



Submission to the Scottish Government on the proposed Scottish Referendum from the National Liberal Party

The following submission was presented to the Scottish Government as part of its consultation on the Constitutional Referendum proposed for 2014. It follows the Q&A format as laid out by the Government in its Consultation process.

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

The National Liberal Party affirms its commitment to the 1988 Claim of Right asserting the sovereign right of the Scottish people to decide their constitutional future. We agree with the First Minister that the people who live in Scotland are the best people to make decisions about Scotland's future.

The National Liberal Party is concerned that the national debate in Scotland could become polarised if a narrow majority votes in favour of independence or for the status quo. In recent European history, narrow majorities for independence have triggered civil wars in Croatia, Bosnia and Kosovo when large aggrieved minorities tried to change the facts on the ground by force of arms. Whilst we don't foresee such an extreme reaction such a situation would be likely to poison Scottish politics for decades to come. In order to forestall any such degeneration in Scotland and its relations with its neighbours, we advocate consensus voting in the proposed referendum.

The people of Scotland have the right of political self-determination. We welcome the debate around the issue of political sovereignty and independence for Scotland that the First Minister and the Scottish government have launched. We also welcome the fact that the Scottish government's consultation paper acknowledges a potential third option, so-called 'devolution-max', although we are disappointed that it devotes just two paragraphs to the issue.

The National Liberal Party is an advocate of 'Devolution-max' self-government and naturally wishes that Scottish voters ought to be given the opportunity to approve or reject this option. The gulf between independence and the status quo is vast. Those pro-union parties who wish to keep just two options on the ballot paper in order to 'bounce' voters into voting no could find that voters who would prefer the Scottish government to be free to raise taxes and spend them may be driven into voting for full independence even though it would not be their first choice.

The first paragraph of the Scottish government's consultation paper opens with the statement: "While the Scottish Government's preferred policy is independence, it recognises that there is support across Scotland – from individuals and organisations – for increased responsibilities for the Scottish Parliament short of independence." (Con.)

The document defines ‘devo-max’ as giving the Scottish parliament control of all laws, taxes and duties, except for defence and foreign affairs, financial regulation, monetary policy and the currency.

The consultation paper says the Scottish government "has consistently made it clear it is willing to include a question of further substantial devolution in the referendum", but unlike in the consultation on the draft Referendum Bill in the last Parliament, it does not suggest any wording for such a question.

Instead, it says if there was sufficient support for such a second question, the government would take expert advice, noting "a two-question referendum was held successfully in 1997 prior to the establishment of the Scottish Parliament and there are other examples internationally".

Those who favour Scotland remaining part of the United Kingdom would be wise to concede the point rather than insisting on a straight winner takes all yes-no vote on independence. The major pro-union party leaderships run the risk of alienating public opinion on the promise of a better form of devolution if Scots turn down independence. We ask, how else are Scotland’s voters to have any confidence that this better devolution will actually happen? As in 1979, a majority No to independence vote in 2014 would allow the major pro-union parties' enthusiasm for more devolution to evaporate. ‘Jam tomorrow’ is not good enough. The devolution-max option ought to be on the ballot paper.

Critics say they don't know what devolution-max means. Quebec may never secure independence, but it has a form of self-government that allows it to raise any taxes it wants. For Scotland, this would allow the Scottish government to raise in tax the money it spends on policies it sees fit, while agreeing that macro-issues such as defence, foreign affairs and currency should be left with the Westminster government. In effect, Scotland would be in control of its destiny, while retaining links with the UK.

A recent YouGov poll suggested that two-thirds of Devolution-max supporters would be prepared to vote for independence if their preferred option does not appear on the ballot paper. In the interests of fairness, a question for this option needs to appear on the ballot paper.

The National Liberal Party suggests that the ballot paper be amended to allow for a ‘preferendum’, where voters give their opinion of the options in the order of their choice as in the case of PR/STV elections in Northern Ireland. In the first round, the option with the fewest first preference votes would be eliminated and the second preferences distributed in accordance with the voters’ wishes. The successful option would be the one with the most popular support as it would be the first choice of most voters who expressed an opinion and acceptable to many more.

The National Liberal Party suggests that the proposed ballot paper be amended as follows...

Scotland ought to become an independent nation	
Scotland ought to have full self-government within the United Kingdom.	
There ought to be no further constitutional change for Scotland.	

Voters would be asked to list their preferences in order; 1, 2, 3. Voters would have the option to only plump for one or two options.

We agree that the referendum should be decided on the votes only of those who take part in the voting. We do not advocate any voting thresholds or minimum requirements to validate the votes. People who want a particular outcome will have to persuade enough people to vote things their way. It would be bad for democracy if the Westminster government or the courts would try to out-manoeuvre a popular vote through legal subversion of the poll on such grounds.

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

The National Liberal Party shares the concern of the Scottish government that the most momentous decision in Scotland's history for three centuries should not be rushed. We approve of the proposed timetable in order to allow for all procedures to be implemented and to ensure that the decision on the future of Scotland is made by a knowledgeable and well-informed electorate.

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

The National Liberal Party is an advocate of 'Devolution-max' self-government and naturally wishes that Scottish voters ought to be given the opportunity to approve or reject this option. As set out in our answer to the first question, we advocate a 'preferendum'. A preferendum is a multi-option voting process for use in decision-making. A preferendum ensures that more people are happier with the eventual outcome. Here's how:

At present, the Scottish referendum only allows people to vote for one of two choices; either independence or the status quo with a vague promise of jam tomorrow from Westminster. Even if a majority – say 51% voted for the union – that leaves a sizeable minority (49%) opposing it.

However, if the Scottish referendum included Devo-Max on the ballot paper, many people can also be left bitterly disappointed. Say 31 per-cent of Scots vote for the union, 30 per-cent may vote for Devo-Max and 29% for independence. Here it can be seen that overwhelming majority (59 to 31%) have voted against union.

With a referendum, the largest minority wins! Such a referendum can't really be said to truly reflect the mood of a country. It can't really be said to be a truly democratic vote. Under the National Liberal preferendum suggestion, the electorate can cast a vote in favour of a whole spectrum of ideas.

If there are three options – the union, Devo-Max and independence the Chief Counting Officer's local counting officers would award three points for a first preference, two points for a voter's next favourite and one point for their last choice.

At the count, all the points for each of the options shall be totalled and expressed as a percentage of the maximum possible score as a level of consensus. The option which gets the greatest number of first preference votes wins.

The National Liberal Party argues that this would be a much more democratic way of conducting business. It builds consensus and ensures that fewer people will feel cheated.

In the interests of full accountability, the National Liberal Party agrees with the Scottish government that votes ought to be counted by hand in the traditional way.

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

The National Liberal Party accepts the argument of the Scottish government that the arrangements currently in force for local government elections are a sound basis for the operational management of the proposed referendum. We agree that there is no need for a new Scottish Referendum Commission.

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

The National Liberal Party agrees that the Electoral Commission has built up a lot of experience in its short history to ensure that elections and referendums are conducted in a fair and honest manner. The party is confident that the Electoral Commission will not allow itself to be influenced in favour of either the Scottish or Westminster governments. In order to avoid any suggestion of a conflict of interest there ought to be separation between the body organising the mechanics of the referendum and the body regulating it.

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?

The National Liberal Party agrees that as many people as possible should be encouraged to vote. The party does not agree with voting by text message or in a free-for-all postal vote as this has potential to undermine the secrecy of the ballot box and opens the door to widespread electoral fraud.

The National Liberal Party welcomes the suggestion that the proposed referendum take place on a Saturday. In addition to traditional polling stations in schools, church halls and community centres, it may be possible to open temporary polling stations in empty shops in Scottish town and city centres and in out-of-town shopping malls where many people gather on a Saturday.

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?

The National Liberal Party is not convinced by the arguments advanced by some in favour of extending the vote to young people aged 16 and 17. Under-18s are not permitted to buy tobacco or alcohol products as they are deemed to need protection. The party believes that 18-year-olds are more likely to exercise their own minds than their younger peers who could be unduly influenced by parents, guardians or teachers.

8. What are your views on the proposed spending limits?

The National Liberal Party wants to ensure that the result of the proposed referendum is not bought by the side that spends the most money. Strict rules should be enforced to ensure that no side in the run-up to the referendum can buy its desired result, either on its own, or through bankrolling a designated group, or through having two bites at the same cherry.

The Scottish government's proposed spending limits of £750,000 per designated organisation for each voting option during the sixteen-week regulated period before the proposed referendum seems to be reasonable to us. The party also accepts the proposed rate of £250,000 for parties represented at Holyrood and £50,000 for other permitted participants. The party believes that the limit of £5000 for individuals or bodies that are not permitted participants is too high. We suggest a limit of £3500. Anyone who wants to contribute more money can give it to one of the political parties, designated organisations or permitted participants in accordance with PPERA rules. No participant in the referendum ought to receive any public funding.

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

More information on the 'preferendum' method can be obtained from The DeBorda Institute; www.deborda.org. We understand that DeBorda are also making a submission to the Scottish government.

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