

10 May 2012

INTRODUCTION:

This document is a response to the Scottish Government's consultation paper "Your Scotland, Your Referendum" by a Working Group on Constitutional Reform consisting of members of the Royal Society of Edinburgh Young Academy of Scotland (RSE-YAS).

The RSE Young Academy of Scotland is an interdisciplinary network of leading young academics, entrepreneurs, artists and professionals in Scotland operating under the aegis of the Royal Society of Edinburgh in a separate but connected body. The Young Academy was launched in 2011 with a first cohort of 68 members, and, over the coming years seeks to provide a forum for interdisciplinary work on some of the most challenging issues facing society either domestically or globally, in fields as diverse as climate change, the economy, ethics or the arts. The RSE Young Academy is the first such development amongst the national academies in the UK and is part of a growing Young Academy around the world.

The content of this document does not necessarily reflect the views of all RSE-YAS members or the RSE. Throughout, the above-mentioned working group will be referred to as the "Young Academy of Scotland Working Group".

RSE-YAS is politically neutral and has no party political affiliations. Given that the consultation paper "invites views on the proposals for how the referendum will be run", this response does not support any particular referendum outcome - the aim of this document is to add to the debate on how the referendum will be run and to highlight some key areas for discussion regarding the issues raised by the consultation.

QUESTION 1:

What are your views on the referendum question and the design of the ballot paper?

The Young Academy of Scotland Working Group welcomes the Scottish Government's commitment to producing a clear, straightforward question on the important matter of Scotland's independence. However, we would like to point out here that analysis of previous surveys has demonstrated that the results can often depend on how the questions are phrased [e.g. Schuman 1981 and Narayan 1996].

Based on discussions at the Young Academy of Scotland Working Group, we are concerned that the current wording of the question may not necessarily be viewed as the fairest possible and may be viewed as encouraging a particular outcome [e.g. Guardian 16 January 2012 and Scotsman 9 May 2012]. Hence, we suggest that the Scottish Government seeks further impartial advice to ensure the clearest and fairest possible phrasing on the referendum question.

In terms of the ballot paper, the terms 'yes' and 'no' should be placed adjacent to one another.

Any alterations to current plans regarding proposed constitutional changes will of course mean that the question itself will need to be re-appraised and potentially changed.

QUESTION 2:

What are your views on the proposed timetable and voting arrangements?

The Scottish Government has a stated policy of holding the referendum in the second half of the current Parliamentary term. They have expressed a preference for the autumn of 2014 on the

grounds that it will:

- a) allow full and detailed debate;
- b) allow full consultation and parliamentary passage of the details of the referendum contained in the Referendum Bill;
- c) meet the recommendations of Gould: "Gould recommendation that electoral contests should not take place within six months of the regulations for the contest coming into force. That recommendation was designed to ensure that those charged with organizing and managing the poll had sufficient time to do so."

The interests of the Scottish people will be best served by a full and timely process of debate and decision. However, it is not clear that "sufficient time for the fullest debate" necessitates holding the referendum at the end of a two year period, i.e. in the second half of the parliamentary term (autumn 2014). Hence, the Young Academy of Scotland Working Group would propose more detailed consideration of the timescale of holding the referendum and the potential impact this may have on existing parliamentary business and other events, including the European Parliament Election in June 2014 and the UK General Election in May 2015.

In addition, we anticipate that the proposal for there to be no minimum turnout limit may potentially lead to a difficulty in establishing and/or defending a mandate for change, should turnout be exceptionally low. As we are aware of ongoing discussions on minimum thresholds in referendums [e.g. Gay 2011], we would recommend that a process be at least specified for the eventuality of exceptionally low turnout.

QUESTION 3:

What are your views on the inclusion of a second question in the referendum and the voting system that could be used?

It seems clear that ambiguity should be avoided at all costs and the way in which the answers to the posed questions lead to a result should be as clear and logical as possible to the electorate and media. The response to this consultation from the Electoral Reform Society Scotland included an analysis by Dr. James Gilmour entitled 'Three Positions Need Two Questions' indicating that a 'gateway question' was necessary for clarity in a two-question referendum.

The difference between the current status quo and full independence is substantial. If independence were the only way to change the status quo then the vote for that option may be influenced positively or negatively by the magnitude of that change. Thus the inclusion of a second question relating to any form of increased devolution may lead to a more representative result. This is corroborated by recent poll results (e.g. YouGov Jan-12 and BBC News Nov-11), which imply considerable support for an option relating to increased devolution. The Young Academy of Scotland Working Group would therefore advise the Scottish Government to carefully consider a second referendum question relating to increased devolution and to specify what it means by "sufficient support for such a move" (p15), i.e. including a question about further devolution.

QUESTION 4:

What are your views on the proposal to give the Electoral Management Board and its Convener responsibility for the operational management of the referendum?

Given the heritage of the Electoral Management Board and its establishment in 2009 in response to the Gould Report it is logical that it be given responsibility for operational management of the referendum. This is consistent with its role in the management of local elections in Scotland. Currently the proposal is that the EMB Convener would be appointed Chief Counting Officer for the referendum with the power to direct returning officers (in accordance with legislation). The EMB Convener (and therefore the CCO) is proposed to be appointed by Scottish Ministers and therefore could be removed in the same way. This may leave a risk of compromising the independence of this role and therefore we would recommend the removal of this risk by the approval of the role by the Scottish Parliament in

line with the advice of the Electoral Commission.

QUESTION 5:

What are your views on the proposed division of roles between the Electoral Management Board and the Electoral Commission?

The use of the Electoral Management Board as the operational authority and the Electoral Commission as the 'scrutinising' authority may have real strengths in ensuring there is no compromise on the quality of the referendum. However, the Electoral Commission's remit in advising the CCO could potentially create a conflict of interest in this relationship and the Electoral Commission has called for this role to be clarified. There may also be potential for greater value added by commissioning the Electoral Commission to publish an evaluation of the referendum and to apply lessons learned from past referendums.

QUESTION 6:

What are your views on the idea that the referendum could be held on a Saturday or on other ways which would make voting easier?

There is quite a lot of emphasis in the consultation document on holding the referendum as any other election (for Scottish Parliament): "Voting day will be just like any other election," (p2). In that context, it seems slightly contradictory to propose changing the day for the referendum from the regular Thursday to the proposed Saturday. There is the risk that, in the case of a narrow yes/no, the losing side may claim that the results were affected by the change of day. Although holding the vote on a Saturday may remind the population that this may not be just like any other election, the evidence seems inconclusive with regard to the likelihood of an increased turnout on a Saturday [e.g. Ministry of Justice 2010 and White 2008].

The Young Academy of Scotland Working Group would welcome a further investigation of the costs, potential benefits and practicalities of Saturday voting, and more substantive research and implementation of ways to make voting easier in a meaningful way.

QUESTION 7:

What are your views on extending the franchise to those aged 16 and 17 years who are eligible to be registered on the electoral register?

Whilst the Young Academy of Scotland Working Group encourages the discussion regarding the inclusion of 16 and 17 year-olds in current and future votes, we have concerns about mixing the issue of suffrage for 16 and 17 year-olds with the issue of Scottish constitutional change.

Moreover, we consider the use of eligibility for the electoral register to be a flawed criterion for inclusion. This is because only 'attainers' would be eligible – those under 18 who have applied on a canvass form and will become eligible to vote by the time the register is published annually on 1st December. Thus the majority of 16 year-olds would be excluded from the poll if this criterion was used. Note that a perceived 'false' promise to the majority of 16 year-olds might have a knock-on effect into the 18, 19, 20 year-olds and beyond.

Should the franchise be extended to all those aged 16 and 17 years, there would have to be a change to UK legislation. The time taken to work this issue through between UK and Scottish Governments could have a bearing on the timing of the referendum. It would also be essential that adequate education is available to make 16 and 17 year-olds aware of their right to vote and how to gain the information needed to make an informed choice. This may mean involving institutions such as schools and there may be a role for the Young Academy of Scotland Working Group in this area. Note that there may potentially be an opportunity to time the above-mentioned change in UK legislation to be

compatible with the UK-wide household canvass in 2014.

QUESTION 8:

What are your views on the proposed spending limits?

The spending limits proposed in the consultation document seem sensible. We would however observe there is a potential for exploitation by groups who could take advantage of fitting the description of more than one 'type of organisation' and therefore justify a higher than intended limit on spending. Efforts should be made to manage the identification of organisations, ensuring that they only occupy the appropriate niche.

QUESTION 9:

Do you have any other comments about the proposals in the draft Referendum (Scotland) Bill?

Whilst the Young Academy of Scotland Working Group recognises the electoral mandate that has been given to the Scottish Government to propose a referendum on Scottish Independence, we would ask that due consideration be given to the potential effects on Scottish interests, such as the fifteen National Outcomes set out by the Scottish Government. For example, the Scottish Government is committed to very ambitious targets on renewable energy. As set out in a recent RSE response to a consultation on renewable-energy targets, this will require substantial investments from the private sector; the Young Academy of Scotland Working Group would ask the Scottish Government to carefully consider the potential effect of the referendum process on, for example, such investments and on Scottish interests in general.

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