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Committee
Room T1.01
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By email

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Dear Andrew

Scottish Elections (Reform) Bill: Codes of practice on expenditure of candidates

Thank you for your letter of 5 November in relation to the Committee's consideration of the Scottish Elections (Reform) Bill. I have been asked to reply as Bill Team Leader.

The expectation is that the Electoral Commission will always consult ahead of using its regulation-making powers. For example, the Commission launched a consultation on Codes of Practice on spending by candidates and political parties in relation to its existing powers issued in September 2018¹. The Electoral Commission's written submission to the Standards, Procedures and Public Appointments Committee on the Bill notes at paragraph 16 that:

*"We aim to prepare and consult on draft codes on candidates and political parties for Scottish Parliament elections to enable them to be in force well ahead of the regulated period at the 2021 elections which commences on 6 January 2021. However, the codes can only be finalised once the secondary legislation for the conduct of the 2021 elections has been approved by Parliament. The Scottish Government will need to ensure that all secondary legislation is in place in sufficient time for us to prepare and finalise the codes."*²

At present, there is no power in legislation to enable the Commission to create codes of practice for candidate expenditure at devolved elections. Once a code has been approved by the Scottish Parliament and published by the Commission, that version would remain in

¹ Available at: https://www.electoralcommission.org.uk/sites/default/files/pdf_file/Codes-of-Practice-on-spending-by-candidates-and-political-parties-a-consultation.pdf

² Available at: <https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/113529.aspx>

place if the Scottish Parliament subsequently decided not to approve a replacement draft code of practice.

The Bill provides that if the Scottish Parliament resolves not to approve a draft code within a 40-day period, the Scottish Ministers must take no further steps in relation to the draft code. The mechanisms echo the existing provisions in relation to approval of Electoral Commission codes of practice by the UK Parliament.

If the Scottish Parliament made a resolution not to approve a draft code it would be possible for a new draft code to be laid before the Scottish Parliament (in terms of both section 8 and section 9 of the Bill).

I hope that this information is of assistance to the Committee.

Yours sincerely

Iain Hockenhull

