

## **COSLA Positions on the Arrangements for Local Government Elections**

### **Purpose**

1. To provide an opportunity for Leaders to consider a number of matters that arose from the recent Election, and to reconsider earlier positions covering a range of matters relating to the delivery of Scottish local government elections. These will form the basis of COSLA's position to be submitted to the Independent Review of the Scottish Elections and to inform later discussions that are likely to follow.

### **Recommendations**

Members are asked to endorse the following:

- i. The local government and Scottish Parliament should be decoupled, with the time between them being a year or more.
- ii. Future election arrangements need to ensure that Ministerial decisions respond positively to the broad political opinion and professional advice offered.
- iii. More work is required by the Scottish Government on public awareness and there needs to be further resources to allow Returning Officers to use their powers to promote participation.
- iv. In future count centres need to be laid out and used in a way that allows ward candidates to be able to carry out their scrutiny role and be clear over the stage they are in the count.
- v. There should be clear criteria that if met would trigger a recount stating when this would be simply a re-adjudication of doubtful papers, or a start from the very beginning.
- vi. Local count centres should continue to ensure the important roles of candidates in validating the count.
- vii. Counts should start the morning after the vote, to ensure that candidates and officers come to them refreshed.
- viii. Consideration should be given as to whether equal portions of a vote should be allocated amongst selected candidates when a preference is not given.

### **Background**

2. During the last administration COSLA adopted a number of policy positions over the way local government elections should be run to maximise the number of valid votes, ensure the profile of councils, emphasise local representation, and to promote scrutiny and validation of the count and its results by candidates. As the positions were arrived at before the last elections, members views may have changed, either as a result of the experience of the elections, or as a result of the change in membership. This report is intended to allow Leaders to re-affirm or change the position of COSLA, although the first section below covers problems at the count centre that appear not to have been anticipated and caused some concern.

3. Leaders will know that the Independent Review of the Scottish Elections is drawing to a close and will be included in the statutory report of the Electoral Commission in late October this year. Its remit is to provide a definitive view of the problems that were encountered during the elections and to propose remedies for the future. It is very likely that a comprehensive set of recommendations will be made to the Scottish and UK Governments that have a significant impact on the way local government elections are run.
4. This positions adopted at the Leaders' meeting will form the basis of COSLA's submission to the Independent Review. They will also form the basis of later responses we make as the recommendations from the Electoral Commission / Independent Review are responded to. If there is a need for further detailed consideration to be given to any of the matters at a later date, further reports will be submitted to a Leaders' meeting or the Convention.

### **Combined Elections**

5. In December 2004 the Convention agreed to support the decoupling of the local government and Scottish Parliament elections. The Convention was aware of the downsides to decoupling, including the additional strain on parties caused by running more separate campaigns and the possibility of a lower turnout. The advantages to decoupling centred on the almost exclusive media attention on the Parliamentary matters when the elections were combined, and the high rate of rejected votes caused by the confusion of the list, first-past-the-post and STV votes being used at the same time. These fears were realised in the May election.
6. The Convention felt that if decoupling is to go ahead there needs to be a good separation in time between the two votes, preferably a year, as is the case in Wales. If they are closer together, the local government elections should take place first given the effect of voter fatigue on the second elections. In the light of the May elections, it would appear that there would also be considerable administrative benefits to decoupling.

***Recommendation i) The local government and Scottish Parliament should be decoupled, with the time between them being a year or more.***

### **Responsiveness of Ministers**

7. Clearly, elections are an overtly political process, and responsibility for them must ultimately lie with politicians. The biggest issue is the question of how decisions are taken on the shape and style of an election. Ministers need to reconcile their political will and direction with the will of other elected representatives and any clear and unequivocal professional advice that is offered. This is something COSLA's members have to wrestle with routinely. In the lead up to the May election, COSLA supported many of the views of the Returning Officers concerning the safety and security of the proposed process. Of particular concern was not having overnight counting, using single ballot boxes, the design of ballot papers, and trying to do too much at once. These were not responded to, with the consequences we've now seen.

***Recommendation ii) Future election arrangements need to ensure that Ministerial decisions respond positively to the broad political opinion and professional advice.***

### **Public Awareness**

8. The 2% rate for rejected votes for the STV election suggests that the public awareness campaign was not as effective as it could have been. The guidance to counting staff on how to interpret incorrectly filled papers stopped this being higher. The continuation of the first past the post system for the UK Parliament and the two different types of PR for the Scottish and European Parliaments alongside the STV system will continue to provide problems for voters. The new system needs to bed in, and until it does public awareness needs further and

enhanced resourcing allowing returning officers to use their powers to promote electoral participation. The polling station Information Officer role is important. It needs to continue, be fully funded and supported through enhanced training to increase its effectiveness.

***Recommendation iii) More work is required by the Scottish Government on public awareness and there needs to be further resources to allow Returning Officers to use their powers to promote participation.***

### **Local scrutiny of the count by candidates**

9. The use of electronic counting was necessary in order to run the version of STV endorsed by the Scottish Parliament. It helped manage the complex arrangements needed to transfer votes after the first preferences. Candidates seemed to accept that for properly cast votes the scanning was accurate and reliable and that where papers were doubtful the system defaulted in favour of adjudication by the Returning Officer or their staff. Because of the system's settings and the large number of doubtful votes the volume of papers being adjudicated by count staff was very high.
10. During a manual count candidates would know where the votes for their ward were being handled, and be able to observe the relevant members of staff, and challenge their decisions if necessary. In the case of the e-count, who was doing what was less clear as the adjudication for ward votes appeared to be spread over the terminals at the count centre. As a result the ability of candidates to scrutinise and validate the count was reduced. In addition, the significant problems caused by the software failure in a number of count centres made it impossible to know from the screens where the parties and candidates were in the count process. Again in the earlier manual counts this would be evident from the stacks of ballot papers that were accumulating as the count proceeded.
11. The above were inherent to the design of the e-count system used on the day. The extent to which they impacted on candidate and member confidence in the system is being covered through the elected members' and candidates surveys run jointly by the Scottish Executive, COSLA and the Improvement Service. Specific questions have been asked about whether enough information was given during the count process about what was going on, whether the results were properly explained at the end of the count and what can be done to improve the experience of the election process. Unfortunately, the survey results from are not going to be available until autumn this year, but will be available to inform later discussion.

***Recommendation iv) In future count centres need to be laid out and used in a way that allows ward candidates to be able to carry out their scrutiny role and be clear over the stage they are in the count.***

12. It was apparent in a small number of wards that the number of votes difference between the successful and unsuccessful candidates was small enough potentially to be influenced by decisions made in a large number of adjudicated votes. In a first past the post manual count the margin would have been small enough for a recount to be conceded. At the count some candidates wanted recounts but, because of the new system they were unclear as to when it was reasonable for the Returning Officer to do so, and if so whether this would be simply re-adjudicating doubtful papers or require a full scan through to completion.

***Recommendation v) There should be clear criteria that if met would trigger a recount stating when this would be simply a re-adjudication of doubtful papers, or a start from the very beginning.***

13. In a report to Leaders, COSLA adopted a clear position of retaining local count centres, rather than forcing groupings of councils to work together. The case made for grouping was in part to

reduce the risk of running the new system with support spread thinly over the country. It is not clear what the effect of the dispersed arrangements were, but it is possible that regionalisation will be proposed again. The case for the retention of local counting was to preserve civic dignity, and the obvious link of being returned from within the council area that the elected members are going to serve in. It is also part of our case that the candidate scrutiny role would have been impaired if fewer were prepared to travel the distances to regional centres.

***Recommendation vi) Local count centres should continue to ensure the important roles of candidates in validating the count.***

14. COSLA's Leaders agreed that the long hours that Returning Officers had to work with a night count immediately after the vote unnecessarily added to the risk of errors being made. It was also a clear problem for those who ran simultaneous counts or back to back ones that candidates were also flagging. COSLA wrote to the Ministers supporting the count starting the following morning. It was felt likely to treat the staff better, increase confidence in the decisions that are taken, and reduce the primacy attached to the parliament count over the local government one.

***Recommendation vii) Counts should start the morning after the vote, to ensure that candidates and officers come to them refreshed.***

15. A significant proportion of rejected ballot papers appears to have arisen from the use of multiple crosses to select candidates in the STV count. These ballot papers clearly failed the instructions on how to cast votes and were rejected. In the future voter education should reduce the incidence of these types of rejected papers. But there is a case to be made that voters using crosses for candidates had made their choice but simply did not give one candidate priority over another. This is most likely to be the case where crosses were used for candidates from the same party, and no-one else. If the Review Team feels it is reasonable to assume the voter intended to support those they put a cross against, in the future their intention should be translated into support for those candidates. It may be an option to distribute equal portions of the elector's single vote amongst such candidates where no preference is indicated. This should not favour parties or independents, and result in a greater number of votes counting.

***Recommendation viii) Consideration should be given as to whether equal portions of a vote should be allocated amongst selected candidates when a preference is not given.***

## **Conclusions**

16. The above forms a comprehensive set of policy positions that give both COSLA's responses to the difficulties encountered at the May elections and reconfirm its earlier positions to maximise the number of valid votes, ensure the profile of councils, emphasise local representation, and to promote the scrutiny and validation of the count and its results by candidates.

**Anil Gupta**  
**Policy Manager**  
**0771 715 1111**  
**anil@cosla.gov.uk**