

Boundaries Scotland

Written submission on the Senedd Cymru (Members and Elections) Bill

Introduction

1. Thank you for the opportunity to comment on the Senedd Cymru (Members and Elections) Bill. The following points highlight some issues that may be of interest to the Committee. I would be very happy to answer further questions on these or other aspects of the legislation when I give oral evidence to the Committee. It goes without saying that these points reflect the experience and knowledge of Boundaries Scotland in a Scottish context and we appreciate that the position in Wales may need particular solutions.

Background

2. Boundaries Scotland is responsible for reviewing and making recommendations for:
 - constituencies and regions for the Scottish Parliament;
 - the number of councillors on each council in a local government area;
 - the number of wards for local government elections and their boundaries; and
 - the extent of council areas
3. Responsibility for reviewing Scottish Parliament boundaries was devolved to the Local Government Boundary Commission for Scotland by the Scotland Act 2018 which amended the Scotland Act 1998. The Scottish Elections (Reform) Act 2020 renamed the Local Government Boundary Commission for Scotland “Boundaries Scotland” reflecting that our focus was no longer simply reviews of local government electoral arrangements and administrative boundaries.
4. Boundaries Scotland commenced its first review (and the second review since establishment of the Scottish Parliament) of constituencies and regions for the Scottish Parliament 1 September 2022 and will submit its report by 1 May 2025.

Resourcing

5. Boundaries Scotland has provision for a Chair, Deputy Chair and up to 4 Commissioners. Since 1973 there had always been a vacant Commissioner post and it was only when responsibility for Scottish parliament reviews was devolved to us that the additional capacity for a 4th Commissioner was utilised, in part to reflect the increased workload but more importantly to ensure a wider breadth of experience and knowledge amongst Commissioners and a move away from a focus solely on local government.
6. More important to us than the number of Commissioners is ensuring the Secretariat supporting Boundaries Scotland is adequately resourced. The nature and scale of the work required in designing proposals, consulting effectively, analysing responses and so on falls largely on the staff. In addition the Secretariat deals with the challenges of sometimes overlapping reviews for local government, Scottish Parliament and Westminster. Our staff are shared with the reserved body, the Boundary Commission for Scotland, and we have been successful in ensuring sufficient staffing and other resource to support the work of both Commissions.

Reviews

7. The proposed arrangements for conduct of reviews appear to mirror the Westminster legislation closely. There are some aspects of this which may unnecessarily tie the hands of the Welsh Commission:

a. Parity

While the proposed 10% variation from parity offers more flexibility than Westminster which has a 5% limit, it is worth noting that in Scotland neither reviews of Scottish Parliament nor of local government electoral arrangements specify a hard target. For reviews of electoral arrangements the legislation specifies that the ratio of electors to councillor in wards across a council area be “as nearly as may be, the same” . For Scottish parliament constituencies the requirement is “The electorate of a constituency must be as near the electoral quota as is practicable” . In both cases, other rules, such as special geographical circumstances, allow a move away from strict parity.

The 5th Reviews of electoral arrangements, which reviewed the number of councillors and ward boundaries in all 32 council areas in Scotland recommended 351 wards. Of these 45 wards were over 10% based on the existing electorate but the five-year forecasts predicted only 22 would become over 10% in that period. These were mainly rural wards but also included some city wards. Flexibility was shown in some areas to maintain local ties and minimise change. The 5th Reviews were submitted to Scottish Ministers in 2016.

The Island Reviews, reviews of electoral arrangements for the six council areas with inhabited islands, recommended 65 ward boundaries of which 21 were over 10% variation from the electorate quota based on both existing and five-year forecast electorates. These council areas cover the most remote areas of Scotland. The Island Reviews were submitted to Scottish Ministers in 2021 and included: Argyll and Bute; Highland; Na h-Eileanan an Iar (Western Isles); North Ayrshire; Orkney Islands; and Shetland Islands Council areas.

By specifying a percentage target the Commission’s ability to balance the parity rule with other rules could be constrained and may give rise to otherwise avoidable situations for example very large geographical constituencies or wards where population is sparse or breaking of community ties in order to meet the target.

b. Public hearings

The Bill proposes 2-5 public hearings. In Scotland the limit of 2-5 hearings during Westminster reviews has been unhelpful for the Boundary Commission for Scotland, requiring restrictive choices to be made about where hearings should be held.

If the purpose is to allow oral representations to be made with equal weight to written representations then the number and location of hearings should be flexible and ensure accessibility across the country.

If the purpose is more akin to the Scottish Parliament review process, where local inquiries are held in areas where there is a weight of objection expressed or simply where the Commission feels it would be helpful then again a fixed number is an unnecessary constraint.

Clarity over the option of in person, online or hybrid hearings would be helpful for the avoidance of doubt and to ensure that people in remote and rural areas can access hearings.

c. Minimising disruption

We note that the Bill proposes retaining 6 members per constituency in future. This is more likely to require future boundary change, and consequent disruption, particularly with a fixed 10% variation from parity. A less disruptive option might be to allow adjustment of constituency size from 5 to 7 (or 4 to 8) members to reflect population change. Under such a system boundaries would remain fixed.

d. Automaticity

Automaticity is a welcome step in the right direction as it respects the independence of the Commission and limits partisan inference. In our experience it may also be good for parity outcomes. For example, the rejection in 2017 by Scottish Ministers of electoral arrangements in City of Dundee council area on the grounds of community ties, resulted in Dundee being the most underrepresented of the Scottish cities in terms of councillor numbers along with avoidable disparity between wards. Parity in Highland council area and Argyll and Bute council areas has also been impacted by rejection of new arrangements.

In the more recent reviews of Scottish council areas containing inhabited islands, the recommendation from the lead Committee of the Scottish Parliament to reject electoral arrangements in two council areas focussed on outcomes not process and were influenced by political lobbying. Automaticity has been adopted by the UK parliament for Westminster reviews and we are keen that this is addressed by the Scottish Parliament.

e. Engagement and scrutiny

To allay any concerns about automaticity it is important that consultation and scrutiny facilitate full engagement. The Bill proposes 4 week consultations which might be perceived to be too short. During the current Scottish parliament review where there is a similar 4 week limit it has proved difficult for councils, community councils and others who have a fixed meeting schedule to comply with the deadlines.

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October 2023