



Office for Democratic Institutions and Human Rights

UNITED KINGDOM:

**CONSULTATION PAPER BY THE ELECTORAL
COMMISSION ON
THE CYCLE OF LOCAL GOVERNMENT ELECTIONS
IN ENGLAND**

OSCE/ODIHR COMMENTS



Warsaw

2 October 2003

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I. INTRODUCTION

A. THE ELECTORAL COMMISSION'S CONSULTATION PAPER

The U.K. Electoral Commission (“the Commission”) is an independent advisory body established under legislation enacted in the year 2000.² The Commission has already undertaken a number of studies and published several major reports.³ In January 2003, the Commission was requested by the Government to review the cycle of local elections in England and identify options for simplifying the current cycle.⁴ The scope of the review includes elections for principal local authorities (including mayoral elections), the Greater London Authority and parish councils.

In July 2003, the Commission published a Consultation paper, “The cycle of local government elections in England”, and an accompanying summary. The Commission has indicated that it will consider all submissions received by 3 October 2003, and publish its final report in January 2004. The Commission transmitted a copy of the report to OSCE/ODIHR for consideration. The current paper contains comments and suggestions related to the consultation process.

The Commission’s review to date shows that there is a complex and varied cycle of elections to local government offices in England:

- There are areas with one or two tiers of local government, and in those with two tiers the elections are staggered so that they do not occur for both simultaneously.
- A variety of systems are used for elections to local councils; these include all-at-once, by halves and by thirds – with all-at-once and by-thirds elections most common.
- Terms of local councilors are all for four years, and in those areas with elections by thirds elections are held in three consecutive years (with the fourth year being “fallow”, at least insofar as local council elections are concerned).

¹ These comments were prepared for OSCE/ODIHR by a consultant, Dr. Daniel P. Finn.

² Political Parties, Elections and Referendums Act 2000 (PPERA). *N.B.* – All citations are to the works described more fully below, in the References section.

³ See References, *infra*.

⁴ Commission, Consultation summary

- Depending on where they live, voters in England may be called upon to vote in local elections between one and four times during a four-year period.
- There is no particular relationship between the timing of local government elections and other elections – including general (Parliamentary) and European parliamentary elections – but local elections are sometimes held concurrently with other elections.

In order to assess this situation, the Commission has conducted a very serious and wide-ranging review that contains both analytic and research components. Some of the aspects considered included:

- *Evidence:* What is the state of public understanding and knowledge of the local election system, and what preferences do voters express about it? What would be the effect on turnout of changes to the system? (These questions were pursued through polling and other statistical research.) How would changes in the system of election affect the performance of local governments?
- *Arguments:* What are the arguments for and against partial *vice* whole council elections?

With respect to the various issues addressed in the Consultation paper, the Commission solicited responses to eight specific questions.

B. ODIHR ROLE ON ELECTIONS

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) performs a number of functions with respect to elections in OSCE participating States. Through its Election Section, ODIHR assesses the electoral needs and performance of participating States, and also conducts election observation missions (EOM). ODIHR also provides support for the strengthening of electoral and other democratic institutions through technical assistance, election law reviews, and related activities.

The OSCE/ODIHR mandate is based primarily on the 1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension (“Copenhagen Document”) of the CSCE. The Copenhagen Document contains a considerable number of general and specific commitments for democratic elections,⁵ so that it has come to be widely viewed as a foundational document in this area. Some aspects of the Copenhagen commitments, however, were limited; for example, these included explicit extension of the principle of direct elections to only one house of the national legislature.⁶

As discussed more fully below, the principle of direct elections has expanded to include governmental authorities at all levels, including local authorities. In this connection, ODIHR has undertaken a number of activities in the area of local government elections – including conducting election observations, needs assessments and technical assistance.

⁵ Copenhagen Document, *op. cit.*, esp. Sections 5-8.

⁶ *Id.*, Par. 8

In general, ODIHR recognizes, “The system for election of legislators and other public officials is a matter for national determination,” provided it meets minimum criteria established under international human rights law and other principles, including the election-related commitments of the Copenhagen Document.⁷ At the same time, the elements of an election system should achieve certain desiderata relevant to the circumstances of a particular country.⁸ The present comments on the U.K. Election Commission’s Consultation Paper should be understood in terms of the OSCE/ODIHR mandate and role with respect to elections.

II. EXECUTIVE SUMMARY

A. BACKGROUND

1. International Standards and Comparative Practice

The right to participate in democratic elections was established under international human rights law, and has been reaffirmed and extended through regional legal and political agreements. The applicability of international obligations on elections to local government elections is now well established in Europe, and generally accepted even more widely.

While the principle of democratic elections applies to local elections, there is relatively little international guidance on how such elections should be conducted. Most of the countries examined by the Commission rely on whole-council elections, with councilors receiving terms of several years, most commonly four years.

ODIHR’s observations of local elections in a number of the OSCE participating States reveals the following pattern, which has been reported to result in a high level of political interest and voter turnout for local elections in those countries: Elections conducted on an all-council basis; all tiers of local government subject to election simultaneously; four-year terms of office for councilors; and local elections on a regular cycle alternating with national (parliamentary) elections.

2. U.K. Approach to Local Elections

As indicated in the Introduction, the cycle of local elections in the U.K. is complex. The different approaches to elections (whole-council, by thirds, and by halves) mean that the pattern of elections varies greatly in different areas. The types of elections reviewed include: Elections in London; elections in metropolitan boroughs; elections in unitary authorities; elections in shire districts and counties; and elections for parish councils.

⁷ OSCE/ODIHR, “Existing Commitments ...”, Part One, Par. 2.4

⁸ See, e.g., *Id.*

B. COMMENTARY

There is no question that the cycle of local elections in England is well within the parameters of applicable international principles and standards.

ODIHR does not indicate a preference among election systems that are in accordance with applicable standards. It is, however, permissible for ODIHR to make technical comments on the implications of adopting certain election elements for the purpose of maximizing suitability to a country's circumstances.

In the Consultation paper, the Commission has set forth eight specific questions for comment. The eight questions address the following issues:

1. Whether there should be a more uniform pattern of local government election cycles in England;
2. To what extent local preferences should be taken into account when considering future arrangements for local government election cycles;
3. Whether current four-year terms of office for local councilors should be retained;
4. Whether elections to different levels of local government should continue to be staggered in areas with more than one level;
5. Whether the Commission should consider possible future combination of local government elections in England with other national or European elections;
6. Whether there is additional evidence available concerning the relationship between the election cycle and local government performance;
7. Whether there are any additional issues which should be taken into account; and
8. With respect to simplifying the local election cycle in England, which issues or arguments should be considered most important.

The commentary below contains specific responses to each of these questions, and cannot be readily summarized here. Overall, the approach which is suggested draws from comparative practices and OSCE/ODIHR experience concerning the value of adopting a structure that is uniform and easy to understand for voters. Such a structure assists voters to respond in an interested and knowledgeable way to their electoral choices, and may also help to increase voter turnout.

Some of the components of the most uniform and clear structure include:

- Local elections to similar levels of government should occur simultaneously in all areas;
- Elections to different levels of local government can either be staggered or held at the same time. If staggered, they could be held once (if conducted on a whole-council basis) during the local election cycle, or more than once (if conducted on a partial basis) during the cycle;

- Local elections should be held at regular intervals which, if possible, should bear a regular relationship to the national (general) election cycle – e.g., being held at the midpoint or perhaps somewhat later of the term of Parliament. The relationship to other elections, including European elections, should also be considered.

C. CONCLUSIONS

The Commission has done a great service by conducting this review and considering it according to the Commission's stated priorities in the interests of voters, political pluralism, and effectiveness and efficiency of electoral administration. Drawing on OSCE/ODIHR experience, the Office encourages the Commission to continue to give highest priority to the interests of voters, and develop solutions that would result in a uniform cycle of local elections that could be more easily understood by voters. It is believed that this approach could potentially lead to higher voter turnout for local elections, and also have benefits in terms of political pluralism and the efficiency of election administration.

III. BACKGROUND

A. INTERNATIONAL STANDARDS AND COMPARATIVE PRACTICE

The right to participate in democratic elections was established under international human rights law, including the International Covenant on Civil and Political Rights (ICCPR)⁹ and, in Europe, through the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and related instruments.¹⁰ While the application of electoral rights to the selection of local governments was not clearly addressed in the basic texts, subsequent interpretations have supported their extension to this area. In Europe in particular, decisions of the European Court of Human Rights have made it clear that the composition of legislative bodies must be selected through direct elections.¹¹ OSCE participating States have also committed themselves politically to conduct genuine democratic elections in line with the OSCE commitments and other international standards.¹²

Since 1990, the requirement for direct election of local government authorities has become better established, is now well represented in current comparative practice, and has been reflected in a number of authoritative documents. This situation caused ODIHR recently to include the following principle in its recent Progress Report, "Existing Commitments for Democratic Elections in OSCE Participating States":

⁹ ICCPR, Art. 25; see generally UNHRC Comments, *op. cit.*

¹⁰ ECHR, Prot. No. 1, Art. 3

¹¹ ECtHR, *Mathieu-Mohin* case; see also *Mathews* case.

¹² See OSCE/ODIHR, "Existing Commitments ...", Part One, Par. 1.2. The aspects in question include that election processes should be universal, equal, fair, secret, free, transparent and accountable. ODIHR Bluebook, p. 3.

“The composition of primary legislative bodies at all levels of government should be selected through direct elections. Other high public offices, including for senior officials of the State and Executive branch, should also be filled through direct election, indirect election by the elected chamber of the national parliament or another representative body – or, for regional or local posts, the relevant legislature.”

An explicit obligation to provide for direct elections to local government is contained in the European Charter of Local Self-Government,¹³ which has entered into force for the United Kingdom:¹⁴

“Th[e] right [to local self government] shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them.”¹⁵

A number of other international bodies have adopted instruments applying the principle of democratic elections to local government authorities. Recent examples include the work of the European Commission on Democracy Through Law (“Venice Commission”), in association with the Council of Europe; the Commonwealth of Independent States; and the Association of Eastern European Election Officials.¹⁶

While it is generally agreed that the principle of democratic elections applies to local governments, especially local legislative bodies, there is less guidance from international and regional sources on what approaches to adopt for such elections. Further research would be required to determine what types of elections are held for local government bodies and positions in various countries of interest – say, among European and Commonwealth countries.

¹³ *Op. cit.*

¹⁴ The U.K. signed the Charter on 3 June 1997 and ratified it on 24 April 1998; it came into force for the U.K. on 1 August 1998. On 14 April 1998, the U.K. submitted a Declaration pursuant to Art. 13 of the Charter, with respect to the scope of local government bodies included. Under the Declaration, the relevant obligations of the Charter would apply to the following units of government in England (as well as others in Scotland and Wales): County councils, district councils, London borough councils, and the Council of the Isles of Scilly. The U.K. declaration also stated: “It is the understanding of the United Kingdom that the term ‘local authority’ in the Charter does not include local or regional bodies such as police authorities which, by reason of the specialist functions for which they are responsible, are composed of both elected and appointed members.”

¹⁵ Art. 3(2); *see also* Preamble.

¹⁶ *See esp.* CDL Guidelines, I.5: “The following must be elected by direct suffrage: i. at least one chamber of the national parliament; ii. sub-national legislative bodies; iii. local councils.” *Compare* CIS Electoral Convention, *op. cit.*, 1(1), which states that elections are “the basis of elective bodies of governmental power and local self-government, of other bodies of people’s (national) representation, of legitimacy of bodies being elected, elective officials.” *See also* ACEEEO, 2: “The parties recognize that the election standards are the following: 2.1 the right to elect and be elected to bodies of state power and bodies of local administration (bodies of local self-government), other bodies of popular (national) representation, elective state and municipal offices ...”.

The Consultation paper contains a summary of practices in several Western European countries, and certain other countries.¹⁷ In all the countries included in this summary local elections are reported to be held on a whole-council basis, with councilors receiving terms of 3-6 years (with four years being most common).

ODIHR's experience with local elections in countries in which it has conducted election observation missions (EOM) on such elections is reflected in the reports of these missions.¹⁸ These missions all occurred in OSCE participating States in the Central and Eastern European (CEE) and Newly Independent States (NIS) regions.

None of the reports makes any point directly with respect to the cycle of elections. With respect to issues relevant to this question, however, the following patterns are noteworthy:

- In all of the countries examined, local elections were conducted on an all-council basis;
- Where there was more than one tier of local administration, elections to both tiers were conducted simultaneously;
- In all cases, councilors received four-year terms of office;
- Legislative elections were conducted based on proportional representation contests between lists of candidates put forward by parties, other nominating organizations (including coalitions) and sometimes independent candidates;
- Local government elections occurred in different years than regular national elections, except in one case (Croatia, where the former parliamentary House of Counties was elected at the same time as local administrations. However, a Constitutional change of March 2001 abolished the House of Counties and in May 2001 there were elections only to the local bodies);
- Local government elections are sometimes run concurrently with other types of elections, however;
- Local executive officers, if elected directly, are usually elected in two-round candidate elections in which obtaining a majority of the votes cast is necessary in order to win the first round. (In some cases, there were further requirements for first-round victories – *e.g.*, that a majority of voters come to the polls.);
- Regular local government elections were often viewed by the public and politicians as mid-term indicators of the political support of the main parties in national politics, but local by-elections closer to the date of national elections were also viewed as important tests;
- The countries described that follow this overall pattern are at very different levels of political and electoral development than the United Kingdom. In most cases, however, the local elections were characterized by relatively high voter turnouts.

¹⁷ Consultation paper, Appendix 2

¹⁸ See, *e.g.*, ODIHR EOM reports on local elections listed in the References section.

B. U.K. APPROACH TO LOCAL ELECTIONS

The Consultation paper presents in some detail the current local government electoral cycle in England,¹⁹ as well as its recent history.²⁰ In terms of the background and rationale of current arrangements, it may be said that the existing structure developed as a result of a tension between efforts to simplify the system *vice* providing frequent opportunities for the electorate to cast its votes.

According to the Consultation paper, the current Government came to office on a platform that proposed an annual opportunity for citizens to vote in local elections.²¹ In December 2001, however, the Government issued a white paper which characterized the current cycle of local government elections as “confusing” for voters.²²

Now it appears – perhaps as part of its broader program of constitutional reforms and in connection with the possible future creation of regional assemblies in England – that the Government is giving attention to the objective of streamlining the local election cycle. The Secretary of State’s request to the Commission for a report on the cycle of local elections may thus be linked to a broader review of electoral institutions in the U.K.

While the current cycle of local elections is very complex, based on the information in the Consultation paper it appears to contain the following major elements:

1. London boroughs (32) are elected as a whole every fourth year, in even-numbered years (2002 *et seq.*). The Greater London Authority (GLA) also elects all its members, including the Mayor of London, every four years in even-numbered years, but on a different cycle (2004 *et seq.*). There is also a Corporation of London, which holds whole-council elections annually.
2. Metropolitan boroughs (36) hold elections by thirds, in three out of every four years.
3. Unitary authorities (46) use both whole-council or by-thirds elections.
4. Shire districts (238) conduct their elections in one of three cycles (whole, halves or thirds), with whole-council elections the most common. Shire counties (34) hold elections of entire councils every four years, in a sequence of odd-numbered years.
5. Parish councils (*circa* 8,700) are elected as a whole every four years, which elections must be conducted in the same year as an election of the relevant principal local authority. This means that, within the area of a

¹⁹ Consultation paper, Part 2 and Appendix 3

²⁰ *Id.*, Appendix 2

²¹ See Green Paper, “Local Democracy and Community Leadership”, quoted in Electoral Commission, Consultation paper, Appendix 2.

²² See “Strong local leadership – quality public services”, quoted in Electoral Commission, *id.*, and Consultation summary.

particular principal local authority, there could be parish council elections occurring between one and three times every four years.

There are some minor differences in the method of election during the various local elections, but they are not pertinent to the question of the electoral cycle. In addition, the Commission has indicated that the method of election is not within the scope of the Consultation.

As a point of information, however, it would appear that local councilors are all elected from geographical districts, most or all of which are single-member districts (SMD), based on the principle of relative majority, or first-past-the-post (FPTP). (There is consideration of establishing multiple-member districts [MMD], however, for example in county council elections.) Mayors are elected through direct election of candidates through various forms of preferential voting.

IV. COMMENTARY

OSCE/ODIHR is drawing on its experience as a service to the UK Election Commission as it considers the issue of local election cycles. Our comments are not intended as criticism of any aspect of current U.K. practice on local elections in England, which is a very complex system that has arisen out of historical and other factors. Some aspects of our comments are also not directly applicable to the U.K., with its normal five-year period between parliamentary elections.

Also, as indicated earlier, ODIHR generally does not state a preference about election systems that are in accordance with applicable standards. It is, however, permissible for ODIHR to address the implications of adopting certain election systems in terms of factors related to recognized international interests as well as from the standpoint of efficiency and suitability to a country's circumstances. ODIHR has recently formulated this overall principle as follows:

“The system for direct election of legislators and other public officials is a matter for national determination, provided the system operates transparently, is based on universal and equal suffrage of voters, and does not discriminate among candidates and political parties. In choosing an electoral system, States should take into account to what extent it gives effect to the will of the voters, preserves political pluralism, and protects the interests of minorities and other groups in society.”²³

Consistent with these principles, ODIHR can upon request provide technical assistance and advice on designing appropriate systems for elections and other democratic institutions. In view of the invitation by the Commission to participate in the current Consultation, ODIHR believes it appropriate to make the following comments concerning the specific questions included in it:

²³ OSCE/ODIHR, “Existing Commitments ...”, Part One, Par. 2.4

Question 1: Should there be a more uniform pattern of local government electoral cycles in England? If so, why?

Question 1 is in fact the underlying issue of the entire Consultation. The Commission itself has carefully identified the main factors that would incline toward simplification, or retention of the existing pattern.

There are of course basic interests that support either a simplified and streamlined process of local elections, or a more varied one with greater frequency of elections: A simplified, uniform system might be better understood by voters, and help focus political competition across the spectrum of local and national issues. More diverse and frequent elections give greater opportunity for voters to express their preferences concerning governance at the polls, and more local choice of institutions.

In other publications, the Commission has identified some of the key issues in recent U.K. elections and more generally.²⁴ Essentially, the Commission has identified its highest priorities, in sequence, as: The interests of voters; the best conditions for a pluralism of parties and candidates; and electoral arrangements that can be administered effectively and efficiently.²⁵

With the interests of voters being taken as primary, the question becomes what cycle of local government elections is best for voters? The Commission has examined this question from the standpoint of voter knowledge and expressed preferences, and also voter turnout. The results of the research were somewhat mixed, but the Commission has – in the Consultation paper and previous reports cited – consistently identified declining turnout (overall, but especially for local elections) as its primary concern.

The OSCE/ODIHR recognizes the array of local government electoral cycles in England is probably tending to confuse voters and lower voter interest and turnout. Voter fatigue may well be another factor – especially for frequent local elections, in which the issues may often seem somewhat mundane.

ODIHR's reports on the local elections it has observed in the CEE/NIS countries repeatedly reflect the high level of interest of local elections that are held on a large scale (all at once) at a single time between regular national elections, or – in the case of by-elections – near in time to upcoming national elections. This factor was identified as one of the contributors to the high levels of political interest and also voter turnout for those elections.

In order to take advantage of the greater interest in local elections which are perceived to be connected to the national election cycle of national elections, two elements must

²⁴ See esp. Commission Reports, "Voting for change ..." (2003) and "Election 2001" (2002).

²⁵ See "Voting for change ...", Executive Summary, which begins:

"In framing proposals for changes to electoral law and practice, the Commission aims to place the voter at the centre of its considerations. After that, the next priority is that electoral arrangements should create the best possible conditions for the widest possible range of political parties and candidates to engage with the electorate. The third priority is to ensure that electoral arrangements can be administered effectively and efficiently by Electoral Registration Officers and Returning Officers."

be present: First, a sufficient number of local elections must occur at a single time (except in the case of by-elections which are very close in time to national elections). Second, a substantial number of local government mandates must be at stake. And third, the local elections should occur at the midpoint of the term of the national parliament, or perhaps closer to the next Parliamentary elections.

These factors would seem to indicate that, for local government elections to benefit from a perceived connection to national politics, they should be simplified and streamlined to the extent possible in several ways: Local elections should if possible be conducted on a whole-council basis. Elections for similar local authorities should occur at a uniform time, and perhaps all local elections should occur concurrently. And local elections should be scheduled for the midpoint or perhaps later in the parliamentary term.

Question 2: To what extent should local preferences be taken into account when considering future arrangements for local government electoral cycles?

In principle, local preferences should weigh heavily in the choice of local election cycle. The difficulty, however, comes in establishing what local preferences are.

As the Commission's own studies indicate, when voters are asked to express their preferences in response to an interview of questionnaire, they will simultaneously support simplification but also flexibility and respect for local preferences. Thus the real (as opposed to expressed) preferences of the voters must also be identified in other ways, as for example, with respect to their behavior – including voter turnout at local elections. Even research into this element has not, however, yielded clear results – perhaps because of the very local and regional differences which cause the various electoral cycles to have different effects in different areas.

The inability to determine voter preferences in a reliable manner will make it difficult to determine “local preferences” in a fair and objective manner.

Question 3: Should the current four-year term of office for local councilors be retained? If not, why?

There is no definite international standard for term of office of elected officials, at the national or other levels. International human rights instruments²⁶ and OSCE commitments²⁷ do not set a definite period of time between elections, or maximum term for officeholders. An expert body associated with the Council of Europe has recently taken note of the practice of conducting general elections at four- or five-year intervals, and sometimes longer intervals for presidential elections.²⁸ The Commission's own research has revealed a variety of practice in Western Europe and

²⁶ See ICCPR, Art. 21 (“periodic ... elections”); ECHR, Prot. No. 1, Art. 3 (“elections at reasonable intervals”).

²⁷ Copenhagen Document, Par. 7.1 (“elections at reasonable intervals, as established by law”)

²⁸ CDL Guidelines, Explanatory Report, I.6

other countries of interest, with terms ranging between three and six years but four-year terms most common.²⁹

The current four-year term of councilors is one of the only elements of uniformity in the entire current cycle of local elections in England. If greater simplification and standardization of local election processes are ever to be achieved, then – the ODIHR believes – this element must be retained. If other terms of office were to be introduced into the local election cycle, then the presence of councilors elected for different terms would tend to impede any simplification.

On the other hand, the four-year term is inconsistent with the tenure of office of Parliament (five years), so that adjusting the local electoral cycle to relate better to national elections (discussed in response to the previous question) could be easier to achieve if a five-year cycle for local government elections were established.

Question 4: In areas with more than one tier of local government, should elections to different levels continue to be staggered, or held at the same time? Why?

OSCE/ODIHR observations of local government elections in the CEE/NIS regions have all involved elections in which all local authorities are elected simultaneously, regardless of the number of tiers of local administration, and the elections are most commonly held at the midpoint of the regular four-year cycle of parliamentary elections. It was commented previously that the results of these observations tended to show that this approach tended to result in a fairly high level of political interest and voter turnout. These conclusions cannot, however, be straightforwardly applied to a country with a different level of political development such as the U.K.

In connection with the current cycle of English local elections, it would appear that responding to this question involves a presupposition. This concerns whether such elections continue to be based on both whole-council and partial approaches – or move instead to a uniform whole-council model.

It would make little sense to move toward staggering elections of the different levels or holding them at the same time, if the different levels continue to be elected in a different way – which requires elections to be held on a different cycle anyway. Thus, implicit in this question appears to be an assumption that all elections for local councils be conducted on a whole-council basis.

If all local council elections were conducted on the latter basis, then there are factors arguing both for and against staggered or simultaneous elections for different levels of local government. Simultaneous elections could attract greater political attention and voter interest, but would occur relatively infrequently (*viz.*, only every four years). Staggered elections could be more responsive to voters' participatory rights, but their connection to the national political cycle would be lessened. On balance, the OSCE/ODIHR suggests that consideration should be given to be conducting elections for different levels of local government on a staggered basis. Ideally, the highest-level local elections should occurring toward the midpoint of the regular general

²⁹ Consultation paper, Appendix 2

election cycle; and elections for the lower level of local government occurring prior to regular general elections.

Assuming a diversity of electoral approaches is retained, elections for lower-level authorities could also be held in another off-year for elections to higher-level local elections. (This might create an opportunity for the electorate to respond to recent changes in the local or national political situation.)

Question 5: In developing options for change to the current local government electoral cycle, should the Commission consider the possible future combination of local government elections in England with other national or European elections? If so, why?

In principle, combined elections tend to increase the efficiency of election administration. They may also reduce voter fatigue, and help increase turnout.

On the other hand, combining elections to different offices can tend to create some dissonance between the issues that the voters are asked to address for each. In addition, sometimes the rules for local and other elections can differ, such that difficulties arise in election procedures.

Combining local elections in England with U.K. general elections or European (Parliament) elections is especially difficult because the timing of local elections, while complex, is generally based on a four year cycle. The regular general and European elections occur on a five-year basis, often at different times of year than for scheduled local elections. It is hard to see how the two cycles could be brought into conformity unless the overall cycle of local elections were somehow reconciled with the national and European ones.

As the Commission notes, combined elections have been held on several occasions, and a combined election may be held in 2004. The Commission also commented in its report on the 2002 elections, however, that some problems arose from the different procedures regarding counting of the vote for general and local elections.³⁰ Thus, if consideration is to be given to adopting a policy of combining elections, then some unification of election procedures might have to be carried out through statutory or regulatory means.

Question 6: Do you have any comments or further evidence on the evidence which we have gathered [on the relationship between electoral cycle and local government performance]. In particular, we would value any practical experience or local examples of the issues discussed.

All-at-once elections occurring on a several-year cycle permits representative bodies to enjoy continuity, build expertise, and avoid a nearly continual electoral environment. Partial elections, on the other hand, provide voters greater opportunity – if they exercise it – to choose their representatives.

³⁰ *Op. cit.* (The main conflict involved the tradition of counting the votes the day after the elections for general elections, but counting on the night of the elections for local ones.)

Question 7: In addition to the arguments outlined above [with respect to all-council or partial elections], are there any other relevant issues which we should take into account?

As indicated previously, OSCE/ODIHR reports of election observation missions for local elections among OSCE participating States in the CEE/NIS regions reflect a high level of political interest and voter turnout. The reports of the EOMs reflect that this interest and turnout in the local elections may have related to their occurrence all at once, on a whole-council basis, at the midpoint (or later) in the cycle of parliamentary elections.

The EOM reports referred to are listed in the References section, below. A summary of the relevant observations made in the reports was presented earlier in this paper (www.osce.org/odihr). The OSCE/ODIHR believes that the Consultation paper may not draw together all the threads in terms of the value of a more easily understandable local election cycle, and one that relates in a fairly regular way with other elections, especially general ones.

Question 8: In considering the simplification of the local government electoral cycle, which issues or arguments are the most important? Why?

As commented previously,³¹ the Commission has recognized that the interests of voters must be considered primary in assessing electoral matters, including with respect to the cycle of elections. This priority is supported by international human rights instruments, which guarantee “free expression” of the will of the voters.³² It could be argued that an electoral cycle which results in considerable confusion among voters as to which elections are being held at a particular time could impede fulfillment of their internationally-guaranteed right to free expression in electing a representative government.

³¹ See response to Question 1, *supra*.

³² See OSCE/ODIHR, “Existing Commitments ...”, Part One, Footnote 30, which indicates: The ICCPR, 25, guarantees “the free expression of the will of the electors”, and the ECHR, Prot. 1, 3 ensures “the free expression of the opinion of the people”; these are generally taken to mean that an election system must lead to a genuinely representative government. The UNHRC Comments, 21, applied the ICCPR provision to the equality of voting rights, *e.g.*, in terms of constituencies and redistricting. Panels asked to assess the representativeness of the results of elections have been cautious, however, especially when asked to review the legality of an entire method of election. In the *X. v. U.K.* and *Liberal Party v. U.K.* decisions, the European Commission of Human Rights refused to rule that the results of elections in single-mandate districts were unrepresentative since the award of mandates was not proportional to the votes received. In the former case, the Commission concluded that the phrase about “free expression” in ECHR Prot. 1, Art. 3 referred to the voter’s freedom in voting, and was not intended to apply to the election system. Despite the absence of a clear legal baseline concerning the representativeness of the results of elections, broader considerations of legitimacy – including under Copenhagen Document, 6 and other paragraphs – would apply against a system that seriously distorted the results of elections.

If voter awareness is taken as the primary consideration, then a number of measures may be suggested for the main lines of simplification of the current cycle of local elections in England. These would include:

- Where there are multiple levels of primary local authority, the levels should to the extent possible be elected on an easily understandable, regular basis – *viz.*, either concurrently or in staggered years). If the electoral approach used at the two levels prevents this – *e.g.*, if one authority is elected in whole elections and the other by halves or thirds – then the approach should be reconciled to permit a regular election schedule.
- Consideration should be given to streamlining the system of local elections more generally, so that elections for different levels can be clearly distinguished by voters – not only in the area of the local authority in question, but more broadly (*e.g.*, England-wide or regionally). Thus, elections for local government bodies with similar types of authority should to the extent possible occur at the same time in all areas. (This would also imply reconciling differences between areas where elections to similar levels of local government are held on a whole or partial basis.)
- Consideration should also be given to constructing a system in which the relationship of English (local or potential regional) elections to other – general (national) or European – elections would become clearer. If this could be achieved, then the dissonance in voters’ minds between local and broader issues might be lessened. Taking such a step, however, would be extremely difficult given the difference between the generally 5-year election cycle of general and European elections, and the underlying 4-year cycle of English local elections.

V. CONCLUSIONS

The Commission’s Consultation paper is a very well researched and thoughtful presentation of the issues presented by the complex structure of local government elections in England. The Commission has done a great service by taking very seriously its stated priorities to review these issues in the interests of voters, political pluralism, and effectiveness and efficiency of electoral administration.

The variety of approaches taken at various levels of local government and in different geographical regions will make simplification of the current cycle of elections very difficult. These difficulties are compounded by the fact that the underlying cycle of local elections is four years, while the cycle of general and European elections is normally five years.

Drawing on comparative practice and OSCE/ODIHR experience, the ODIHR encourages the Commission to continue to give highest priority to the interests of voters, and develop solutions that would result in a uniform cycle of local elections that could be more easily understood by voters. It is believed that this approach could potentially lead to higher voter turnout for local elections, and also have benefits in terms of political pluralism and the efficiency of election administration.

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ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's main institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Document).

The ODIHR, based in Warsaw, Poland, was created as the Office for Free Elections by the OSCE Heads of State or Government at the 1990 Paris Summit. In 1992, the name of the Office was changed to reflect an expanded mandate to include human rights and democratisation. Today it employs over 80 staff.

The ODIHR is the lead agency in Europe in the field of **election observation**. It coordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following six thematic areas: rule of law, civil society, freedom of movement, gender equality, trafficking in human beings and freedom of religion. The ODIHR implements more than 100 targeted assistance programs, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR **monitors** participating States' compliance with OSCE human dimension commitments. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

The ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR [website](#), which also contains a comprehensive library of reports and other documents, including all previous election reports and election law analyses published by the ODIHR.