



## **Agenda Item 14**

# **Local Government Boundary Commission for Scotland: Fifth Review of Electoral Arrangements**

**Falkirk Council**

**Title:** Local Government Boundary Commission for Scotland: Fifth Review of Electoral Arrangements  
**Meeting:** Falkirk Council  
**Date:** 21 September 2016  
**Submitted By:** Chief Executive

**1. Purpose of Report**

- 1.1 The purpose of this report is to update Council on the decision made by the Minister for Parliamentary Business in response to the Local Government Boundary Commission for Scotland's recommendations on the numbers of councillors and the electoral ward boundaries across Scotland.

**2. Recommendation(s)**

- 2.1 It is recommended that Council:**
- (a) notes the decision taken by the Minister for Parliamentary Business, and**
  - (b) determines what action, if any, it wants to take in response thereto.**

**3. Background**

- 3.1 Council considered a report on 22 June 2016 setting out the Commission's recommendations (a copy can be found [here](#)) following their Fifth Review of Electoral Arrangements and agreed to:-
- oppose the Commission's recommendations and adhere to the Council's position to maintain 32 elected members; and
  - endorse and sign the letter from East Renfrewshire Council to the Minister for Parliamentary Business (a copy of that letter is attached as appendix 1).

**4. CONSIDERATIONS**

- 4.1 The Minister for Parliamentary Business, Joe Fitzpatrick, wrote to the Leader of the Council on 14 September 2016 (attached as appendix 2) advising that, while consideration had been given to the Council's opposition, he had nevertheless decided to accept the Commission's recommendations and to lay an Order before Parliament to that effect. The Falkirk (Electoral

Arrangements) Order 2016 is attached as appendix 3. It comes into effect on 30 September 2016 for elections held on or after 4 May 2017.

- 4.2 For the Falkirk Council area, the Order reduces the number of councillors from 32 to 30 with the boundary changes impacting principally on:-
- wards 2 (Grangemouth) and 4 (Carse, Kinnaird and Tryst) where the village of Skinflats will move from the former to the latter with a consequential reduction of councillors in the Grangemouth ward from 4 to 3, and
  - wards 6 (Falkirk North) and 7 (Falkirk South) where Camelon will move from ward 7 to ward 6 while the town centre and Callander Park areas to the south of the Stirling and Edinburgh railway line will move in the opposite direction. The councillor cohort in the Falkirk South ward will consequently reduce from 4 to 3.
- 4.3 Information on the new electoral arrangements for the Falkirk area can be found on the Commission's website at:  
[http://www.lgbc-scotland.gov.uk/reviews/5<sup>th</sup>\\_electoral/falkirk/](http://www.lgbc-scotland.gov.uk/reviews/5<sup>th</sup>_electoral/falkirk/).
- 4.4 It will be recalled from the June report that COSLA had expressed concern about the methodology used by the Commission in reaching their recommendations and this concern was echoed by a number of Councils, including Falkirk. COSLA took a cross party decision on the issue at its Convention in October 2015 and considered the issue again at the Convention meeting in June 2016. The potential for judicially reviewing the Minister's decisions on an individual Council basis has also been mooted previously with East Renfrewshire Council taking the lead in that and in drafting the letter referred to in paragraph 3.1 above.
- 4.5 It is not yet clear whether any other Council has reached a view on the question of challenge now that the decisions for their own areas have been taken and the Orders made. Timing will certainly be an issue given that the local government elections are now only 7 months away and decisions will need to be taken on changes to polling schemes to accommodate the new ward changes. COSLA has written to all member Councils asking for their initial reaction to the decisions for their area and East Renfrewshire Council has also asked the signatories to the letter what their appetite for challenge might be.
- 4.6 Any challenge to the Minister's decision would be by judicial review in the Court of Session. To succeed, the Council would need to establish that, in taking his decision, the Minister had acted illegally, irrationally or with procedural unfairness. The issues in dispute involve complex areas of administrative law and there is no guarantee of success.
- 4.7 Should Council be minded to pursue the possibility of challenge, then having regard to how recently the Order was made, the current uncertainty over the reaction of other Councils in similar positions and the need to move quickly,

consideration should be given to how matters could be taken forward outwith the Council meeting.

### **Polling Scheme**

- 4.8 In order to comply with the Order as it stands, adjustments to the existing polling scheme will be required.
- 4.9 Electoral Commission guidance suggests that the same processes be undertaken for interim reviews, such as this one would be, as would be used for the compulsory review of polling districts and polling places undertaken on a 5-yearly cycle. The length of the process is not prescribed, provided all the steps required by legislation can be taken within it. The time allowed for consultation should be sufficient to enable interested persons and groups to read and understand the proposals, gather comments and respond with any alternative arrangements they may wish to submit.
- 4.10 The full review consultation for a compulsory review runs in two stages, with stage 1 inviting comments on the current polling scheme and stage 2 inviting comments on draft proposals and the Returning Officer's representations
- 4.11 Given that the purpose of the interim exercise would be to implement the Boundary Commission's recommendations, there would be little benefit in undertaking stage 1, instead moving directly to stage 2. A preliminary review of the polling scheme as it stands currently suggests that established polling places would still be suitable for the new wards but a number of them would require to be renumbered to accommodate the changed boundaries and there may be a need for at least one to cover 2 polling districts.
- 4.10 If a review of the polling scheme was initiated before the end of September on the basis of the Order as laid, a report on the outcome could be reported to Council in December. The Electoral Registration Officer is scheduled to carry out his annual publication of the registers on 1 December 2016. As this precedes the Council meeting, it may be necessary for the registers to be run twice which may have cost implications for the Council. Significant delay in printing the registers beyond this date starts to run the risk of impacting on arrangements for the local government elections.

## **5. CONSULTATION**

No consultation has been carried on the content of this report.

## **6. IMPLICATIONS**

### **Financial**

- 6.1 No direct financial implications arise from the content of this report but cost (yet to be determined) would be incurred if a decision was taken to make application for judicial review.

**Resources**

- 6.2 No direct resource implications arise from the content of this report. In the event of a legal challenge being taken, Counsel would require to be instructed to pursue the issue in the Court of Session.

**Legal**

- 6.3 The potential for judicial review has already been addressed above as has the requirement for a review of the polling scheme.

**Risk**

- 6.4 The content of this report does not carry direct risk implications.

**Equalities**

- 6.5 No equalities issues arise.

**Sustainability/Environmental Impact**

- 6.6 An impact assessment is not required.

**7. Conclusions**

- 7.1 The Boundary Commission's 5<sup>th</sup> review of electoral arrangements has now concluded with the enactment of the Falkirk (Electoral Arrangements) Order 2016. The effect is to reduce the total number of elected members from 32 to 30 with effect from the next local government elections. It rests with Council to determine what action, if any, it wishes to take in response to this Ministerial decision.

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Chief Executive

Date: 19 September 2016

**Appendices:**

- Appendix 1 Letter from East Renfrewshire Council to the Minister for Parliamentary Business dated 28 June 2016
- Appendix 2 Letter from the Minister for Parliamentary Business to Councillor Craig Martin dated 14 September 2016
- Appendix 3 The Falkirk (Electoral Arrangements) Order 2016

**List of Background Papers:**

None



Our Ref: LM/AT  
Your Ref:  
Contact: Lorraine McMillan  
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Email: lorraine.mcmillan@eastrenfrewshire.gov.uk  
Date: 28 June 2016

Chief Executive's Office  
East Renfrewshire Council HQ  
Eastwood Park  
Rouken Glen Road  
Giffnock, G46 6UG

Joe FitzPatrick MSP,  
Minister for Parliamentary Business,  
St Andrew's House,  
Regent Road,  
Edinburgh EH1 3DG

Dear Mr FitzPatrick,

**Fifth Review of Local Government Electoral Arrangements  
Local Government Boundary Commission for Scotland**

This letter is written jointly by the undernoted Councils. It is the request of these Councils that Scottish Ministers do not approve, insofar as these Councils' areas are affected, the final proposals submitted to you for consideration by the Local Government Boundary Commission for Scotland (LGBCS) in relation to its Fifth Review.

All of the undernoted Councils have submitted representations to the LGBCS relative to its Fifth Review. It is appreciated that the LGBCS wishes to propose its reviews of both Councillor numbers and ward boundaries in order to meet its views on local government electoral arrangements in Scotland. Within the process and timetable of this LGBCS review, each of the undernoted Councils has already made their individual and detailed submissions on the review. It would, in normal circumstances, be accepted that the individual submissions from each local authority would suffice, but there are two critical issues which require these local authorities to write to Scottish Ministers directly and jointly:

- (a) none of the Councils believe there has been any form of meaningful or reasonable engagement or discussion whatsoever relative to their individual positions as set out in their respective responses; and
- (b) that, irrespective of any proposed increases or decreases of Councillor numbers affecting these Councils, the methodology adopted by the LGBCS as a basis for its determination is fundamentally flawed or, at least, lacking in any evidential basis and, despite the individual Council representations which have been made, the final proposals are believed to be to the detriment of all of the communities, below.



Lorraine McMillan,  
Chief Executive, East Renfrewshire HQ, Eastwood Park, Rouken Glen Road, Giffnock, G46 6UG

It is not the purpose of this letter to seek to repeat the terms of each individual local authority's responses to the LGBCS: each of these, it is believed, has been consistently made by the Councils concerned in terms of their specification, detail and reasoning. Please note, each of these submissions do continue to be maintained by the individual Councils concerned. It is necessary to summarise, however, that there is no support from these Councils for the final proposals as made to you and that none of the Councils believe that the draft Fifth Review achieves effective and convenient local government, as explained fully to the LGBCS in the process of consultation that was undertaken. None of the Councils believe that either the methodology of the review or the approach undertaken by the LGBCS in its review balance effectiveness and convenience in electoral arrangements for any of the local authorities affected.

The Councils request that you bring these concerns to the attention of Scottish Ministers. The subscribers welcome any discussions direct with you or with the LGBCS in relation to the progress of the final proposals. This letter is written to you on the basis that changes to local communities should only be taken forward where communities have been adequately respected: in the proposed arrangements, at present, the undernoted Councils do not believe this standard has been achieved. The Councils are very concerned that the LGBCS focus on parity with implementation of the elector to councillor ratios will result in ward redesigns that will damage community ties and will have adverse impacts on established communities. Any progress through dialogue and discussion would be welcomed as it is not thought to be in the interests of any party that other remedies, such as judicial review, be considered or undertaken without every effort being made to find a solution which addresses the concerns of all.

Individually, or jointly, the subscribers welcome the opportunity to make any further submissions to you or to meet or have dialogue with yourself and/or representatives of the LGBCS. Concerns on this matter have been raised at COSLA and separate representations may also be received therefrom in similar vein. Nevertheless, given the timescales concerned, it was thought appropriate to write direct to you.

We thank you for your consideration.

Yours sincerely,

Lorraine McMillan	Chief Executive of East Renfrewshire Council
Steve Grimmond	Chief Executive of Fife Council
John Mundell	Chief Executive of Inverclyde Council
Angela Leitch	Chief Executive of East Lothian Council

Lindsay Freeland	Chief Executive of South Lanarkshire Council	
Paul Jukes	Chief Executive of North Lanarkshire Council	
Mary Pitcaithly	Chief Executive of Falkirk Council	
Gerry Cornes	Chief Executive of East Dunbartonshire Council	
Gavin Stevenson	Chief Executive of Dumfries and Galloway	



Minister for Parliamentary Business  
Joe FitzPatrick MSP



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Councillor Craig Martin Snr  
Leader  
Falkirk Council  
Municipal Buildings  
FALKIRK  
FK1 5RS

Copy to Chief Executive

14 September 2016

Dear Craig,

As you know, the Local Government Boundary Commission for Scotland submitted to the Scottish Ministers on 26 May their final recommendations for the number of councillors and the electoral ward boundaries in each of Scotland's 32 local authorities following their Fifth Reviews of local government electoral arrangements.

I know that the Council has expressed opposition to the Commission's recommendations for changes to the electoral arrangements for the Falkirk Council area, and I considered the Council's comments carefully before taking my decision. However I am writing to advise you that after that consideration I have decided to accept the recommendations made by the Commission. I have laid before the Parliament today an Order giving effect to those recommendations, which will come into force on 30 September and apply to elections held on or after 4 May 2017.

Details of the new electoral arrangements that will operate in the council area as a result of my acceptance of the Commission's recommendations can be found on the Commission's website at [http://www.lgbc-scotland.gov.uk/reviews/5th\\_electoral/falkirk/](http://www.lgbc-scotland.gov.uk/reviews/5th_electoral/falkirk/). My officials will write to your officials separately with copies of the Order and with a DVD containing data showing maps of the new electoral wards for depositing with the Council as provided in the Order.

Yours for Scotland

JOE FITZPATRICK

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## The Falkirk (Electoral Arrangements) Order 2016

2016 No. 275 Whole Instrument

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## SCOTTISH STATUTORY INSTRUMENTS

## 2016 No. 275

## LOCAL GOVERNMENT

## The Falkirk (Electoral Arrangements) Order 2016

*Made*

13th September 2016

*Laid before the Scottish Parliament*

14th September 2016

*Coming into force*

30th September 2016

The Scottish Ministers make the following Order in exercise of the powers conferred by section 17(2) of the Local Government (Scotland) Act 1973(1) and all other powers enabling them to do so. This Order gives effect to proposals submitted to them on 26th May 2016 by the Boundary Commission under section 17(1) of that Act regarding electoral arrangements for the area of Falkirk Council.

**Citation, commencement and application**

- 1.—(1) This Order may be cited as the Falkirk (Electoral Arrangements) Order 2016 and comes into force on 30th September 2016.  
(2) This Order applies only for the purposes of an election to be held on or after 4th May 2017.

**Interpretation**

2. In this Order—
- (a) a reference to an electoral ward is a reference to that electoral ward as constituted in this Order; and
  - (b) “the deposited data” means the data recorded on the DVD-ROM—
    - (i) entitled “Falkirk (Electoral Arrangements) 2016”; and
    - (ii) deposited with the Scottish Ministers at their offices at Victoria Quay, Leith, Edinburgh EH6 6QQ.

**Electoral arrangements**

- 3.—(1) The area of Falkirk Council is divided into 9 electoral wards.
- (2) The number and name of an electoral ward is as specified in the entry in columns 1 and 2 respectively of the schedule of this Order.
- (3) The number of councillors to be returned for an electoral ward is as specified in the entry in column 3 of the schedule of this Order corresponding to that electoral ward.
- (4) The boundaries of the electoral wards are as described by the deposited data.

JOE FITZPATRICK

Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh  
13th September 2016

SCHEDULE  
ELECTORAL WARDS

Article 3

Column 1 Number of electoral ward	Column 2 Name of electoral ward	Column 3 Number of councillors to be returned
1	Bo'ness and Blackness	3
2	Grangemouth	3
3	Denny and Banknock	4
4	Carse, Kinnaird and Tryst	4
5	Bonnybridge and Larbert	3
6	Falkirk North	4
7	Falkirk South	3
8	Lower Braes	3
9	Upper Braes	3

**EXPLANATORY NOTE**  
(This note is not part of the Order)

This Order gives effect to proposals made by the Local Government Boundary Commission for Scotland for the future electoral arrangements for the area of Falkirk Council. The area of Falkirk Council is divided into 9 electoral wards as described in the schedule of the Order. This Order applies only for the purposes of an election to be held on or after 4th May 2017.

The Order describes the boundaries of the new electoral wards by means of data stored on a DVD-ROM. Copies of the DVD-ROM are to be deposited with, and maps of the boundaries of the electoral wards are available (in hard copy or on-line) from, the Local Government Boundary Commission for Scotland and Falkirk Council.

(1) **1973 c.65.** The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

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