentage of rejected constituency ballot papers was the second highest at 10.2%, but the corresponding percentage of rejected local government ballot papers was only 2.2%, below the average for the whole City Council area. The lowest percentages of rejection for all three ballot papers occurred in the Kelvin constituency: regional ballot papers, 2.4%; constituency ballot papers 4.8%; local government ballot papers, 1.7%. These direct comparisons of ward and constituency data in the areas of Scotland with the highest proportions of rejected ballot papers in the Scottish Parliament elections show that these voters found it relatively easy to cast valid STV votes. We would suggest that the percentages of rejected ballot papers in the local government elections would have been even lower if both sets of elections had been by STV. Had STV been used for both elections, the percentages of rejected ballot papers in the Scottish Parliament elections would most certainly have been much lower.

9. PUBLIC INFORMATION

9.1 The provision of public information was inevitably complicated by the use of two different voting systems for elections held on the same day, although many features of the elections that affected electors were common, e.g. deadlines for elector registration and for application for a postal vote. As we have recommended above, the solution to the voting system issues is simple – use STV-PR for both sets of elections.

9.2 We are aware that there was some criticism of the elector education programme run jointly by the Electoral Commission and the Scottish Executive under the ‘VoteScotland’ banner. In particular, some electors have said that information about the two voting systems should have been made available much earlier in the run-up to the elections. We do not support that view. The first phase of the VoteScotland campaign was focussed on elector registration and on application for a postal vote,

both of which had deadlines of 18 April. The second phase of the VoteScotland campaign, which was rolled out during the week beginning 16 April, was focussed firmly and effectively on the two voting systems as seen from the voters' point of view, i.e. how to complete the two different ballot papers. This message was taken up by the media, mostly correctly, during the two-and-a-half week period to polling day. Had this detailed "How to vote" information been provided earlier it would either have been laid aside as "not yet relevant" and then left unread or read on receipt and then forgotten by polling day. These central print and on-line publications were supplemented by print and on-line publications by councils and other organisations, notably the Electoral Reform Society.

9.3 The Electoral Commission, councils and other bodies, again notably the Electoral Reform Society, organised numerous meetings throughout Scotland to explain the voting procedures and answer electors' questions. While many of these meetings were well attended, it should also be recorded that a significant number of such meetings were either cancelled for lack of interest or were poorly attended despite the considerable efforts of the various organisers to promote them. Maybe in future, it would be more effective for councils in particular to take slots in the meetings of existing local networks, e.g. "Young Mums", "Sunshine Club", "Pensioners' Group", rather than organise separate public meetings exclusively about the elections.

9.4 Information was also provided on polling day, chiefly by the Information Officers in each Polling Place and by the Polling Clerks at each Polling Station. Several of those who contributed to this submission were Accredited Observers at the May elections and in that capacity visited a variety of Polling Places in different parts of Scotland. The Information Officers and Polling Clerks we observed were mostly proactive in providing information and were knowledgeable in answering voters' questions about completing the ballot papers correctly. It is, of course, impossible to say how much notice the voters took of the information they were given or how much they understood.

10. ROLES, RELATIONSHIPS AND ACCOUNTABILITY

10.1 Responsibility for these two sets of elections was split among the Scotland Office, the Scottish Executive, the Electoral Commission and the 32 Returning Officers. To make significant changes to these arrangements would require amendment of the Scotland Act 1998, to give the Scottish Parliament legislative control of its own elections. This has been proposed, but for more fundamental reasons than addressing roles, relationships and accountability when combined elections are held.

10.2 While considerable effort was directed to obtaining common approaches by the 32 Returning Officers, it is obvious that there were undesirable differences in both practice and interpretation across Scotland. We are aware that some Returning Officers failed to provide candidates with any data from the STV counts before announcing the results – indeed, in some case such data were not supplied to the candidates until several days after the elections. Some Returning Officers clearly interpreted the 'reasons for rejection' differently (see 8.5 above). There have also

been anecdotal reports of Returning Officers in some areas rejecting ballot papers that would have been accepted by Returning Officers in other areas.

10.3 It became clear to us after the elections, when attempting to collect data from Returning Officers, that some Returning Officers had had no clear understanding of the information the electronic counting systems should have provided. It seems likely that there was also confusion and poor communication between some Returning Officers and the DRS Site Manager running the local system. We understand that the Scottish Executive gave DRS a very clear specification for the various reports the eSTV program should produce for the local government elections. We understand that this information was sent to all Returning Officers by the Scottish Executive. However, some Returning Officers failed to provide the relevant parts of those reports to the candidates attending the counts, contrary to the guidance that was issued to Returning Officers. Even several days after the elections several Returning Officers had no idea what some of the reports we asked for looked like and some of their staff reported that no-one in their elections team had ever seen some of the reports we requested. In contrast, other Returning Officers provided all the relevant information to candidates at the counts (e.g. City of Edinburgh) and some had the complete output from the eSTV program published on the relevant website on the day of the counts, 4 May (e.g. City of Glasgow).

10.4 This situation was clearly unsatisfactory, and in some cases, continues to be unsatisfactory (see 11.1 below). We recommend that the Review gives due attention to these practical issues in its consideration of the respective roles and relationships of all the organisations that must be involved in delivering the elections.

11. OTHER RELEVANT ISSUES

Publication of results

11.1 It is a matter of concern that, 12 weeks after the election counts were completed, some Returning Officers have still not published all of the information required by the respective Election Rules. The greatest problems, in both number and content, are with the results and other information from the local government elections. This is an issue the Scottish Elections Review should address with a view to seeking full publication of the data from the 2007 elections as well as after future elections.

11.2 The eSTV program used to count the votes in the local government elections produced several different reports, mostly in HTML format for easy access through web-browsers. To comply fully with the requirements of Rule 55(c) of the Scottish Local Government Elections Order 2007, each Returning Officer should publish for each ward: the full result sheet, the “audit report” and the “preference summary report”. All three of these reports are needed to provide all of the information specified in Rule 55(c). We do not understand why some Returning Officers have failed to meet their statutory obligations.

11.3 We can see no good reason why some Returning Officers have failed to publish all of the required information. The Returning Officer for Glasgow had all of this information published on the Glasgow City Council website on 4 May, i.e. on the day of the counts. That presentation includes a “front page” for each ward showing

the main results, with a link to a zipped folder containing the complete output from the eSTV program. This simple approach would have involved the City Council in the minimum of work, but provided the maximum of information, including the preference profiles accumulated from the ballot papers. Publication of the full information in this form is likely to be completely acceptable to those who want access to such information. We were pleased to see that the preference profiles had been included because we believe all of these data should be freely available to all who might wish to examine them, as we indicated in our response to the recent Scottish Executive consultation on this matter.

11.4 Other Returning Officers have taken different approaches to publishing the full data. For example, the West Lothian Council website has the result sheet, the audit report and the preference summary report for each ward directly accessible from links on the respective ward webpages, i.e. without the zipped folder. The City of Edinburgh Council website provides the same three reports as successive spreadsheets in a workbook for each ward. It is our view that no Returning Officer or Council need expend any more effort in making available the information required under the election legislation than that shown by these three examples. It is, however, important that the full information from the 2007 elections is made available as soon as possible by all the Returning Officers and that in future a more consistent approach to publication is taken across the whole of Scotland.

Annex 1

FAIRSHARE VOTING REFORM **Scotland's Campaign for a Better Democracy**

Fairshare is a cross-party and non-party organisation set up in February 2001 to campaign for the introduction of the Single Transferable Vote system of Proportional Representation (STV-PR) for local government elections in Scotland. In January 2005 Fairshare extended its objectives to promote reform of the voting systems used for public elections in Scotland and specifically, to reform the voting system for elections to the Scottish Parliament through the adoption of STV-PR. Fairshare is constituted as a not-for-profit company limited by guarantee and maintains a network of Registered Supporters.

Fairshare's Campaign Committee includes Scottish pro-reform activists from the following organisations and political parties:

- The Scottish Conservative Party
- The Scottish Green Party
- The Scottish Labour Party
- The Scottish Liberal Democrats
- The Scottish National Party
- Electoral Reform Society
- Charter88 Scotland
- The Centre for Scottish Public Policy
- The Scottish Council Foundation

All the members of the Campaign Committee serve in a personal capacity.

Fairshare's principal source of funding during its campaign on local government elections was a grant from the Joseph Rowntree Reform Trust Ltd. Additional financial support was provided by the Electoral Reform Society, Make Votes Count and individual Registered Supporters.

Fairshare's campaign office:

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Fairshare Voting Reform Limited

Not-for-profit company limited by guarantee.
Registered in Scotland Number SC216224
Registered Office: 1 Rutland Court, Edinburgh EH3 8EY

Annex 2

Design of STV Ballot Papers for 2007 Local Government Elections

The Consultation Paper issued by the Scotland Office on 9 June 2006 concerning the design of the ballot paper for the Scottish Parliament elections in 2007 indicated “*that Scottish Ministers are considering a possible layout for the Local Government ballot paper that aims to help voters see the political groups of candidates more clearly.*”

We take this to mean that where a party nominates two or more candidates, those candidates would be grouped together on the ballot paper. We are aware that members of some parties have been lobbying for this. This suggestion has sometimes been presented as a possible means of helping voters who will be new to the STV voting system. On other occasions the intention appears to have been to obtain an advantage for a party that was intending to nominate more than one candidate in many wards.

The purpose of an STV-PR election is to secure the election of the candidates most representative of the electors who vote, within the constraints of electing either three or four councillors from each ward. The STV ballot paper must, therefore, be designed in a way that facilitates the voters identifying on the ballot paper the candidates they want to vote for. Party affiliation will be one attribute of the candidates that voters will look for in deciding the order in which to mark their personal preferences. Party affiliation is an important attribute, but it is only one attribute and its importance will not be the same for all voters.

It is now standard practice for UK ballot papers to show the party affiliations of candidates by both a permitted description and a party emblem. It is arguable that it would be of further assistance to voters if candidates of the same party were grouped together on the ballot paper. However, any advantage this would have for voters must be set against any disadvantage it could have for the voters. In particular, the grouping together of candidates whose permitted description is “Independent” could be confusing for voters as these candidates are not presenting themselves as an organised group, unlike all the other grouped candidates on the ballot paper.

If the candidates are to be grouped by party, consideration then needs to be given to the order in which the parties will be presented and the order of the candidates within each group.

Ballot papers with the candidates in alphabetical order of family and given name have been used for the District Council STV elections (and other STV elections) in Northern Ireland since 1973. So far as we are aware, there are no plans or demands to change the layout of the STV ballot papers used in Northern Ireland. Specimen Ballot Paper **A** shows an STV ballot paper with the candidates names presented in alphabetical order by family name and then by given name. (The data were taken from a group of four wards in Edinburgh that may form one new four-member ward, with expected numbers of candidates based on previous levels of local support for the respective parties. The party emblems were copied from the website of the Electoral Commission and all are reproduced at the same size.)

Specimen Ballot Paper **B** shows the same candidates grouped by party, with the parties presented in alphabetical order and the candidates within each grouping presented in alphabetical order of family and given name. In this instance, the candidates who share the permitted description “Independent” appear at the top of the list because the names of the contesting parties all begin with “Scottish”. This arrangement is likely to be confusing for voters because, while their names may be grouped together, the “Independent” candidates are in no way a “group”.

If the parties are presented in alphabetical order, the “Independents” are likely to be at the top of the ballot paper in every ward contested by any “independent” candidate. The following parties with names in the range “A” to “H” of the alphabet contested one or more wards in previous local government elections in Scotland:

2003

- British National Party
- Countryside Party
- Firefighters against the cuts
- Green Independent Party

1999

- Brechin Independence Group
- Christian Independence Party
- Communist Party of Great Britain
- Democratic Left
- Faslane Peace Camp
- Humanist Party

Not all of these parties are currently registered with the Electoral Commission, but some of them may register again and contest the 2007 elections. Then their party names would appear on the ballot papers above all the “Independent” candidates if the candidates were grouped by party and the parties were presented in alphabetical order. If the British National Party nominates candidates for the local government elections in 2007 it is almost certain to be at the top of the ballot paper in every ward it contests.

One way of ungrouping the “Independent” candidates would be to include them in the alphabetical list of parties in alphabetical order of family name and given name. Specimen Ballot Paper **C** shows how the previous list of candidates would then be presented to the voters. Like Specimen Ballot Paper **B**, this presentation is also likely to be confusing for voters.

If the candidates were grouped by party, their names could be presented in alphabetical order within each group. Alternatively the candidates could be listed in some other order decided by each party. Any such approach is likely to lead to further confusion for voters as there is no simple way of deciding the appropriate order of the names of “Independent” candidates other than strict alphabetical order.

While we appreciate that grouping candidates of the same party together may be of some advantage to some voters, we consider that the disadvantages would outweigh the advantages. **Accordingly, we recommend that there should be no grouping of candidates by party.**

If there is genuine concern about the well-established effects of alphabetical ordering of candidates and of positioning at the top and bottom of the list on the ballot paper, we suggest consideration should be given to presenting the candidates' names in a random order decided by a blind draw within each ward. We are aware that some legislations, eg Tasmania, take this a stage further and use 'Robson rotation', in which every candidate's name appears an equal number of times in every position on the ballot papers issued within a ward, but we consider that would be a step too far for the elections in 2007.

The three Specimen Ballot Papers all include "instructions to voters" at the head of the paper. The wording and layout of these "instructions" have been adapted from those used on ballot papers in many STV elections. They have been refined over several years in the light of voters' comments and experience of approaches that minimise voters' mistakes. We would commend their use.

The Specimen Ballot Papers also include a specific "Vote here" instruction above the column of boxes where voters should mark their preferences. We suggest the inclusion of such a heading to this column to minimise the risk of voters marking their preferences in any space to the right of the candidates' names. The preferences so recorded may be perfectly valid, but such a paper would have to be processed manually when the ballot papers are scanned. This simple column heading should reduce that need and so speed processing.

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Fairshare Voting Reform

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Election for the City of Edinburgh Council

North-east Ward











To vote:

Write the figure **1** in the box next to candidate you *most* wish to be elected.

Write the figure **2** next to your *second* most preferred candidate.

Write the figure **3** next to your *third* preference, *and so on*.

You may express *as many preferences* or *as few preferences* as you wish, but do not write the same figure more than once.

Do NOT mark this ballot paper with an 'X' or a '✓'	Vote here
ABRAHIM Ali Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Liberal Democrat Party	
BROWN William Ian Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Green Party	
CRANSTON Helen Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Liberal Democrat Party	
JACKSON Heather Address1, Address 2, Address3, Edinburgh EHn nLL Independent	
KHAN Saeed Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Labour Party	
LINES Lynsey Address1, Address 2, Address3, Edinburgh EHn nLL Scottish National Party	
MACDONALD Donald Alexander Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Labour Party	
MASTERS Peter Martin Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Conservative and Unionist Party	
MCKAY Michael Gordon Address1, Address 2, Address3, Edinburgh EHn nLL Independent	
ROBERTSON Peter Address1, Address 2, Address3, Edinburgh EHn nLL Scottish National Party	
ROSS George Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Conservative and Unionist Party	
SINCLAIR Emma Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Labour Party	
WILSON Sonia Address1, Address 2, Address3, Edinburgh EHn nLL Independent	
You are entitled to vote in secret Please do NOT fold this ballot paper	

Election for the City of Edinburgh Council

North-east Ward











To vote:

Write the figure **1** in the box next to candidate you *most* wish to be elected.

Write the figure **2** next to your *second* most preferred candidate.

Write the figure **3** next to your *third* preference, *and so on*.

You may express *as many preferences* or *as few preferences* as you wish, but do not write the same figure more than once.

Do NOT mark this ballot paper with an 'X' or a '✓'	Vote here
JACKSON Heather Address1, Address 2, Address3, Edinburgh EHn nLL Independent	
MCKAY Michael Gordon Address1, Address 2, Address3, Edinburgh EHn nLL Independent	
WILSON Sonia Address1, Address 2, Address3, Edinburgh EHn nLL Independent	
MASTERS Peter Martin Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Conservative and Unionist Party	
ROSS George Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Conservative and Unionist Party	
BROWN William Ian Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Green Party	
KHAN Saeed Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Labour Party	
MACDONALD Donald Alexander Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Labour Party	
SINCLAIR Emma Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Labour Party	
ABRAHIM Ali Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Liberal Democrat Party	
CRANSTON Helen Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Liberal Democrat Party	
LINES Lynsey Address1, Address 2, Address3, Edinburgh EHn nLL Scottish National Party	
ROBERTSON Peter Address1, Address 2, Address3, Edinburgh EHn nLL Scottish National Party	
You are entitled to vote in secret Please do NOT fold this ballot paper	

Election for the City of Edinburgh Council

North-east Ward











To vote:

Write the figure **1** in the box next to candidate you *most* wish to be elected.

Write the figure **2** next to your *second* most preferred candidate.

Write the figure **3** next to your *third* preference, *and so on*.

You may express *as many preferences* or *as few preferences* as you wish, but do not write the same figure more than once.

Do NOT mark this ballot paper with an 'X' or a '✓'	Vote here
JACKSON Heather Address1, Address 2, Address3, Edinburgh EHn nLL Independent	
MCKAY Michael Gordon Address1, Address 2, Address3, Edinburgh EHn nLL Independent	
MASTERS Peter Martin Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Conservative and Unionist Party	
ROSS George Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Conservative and Unionist Party	
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MACDONALD Donald Alexander Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Labour Party	
SINCLAIR Emma Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Labour Party	
ABRAHIM Ali Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Liberal Democrat Party	
CRANSTON Helen Address1, Address 2, Address3, Edinburgh EHn nLL Scottish Liberal Democrat Party	
LINES Lynsey Address1, Address 2, Address3, Edinburgh EHn nLL Scottish National Party	
ROBERTSON Peter Address1, Address 2, Address3, Edinburgh EHn nLL Scottish National Party	
WILSON Sonia Address1, Address 2, Address3, Edinburgh EHn nLL Independent	
You are entitled to vote in secret Please do NOT fold this ballot paper	

Annex 3

Scotland Office Consultation

Scottish Parliament Elections May 2007: Ballot Paper Design

Response from Fairshare Scotland's Campaign for a Better Democracy

1. Fairshare welcomes the opportunity to contribute to this consultation on the design of the ballot papers for the Scottish Parliament elections in May 2007 though we should have preferred a consultation on replacing the whole voting system with one that would give the voters real choice.

2. The stated objective of the proposed re-design of the ballot paper is to give effect to a recommendation of the Arbuthnott Commission. The Commission recommended following New Zealand practice by putting both votes onto one ballot paper and by putting the regional vote first, so that the importance of the regional vote would be properly recognised by the electors. This is a commendable objective as it is clear that there has been considerable misunderstanding of the effects of the two votes at the Scottish Parliament elections in 1999 and 2003.

3. The Consultation Letter draws attention to the comment made by the Arbuthnott Commission (para 4.53) that the design of such a combined ballot paper might be more complicated if the Commission's recommendation to change from closed lists to open lists were adopted. (The adoption of open lists is to be commended as it would significantly enhance voter choice.) The Commission expressed the view that a suitable ballot paper could be designed, but did not give any details. However, the Commission also recommended that the version of open list voting should include provision for electors to mark only one party, such a vote being used to elect candidates in the order pre-specified by the respective party.

4. So far as we are aware, all Additional Member Systems that employ open lists use two separate ballot papers. We have also looked at the open list ballot papers used in party-PR voting systems that allow voters to mark a vote for one party, at the "head of the list". All such papers have a landscape orientation, with the parties set out across the paper and the respective lists of candidates in successive columns under each party heading. We do not share the optimism of the Arbuthnott Commission that such provision can be made on one combined New Zealand style ballot paper. Indeed, we cannot see how it could be done.

5. In reaching that conclusion we have taken into account the numbers of parties that have nominated lists of candidates for the regional seats in previous Scottish Parliament elections. In 2003, the number of parties contesting the regions varied from 11 to 14 (see Table 1 below); in 1999 the numbers ranged from 9 to 17. Each of these parties is entitled to nominate 12 candidates [Scotland Act 1998, section 5(6)]. Thus, to give effect to the Arbuthnott Commission's recommendations, there would need to be provision for up to 13 boxes associated with each party. With 14 parties contesting a region, there have to be 182 boxes on the regional vote side of the combined ballot paper, laid out in party groups and with the name of each party or the name of one candidate alongside the appropriate box in a font large enough

for easy reading by voters. We note that there is already concern about the size of font that could be used on a combined ballot paper, such that the Consultation Paper includes the suggestion that the lists of candidates' names might no longer be printed as regional lists for each party on the regional vote side of the combined ballot paper.

6. The Consultation Paper invites comments on the ordering of the parties and the candidates and refers to Annex C as an illustration showing both parties and candidates listed in alphabetical order. But the specimen in Annex C is seriously misleading in two important respects.

7. The combined ballot paper in Annex C shows 9 parties contesting the regional seats and 11 candidates contesting the selected constituency. This balance is completely the wrong way round. Our analysis of the data from the 2003 election [Electoral Commission] shows that the numbers of parties contesting the regions ranged from 11 to 14, but the numbers of candidates contesting the constituencies within any one region ranged only from 5 to 8 (see Table 1 for full details of the distribution). Of the 73 constituencies, 43 were contested by only 5 candidates, and a further 21 were contested by only 6 candidates. Thus Annex C gives a wholly misleading impression that has important implications for assessing reactions to the suggested alignment of parties across the combined ballot paper.

Table 1. Number of Parties contesting each Region and Number of Constituencies in each Region contested by stated Number of Parties Scottish Parliament Elections May 2003

Region	Number of Parties with Regional Lists	Number of Parties contesting Constituency			
		5	6	7	8
South of Scotland	11	6	3	0	0
Central Scotland	12	5	3	1	1
North East Scotland	12	6	2	1	0
West of Scotland	12	7	1	1	0
Mid Scotland and Fife	14	2	4	2	1
Highlands and Islands	14	5	3	0	0
Glasgow	14	6	2	1	1
Lothians	14	6	3	0	0

8. In the constituency section of the combined ballot paper in Annex C, the candidates are listed in alphabetical order of family name, as stated in paragraph 11 of the Consultation Letter. However, in that illustration, the parties of those candidates are also in alphabetical order. With 11 candidates and 11 parties, the probability of such a coincidence is so vanishingly small that we can presume only that this was a mistake. It does, however, give an incorrect impression of what the combined ballot paper might really look like. This may prejudice reaction to the alternative proposals.

9. The New Zealand sample ballot paper, reproduced on page 43 of the Arbuthnott Commission report, shows a more realistic picture of what a combined ballot paper might look like. The number of parties presenting party lists greatly exceeds the number of candidates contesting the specimen constituency, as in Scotland. The order of all the names on the ballot paper is determined primarily by the family names of the constituency candidates: these are listed in alphabetical order. The parties that nominate constituency candidates and present a party list are aligned in the party vote column with their position in the list of constituency candidates. The parties that present only party lists are entered the other parties, in alphabetical order of the parties' registered names.

10. In Scotland, this arrangement would have the effect of aligning the two vote boxes for any party that contested both the region and the constituency. This proposal may be predicated on the assumption that most voters will want to vote for the same party with both their regional vote and their constituency vote. In some cases this will be true, but in many cases in Scotland electors will make much more effective use of their votes by voting for different parties with their regional vote and their constituency vote. This would be the situation for any voter whose preferred party won its proportionate share (or more than its proportionate share) of the seats from the constituencies alone. It is a moot point whether such voters would be aided in marking their ballot papers for different parties if the party boxes were aligned. Some might argue that the alignment would make the difference more obvious; others might argue that the alignment carried an implicit indication that the voter should mark both boxes for the same party. (It is one of the defects of the Additional Member System that voters need a great deal of information about the likely voting patterns across the whole of the electoral region and all of the constituencies within that region before they can make rationale decisions about how to mark their two votes most effectively to achieve the result they want.)

11. The suggested alignment of parties contesting both the constituency and the region would have the effect of putting all the parties that were contesting only the region below the other parties in the regional section of the combined ballot paper. This might give the impression to some voters that these parties, contesting only the region, were in some way "second class". This would, of course, be quite wrong. These parties are different from the others, in that they are not contesting the constituencies, but given the well-known effects of the first-past-the-post voting system used in the constituencies, this is a very logical decision. Such parties can win seats through the regional vote and no aspect of the design of the ballot paper should inhibit the electors from making the choices they really want.

12. It is common practice, when preparing specimen ballot papers for illustration, to use fictitious party names, eg fruit in the New Zealand specimen ballot paper, and "Party A", etc in Annex C. This avoids any unintended party bias in the illustration or the description of the specimen ballot paper. However, it is instructive to consider the actual party names that are likely to appear on the ballot papers in Scotland. In the 2003 elections, 27 distinct parties presented lists (Table 2), though there were some variations in the permitted descriptions of these parties from region to region. Some of these parties did not contest all regions, so that the greatest number of parties presenting lists in any one region was 14 (Table 1).

13. The most striking feature of the list in Table 2 is that there are 10 parties with a name beginning with the word “Scottish”. These 10 include all of the parties that are likely to contest all of the regions. This will have a significant effect on the appearance of any alphabetical list of parties.

**Table 2. Names of Registered Political Parties
presenting Regional Lists in any Region
Scottish Parliament Elections May 2003**

Adam Lyal's Witchery Tour Party
Am Partaidh Dhuthchail - The Rural Party
British National Party
Christian Independent Alliance Upholding Community Values
Communist Party Peace Democracy Socialism
Fighting Scottish Hospital Closures and Downgrading
Independent
Liberal Party in Scotland
No description supplied
Pensioners Party (Scotland)
People's Alliance
Pro-Life Party
Protect Rural Scotland Party
Save Local Hospitals - Dunfermline, Perth, Stirling
Scottish Conservative and Unionist Party
Scottish Green Party
Scottish Labour Party
Scottish Liberal Democrats
Scottish National Party (SNP)
Scottish People's Alliance
Scottish Senior Citizens Unity Party
Scottish Socialist Party
Scottish Unionist Party
Socialist Labour Party
The Countryside Party Fighting Rural Issues
The Fishing Party
United Kingdom Independence Party

14. The effects of alphabetical ordering and of list position have been studied in many voting systems. It has been established that an alphabetical order confers advantages on candidates whose names begin with letters in the first half of the alphabet. There are also positional effects, with the top and bottom positions in any list conferring particular advantages. Similar considerations will apply to lists of parties. To avoid the effects of alphabetical ordering, lists of candidates and lists of parties could be ordered randomly. Electoral legislation describing methods for doing this already exists, eg Australia, We would not, at this stage, recommend rotation of the lists to overcome the positional effects although this is practised in some States, eg Tasmania, Australian Capital Territory.

15. The headings on the suggested combined ballot paper convey very clearly the importance of the two votes and their respective contributions to the process. The suggested heading over the constituency vote column (“Aberdeen Central

Constituency Member”) is also clear and appropriate. However, the heading over the regional vote column (“Regional Member”) is not clear or appropriate. That vote is not being used to elect one “Regional Member”; indeed, it may be used to contribute to the election of several Regional members of the voter’s preferred party. And the individual voter will have no direct relationship with any one of those so elected. On the New Zealand specimen ballot paper, this column is headed “Party Vote”, and this is appropriate in the New Zealand context where the party votes are accumulated on a national basis. It would, however, not be appropriate in Scotland where the party proportionality is calculated on a regional basis. Although it is not wholly satisfactory, we feel that “Regional Party Members” would be a more appropriate heading than the “Regional Member” suggested in Annex C.

16. Conclusions

- a) A move to one ballot paper, with the regional vote presented before the constituency vote, would emphasise the overall importance of the regional vote.
- b) It would almost certainly be impossible to present open party lists for the regional vote on a combined ballot paper. That would either inhibit the adoption of open lists or require a reversion to two ballot papers when open lists were introduced.
- c) The proposal to align parties in the regional vote column with their alphabetically ordered candidates in the constituency column has at least as many potential disadvantages for voters as potential advantages and the overall effect may confuse some voters. It should not be adopted.
- d) Ordering the list of parties and the list of candidates independently, and both in alphabetical order, would be the simplest approach to a combined ballot paper. However, the well established effects of such alphabetical ordering should be assessed and independent random ordering of both lists considered.

A combined ballot paper incorporating these features is shown full-size on the next page. This realistic example is based on the real data from the 2003 election for the Aberdeen Central constituency in the North East Scotland electoral region.

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Fairshare Voting Reform

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Fairshare is a cross-party and non-party organisation set up in February 2001 to campaign for the introduction of the Single Transferable Vote system of Proportional Representation (STV-PR) for local government elections in Scotland. In January 2005 Fairshare extended its objectives to promote reform of the voting systems used for all public elections in Scotland. Fairshare is constituted as a not-for-profit company limited by guarantee and maintains a network of Registered Supporters.

Election of the Scottish Parliament

You have two votes

This vote decides the share of the seats which each of the parties listed below will have in the Parliament for the North East Scotland Region. Vote by putting a cross in the box immediately after the party you choose

This vote decides the candidate who will be elected Member of Parliament for the Aberdeen Central constituency. Vote by putting a cross in the box immediately before the candidate you choose

Regional Party Members

Vote once only (X)








	Pensioners Party (Scotland)	
	People's Alliance	
	Scottish Conservative and Unionist Party	
	Scottish Green Party	
	Scottish Labour Party	
	Scottish Liberal Democrats	
	Scottish National Party (SNP)	
	Scottish Socialist Party	
	Socialist Labour Party	
	The Fishing Party	
	United Kingdom Independence Party	
	MATHERS, Steven David Independent	

Vote once only (X)



Aberdeen Central Constituency Member

	ANDERSON, Eleanor addr1, addr2, Aberdeen AB1 nLL Scottish Liberal Democrats	
	BUTLER, Alan Stephen addr1, addr2, Aberdeen AB1 nLL Scottish Conservative and Unionist Party Candidate	
	CUMBERS, Andrew David addr1, addr2, Aberdeen AB1 nLL Scottish Socialist Party	
	LOCHHEAD, Richard Neilson addr1, addr2, Aberdeen AB1 nLL Scottish National Party (SNP)	
	MACDONALD, Lewis addr1, addr2, Aberdeen AB1 nLL Scottish Labour Party Candidate	

**You are entitled to vote in secret
Please do NOT fold this ballot paper**

Election of the Scottish Parliament

You have **two** votes

Annex 4

North East Scotland Regional Members

Vote once
only (X)








Pensioners Party (Scotland)		
People's Alliance		
Scottish Conservative and Unionist Party		
Scottish Green Party		
Scottish Labour Party		
Scottish Liberal Democrats		
Scottish National Party (SNP)		
Scottish Socialist Party		
Socialist Labour Party		
The Fishing Party		
United Kingdom Independence Party		
MATHERS		
	Steven David	
	Independent	

Aberdeen Central Constituency Member

Vote once
only (X)



ANDERSON Eleanor		
Scottish Liberal Democrats		
BUTLER Ian Stephen		
Scottish Conservative and Unionist Party		
CUMBERS Andrew David		
Scottish Socialist Party		
LOCHHEAD Richard Neilson		
Scottish National Party (SNP)		
MACDONALD Lewis		
Scottish Labour Party		

Election of the Scottish Parliament - you have two votes

Annex 5

Lothians Regional Members

Vote once only (X)



ADAM LYAL'S WITCHERY TOUR PARTY		
ALEX SALMOND FOR FIRST MINISTER		
BRITISH NATIONAL PARTY LOCAL PEOPLE FIRST		
CHRISTIAN PEOPLE'S ALLIANCE - LEADER TERESA SMITH		
PUBLICAN PARTY – SEPARATE SMOKING ROOMS		
SCOTLAND AGAINST CROOKED LAWYERS		
SCOTTISH CHRISTIAN PARTY PROCLAIMING CHRIST'S LORDSHIP		
SCOTTISH CONSERVATIVE AND UNIONIST PARTY		
SCOTTISH ENTERPRISE PARTY		
SCOTTISH GREEN PARTY		
SCOTTISH LABOUR PARTY		
SCOTTISH LIBERAL DEMOCRATS		
SCOTTISH SENIOR CITIZEN'S UNITY PARTY		
SCOTTISH SOCIALIST PARTY – COLIN FOX		
SCOTTISH VOICE		
SOCIALIST LABOUR PARTY		
SOLIDARITY – TOMMY SHERIDAN		
THE HAD ENOUGH PARTY		
UKIP SCOTLAND		
MACDONALD	Margo Independent	
SCOTT	Alex Independent	
THORP	Duncan Independent	
WILSON	John Gibb Independent	

Edinburgh Central Constituency Member

Vote once only (X)



BOYACK, Sarah Herriot Scottish Labour Party Candidate		
HOUSTON, Fiona Scottish Conservative and Unionist		
MATHERS, Siobhan Scottish Liberal Democrats		
SOMERVILLE, Shirley-Anne Scottish National Party (SNP)		