

Local Government and Transport Committee Local Governance (Scotland) Bill

Written Evidence from Fairshare Scotland's Campaign for Local Democracy

Fairshare welcomes the introduction of the Local Governance (Scotland) Bill and is pleased to have the opportunity to submit written evidence on Part 1 of the Bill to the Committee.

The introduction of STV-PR will make councils properly representative of the communities they are elected to serve and will make councillors more accountable to their local electorates. No matter how a council executive may be organised, the presence of a significant opposition within each council will ensure effective scrutiny of executive decisions and so contribute to the improvement of local governance in Scotland.

Structure of the Bill

When we responded to the consultation on the draft Bill published by the Scottish Executive in July 2003, we expressed surprise that so much detail was included in the draft Bill, especially with regard to the counting procedure for the single transferable vote. The inclusion of that level of detail in the primary legislation would be a significant departure from previous practice in all UK legislation relating to STV.

We understand, however, that it is the wish of the Parliament and the Executive that this level of detail should be included in this primary legislation. In that case, we recommend that some additional details should be added to the Bill, especially the provisions for recounts because of the impact these particular provisions will have on existing sections of the Bill.

Numbers of Councillors in Electoral Wards

The Bill provides for the return of either three or four councillors from each electoral ward. Fairshare supports the pragmatic and flexible implementation of STV-PR to ensure the coherence of electoral wards with community boundaries. When he gave oral evidence to the Committee on 9 December in his capacity as chair of the STV Working Group, David Green said: "The majority of the group thinks that the number of members per ward should be between three and five, and two in exceptional circumstances of remoteness and sparseness" (SP LGTC Official Report col 397).

Fairshare supports this call for greater flexibility in the implementation of the multi-member wards and hopes that Ministers will be receptive when David Green reports the views of the STV Working Group to them in the middle of January (SP LGTC OR col 398). We would urge the Committee also to support this call for greater flexibility in implementation so that it will increase the benefit to existing communities and strengthen local links.

Reviews of Electoral Arrangements

Section 10 of the Bill will repeal Schedule 6 of the Local Government (Scotland) Act 1973 which, *inter alia*, sets out the rules under which the Local Government Boundary Commission for Scotland (LGBCS) must operate in drawing up ward boundaries. These rules also apply to any consideration of ward boundaries by the Scottish Ministers. In contrast to the 1973 Act, the Bill does not include any replacement rules, but provides for the Scottish Ministers to make the rules.

We believe the basic rules should be stated in the relevant primary legislation, i.e. in this Bill, and that these rules should apply to any consideration by the Scottish Ministers as well as to the LGBCS. As Professor John Curtice noted in his written evidence (paragraph 21), the approach in the Bill is without precedent in UK legislation. In his oral evidence, Professor Curtice recommended that the rules be written into the Bill (SP LGTC OR col 307).

The rules that should be set out in the Bill should emphasise the need to respect local community boundaries and to take into account geographical considerations including population density and sparsity, as well as the general requirement for equality of representation through broad equality in the numbers of electors per councillor within each multi-member ward within any one Local Government Area. The rules should very clearly give discretion for the LGBCS and Scottish Ministers to depart from the strict application of the rule on equality of numbers of electors per councillor where local considerations make this desirable. The existing Schedule 6 rules could quite readily be adapted to the new requirements.

Education and Training

Although PR with STV “is as easy as 1, 2, 3, ...” as the UK Government slogan said when STV-PR was re-introduced for local government elections in Northern Ireland in 1973, there will be a need for comprehensive elector education in good time for the elections in 2007. More immediately, there will be a need for an education and training programme for councillors and local government officials who will be involved in the consultation process on the LGBCS proposals for ward boundaries; for returning officers and their staffs; and for political parties and potential candidates. Indeed, this process has already begun. Much of the practical experience of STV-PR gained in Northern Ireland over the past 30 years will be relevant and helpful.

Widening Access to Council Membership

We note that the Executive has set up the Widening Access to Council Membership Progress Group to take forward work on implementing the key recommendations in the Kerley Report concerning ‘widening access’. While **Fairshare** has no policy on these specific recommendations (though it does support the underlying objectives), we would draw attention to an important linkage between some of these recommendations and the use of STV-PR as voting system for local government.

With STV-PR each party has to nominate a team of candidates in each multi-member ward. Parties can now offer their supporters a range of candidates without penalty: men and women; ethnic minorities; different religious affiliations; differing local interests. Because STV-PR is a preferential voting system, it positively encourages party managers to ensure that their teams of candidates do, indeed, have the widest possible appeal to their potential supporters. It is then for the voters to decide who

shall be elected. If significant minorities want direct representation, they would have the power to achieve that.

We hope that the Widening Access to Council Membership Progress Group will stress these advantages to parties and electors alike when they bring forward their recommendations and we would urge the Committee to encourage them to do this.

Simultaneous Elections in 2007

We have noted the concerns expressed in their written and oral evidence by SOLAR and SOLACE about holding AMS elections for the Scottish Parliament and STV-PR elections for local Councils on the same day, ie on Thursday, 3 May 2007. With elections of the same day, there would undoubtedly be some practical problems. The simplest solution would be to hold these two sets of elections on different days. The practical problems and possible increased costs of conducting election counts immediately before a bank holiday weekend would best be avoided by moving polling day to an earlier day in the week.

Spoilt Ballot Papers

Much has been made by some Members of the Committee of the numbers of spoilt papers reported from the West Belfast constituency in the recent STV-PR election for the Northern Ireland Assembly (see, for example, SP LGTC OR col 315, 333, 419). At 2%, West Belfast did indeed have the highest percentage of spoilt ballot papers; but West Belfast has had the highest percentage of spoilt ballot papers at every STV-PR election in Northern Ireland since 1973. And West Belfast had the dubious distinction of having the highest percentage (1.72%) of spoilt ballot papers of any constituency in the whole of the UK at the UK General Election in 2001 when papers were to be marked only with an "X".

The average percentage of spoilt ballot papers in the STV-PR election for the Northern Ireland Assembly in 2003 was 1.46%. This compares with averages of 0.9% for Northern Ireland in the UK General Election in 2001 and with averages of 0.7% for the constituency vote in the 2003 Scottish Parliament elections (highest 1.0%) and 0.6% for the regional votes in that election (highest 1.6%). These comparative figures indicate that the percentage of spoilt ballot papers will not be significantly increased with the STV-PR voting system.

Ballot papers may be spoilt in several ways and for many different reasons. While any rejection caused by voter confusion is to be regretted, those who have sought to make much of the West Belfast figures conveniently ignore the 50% of the votes that are discarded by the voting system at every First-Past-The-Post election. FPTP denies any representation to half of those who vote: they do not elect a councillor of their choice, nor do their votes have any effect in deciding the overall composition of the council.

Consultation

There can be few Bills on issues that have been the subject of such extensive consultation as this one. The McIntosh Commission found "*substantial and widespread support for the view that a move to some form of proportional representation (PR) would be beneficial for local government*" (Consultation Paper 2, para 115) and that

there was “*clearly a body of opinion in favour of STV*” (Report, para 87). When the Scottish Executive consulted on the principle of changing to voting system for local government elections to STV-PR in 2002 it received 316 written responses on electoral reform: 252 (80%) were in support of STV-PR; a further 25 (8%) were in favour of PR; only 39 responses (12%) supported the retention of FPTP.

These findings are supported by public opinion surveys and polls that have been carried out in Scotland in the past three years. In February 2000, System Three Scottish Opinion Survey found that electors backed a fairer voting system for electing their local councillors by a margin of almost six to one. The high level of support (70%) was consistent across supporters of all political parties. In the Rowntree Reform Trust State of the Nation Survey (October 2000), 68% of respondents in Scotland agreed that elections for local authorities should use a new voting system that would give parties seats in proportion to their share of the vote; only 5% disagreed. In a public opinion poll conducted for the BBC in February 2003, NFO WorldGroup found that 64% of electors attached an above average priority to a policy that would change the way Scotland’s councils are elected so that the numbers of seats each party wins better reflects the numbers of votes they get. Support for change was consistent across political parties. Only 4% said such a policy should never be introduced. In the NFO WorldGroup Omnibus Scottish Opinion Survey in March 2003, 64% considered that the then proposed change to proportional representation would make councils elections fairer; only 8% considered the change would make elections less fair. In that survey 54% considered a reduction in one-party domination of councils would be better for local government; only 14% considered it would be worse. (A Briefing Paper containing details of all these surveys is available on request.)

Proportional Representation and the Wider Use of STV-PR

Most continental European countries abandoned majoritarian voting systems for national and local government in the late 1800s or early 1900s. In these countries political parties were given legal recognition long before the adoption of proportional representation, so they adopted a variety of party list systems of PR. In the UK, with a different political culture, more importance has been attached to the role of elected members as local representatives and political parties were not legally recognised entities for electoral purposes until 1998, when the Registration of Political Parties Act 1998 came into force. Until very recently, all the PR initiatives in the UK have been based on the Single Transferable Vote because it retains and strengthens the local links between the elected representatives and their constituents.

The use of STV-PR for national elections has been discontinued only in Estonia and the Isle of Man. In neither state was it implemented properly, as SPICe Briefing Note 03/85 makes clear. Its use for local government elections in the USA was discontinued in several cities in the 1940s “because it worked too well” (D J Amy, *The Forgotten History of the Single Transferable Vote in the United States*; Representation 34, 13 – 20). Several factors played a role in the change back to FPTP. STV was attacked by the politicians and parties who had lost power and privileges when it was introduced. There was a backlash against minority representation which STV-PR had enabled, and opponents of STV blatantly played the race card to prevent the fair representation of African Americans on several councils. With the coming of the Cold War, the election of communist councillors in some cities led to a successful ‘red scare’ against STV-PR.

The use of STV-PR for local government is currently spreading, eg in New Zealand, where it will be used in October 2004 to elect all the members of ten City and District Councils and the seven elected members of each of the 21 District Health Boards.