

Proposed Removal from Office and Recall (Members of the Scottish Parliament) Bill

Introduction

A proposal for a Bill to introduce new measures on removing an MSP from office, including additional grounds for removal and new processes for removal, such as recall. Proposed new grounds for removal include where an MSP does not participate in parliamentary proceedings for a given period without valid reason or receives a prison sentence lower than the current threshold for automatic removal.

The consultation runs from 20 January 2022 to 13 April 2022.

All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document.

Questions marked with an asterisk (*) require an answer.

All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response.

Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded.

Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here:

[Consultation Document](#)

[Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice which explains how my personal data will be used.

On the previous page we asked you if you are UNDER 12 YEARS old, and you responded Yes to this question.

If this is the case, we will have to contact your parent or guardian for consent.

If you are under 12 years of age, please put your contact details into the textbox. This can be your email address or phone number. We will then contact you and your parents to receive consent.

Otherwise please confirm that you are or are not under 12 years old.

No Response

About you

Please choose whether you are responding as an individual or on behalf of an organisation.
Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

an individual

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

Member of the public

Please select the category which best describes your organisation

No Response

Please choose one of the following:

I am content for this response to be published and attributed to me or my organisation

Please provide your Full Name or the name of your organisation. (Note: the name will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is the name that will be published with your response).

David Carson

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number.

We will not publish these details.

Aim and approach - Note: All answers to the questions in this section may be published (unless your response is "not for publication").

Q1. Which of the following best expresses your view of the proposed Bill?

Fully supportive

Please explain the reasons for your response.

There is no justification for not having the ability to remove/recall an MSP when the circumstances warrant it. [Redacted] I believe this proposal states that an MSP be removed if they have not taken part in parliamentary proceedings for 6 months. At the same time - if certain codes of conduct are not adhered to then the same sanctions should apply.

Q2. Do you think legislation is required, or are there other ways in which the proposed Bill's aims could be achieved more effectively? Please explain the reasons for your response.

Yes. Legislation is likely to be the most effective form of governance - providing it has clear unambiguous rules, codes of conduct, guidelines etc. Any alternative system without legislation is likely to rely on the ethical and moral standards of individuals but potentially unenforceable. The public need to be assured they have the right to request the recall of an MSP if it is warranted/justified.

Q3. What is your view on the proposal to remove MSPs from office if they do not participate sufficiently in parliamentary proceedings?

Fully supportive

Please explain the reasons for your response. Please include your views on: what constitutes sufficient participation, how the process for removing an MSP from office should work in practice where they are not sufficiently active for a period of, for example, six months (see detail of consultation document under element one of the proposal for background on this question).

This aspect needs careful thought. It has elements of both performance and participation. A simple six-month rule may need some further stipulation/criteria/principles to be added in order to be effective under certain circumstances - for example: the scenario where someone turns up for a meeting after 5 months absence - and then avoids service again for another 5 months in order to avoid the possibility of recall when there are no valid reasons for absence. Such an unfortunate manipulation of the system is always a possibility and the rules need to cater for such a scenario if it is perceived as a genuine abuse/workaround of the system. It seems that participation is equated with/means "attendance" the way described in this proposed Bill. That is one aspect. Absence for prolonged reasons with no valid reason deserves appropriate sanctions like any normal contract of employment. This could and should be much shorter than 6 months test. The measurement of effective participation when actually attending meetings is different and a separate issue more related to individual performance and effectiveness as a member representing constituents or committee participation etc. This is maybe something that the governing body/leadership team of the party need to consider as well as giving constituents the ability to evaluate how well their MSP is participating sufficiently and effectively.

Q4. What is your view on the proposal that receiving a prison sentence of a year or less is an appropriate trigger for an MSP to be automatically removed from office?

Fully supportive

Please explain the reasons for your response, including detailing how long you consider a minimum prison sentence should be to trigger the automatic removal.

MSPs are expected to uphold the law and adhere to high codes of conduct, ethics, morals and so on. A prison sentence irrespective of duration should be an appropriate trigger.

Q5. What is your view on the proposal that an individual who is removed as an MSP under these proposals, either through insufficient participation or being sentenced to a particular period in prison, should be unable to stand as an MSP again for the rest of the relevant parliamentary session?

Fully supportive

Please explain the reasons for your response.

It seems an appropriate and reasonable sanction and emphasises the importance of the matter.

Q6. What is your view on the proposal to introduce a system of recall for MSPs? Recall is where the electorate in an area can trigger a special election to remove an elected representative before the end of their term if certain conditions are met

Fully supportive

Please explain the reasons for your response, including how you would envisage such a system working in practice, for members elected under the regional list system and for constituency members elected under the first past the post system.

It is just plain wrong that there is no recall system for MSPs. It is as simple and basic as that. Implementing such a system for constituency MSPs should be relatively straight-forward based on how it is already implemented in other areas assuming they work as intended and are easy to implement. The mechanics of making a system work for regional list members would work under similar principles. It could be envisaged that the government website could provide the facility for implementing such a system - providing the appropriate controls, security and prevention of fraudulent voting can be implemented. These are expected to be relatively rare occurrences and therefore special measures enabling relevant constituents to initiate and support a recall is not an insurmountable problem and ways of implementing electronically should be feasible and viable with minimal complexity.

Q7. What is your view on the proposal that, where an MSP has been given a prison sentence, they should only be removed from office once any appeal process they pursue has concluded?

Fully supportive

Please explain the reasons for your response, including commenting on the alternative option where an MSP given a prison sentence would be removed from office as soon as they are sentenced, as opposed to awaiting the completion of an appeals process.

This allows the proper channels of justice to be followed and maintains the rights of the individual and they should not be sanctioned if the appeal process overturns an incorrect decision. If they are sanctioned too early and an appeal is in their favour - then this risks potential damage to the system and the individual. To be effective - it could be that the individual is allowed to continue until the appeal - but their ability to influence and participate in certain areas are limited if the nature of the issue warrants it. There may well need to be some principles and guidelines that determine how the individual is expected to perform and participate during the appeals process as it recognises there is uncertainty to the outcome from the appeal.

Financial Implications

Q8. Taking into account all those likely to be affected (including public sector bodies, businesses and individuals etc), is the proposed Bill likely to lead to:

a significant reduction in costs

Please indicate where you would expect the impact identified to fall (including public sector bodies, businesses and individuals etc). You may also wish to suggest ways in which the aims of the Bill could be delivered more cost-effectively.

It is not easy to select an option for this question and costs are potentially irrelevant to this issue. The issue is related to effective governance and trust and if there is a cost associated with maintaining this then the system needs to bear that cost. It is hard to quantify the reputational damage and loss of trust that resulted from the Mackay situation. Good governance with the best performing and highest integrity MSPs with high standards and dedication to providing service to constituents will result in lower costs in the long run.

Equalities

Q9. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation?

Neutral (neither positive nor negative)

Please explain the reasons for your response. Where any negative impacts are identified, you may also wish to suggest ways in which these could be minimised or avoided.

There should be no impact. The recall system is against any individual for specific reasons that enable a recall to be initiated - and would at first analysis, appear to be unrelated to any of the protected characteristics listed above. It may be possible that individuals may want to initiate a recall due to bias against an MSP based on certain characteristics - and should this occur - there will need to be some form of overall governance that determines the validity of a recall petition before it can be initiated.

Sustainability

Q10. In terms of assessing the proposed Bill's potential impact on sustainable development, you may wish to consider how it relates to the following principles:

- living within environmental limits
- ensuring a strong, healthy and just society
- achieving a sustainable economy
- promoting effective, participative systems of governance
- ensuring policy is developed on the basis of strong scientific evidence.

With these principles in mind, do you consider that the Bill can be delivered sustainably?

Yes

Please explain the reasons for your response.

I would say this Bill is more directly related to ensuring strong, healthy and just society, promoting effective, participative systems of governance. I struggle to see the connection and association with environmental limits, sustainable economy and policy based on strong scientific evidence. I would appreciate it if someone could tell me the connection with these aspects first - and then I may be able to comment. These latter aspects are related to policy and while a recalled MSP may be involved in such aspects there is no negative impact on sustainable development. I struggle to see how this Bill is related to sustainable development - the bill is related to good governance and the conduct of individuals in performing their roles.

General

Q11. Do you have any other additional comments or suggestions on the proposed Bill (which have not already been covered in any of your responses to earlier questions)?

This Bill is long overdue. I believe it should be accepted and implemented and with effective controls, oversight, principles, rules and methods of execution so that it achieves the intended purpose and

Q11. Do you have any other additional comments or suggestions on the proposed Bill (which have not already been covered in any of your responses to earlier questions)?

positive outcomes. If this Bill is not implemented - what does it say about effective governance and democracy and empowerment of constituents within Scotland?