

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".)

Academic with expertise in a relevant subject

Please select the category which best describes your organisation

No Response

Please choose one of the following:

I would like this response to be published anonymously

If you have requested anonymity or asked for your response not to be published, please give a reason (Note: your reason will not be published):

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).

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?

Partially supportive

Please explain the reasons for your response.

I strongly support the creation of more removal tools for MSPs, in accordance with other similarly situated legislative bodies, both inside and outside the UK. The participation and recall provisions I do not support

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

as much, though I understand the analogy being made to rules in both local government and in Westminster. So I certainly believe it's a debate to be had to give the Parliament and Scots more say so in MSP accountability - even though it's been over 20 years, the Parliament is still finding its way, in a small sense. That means having the tools to remove disruptive MSPs who are not representing their constituents. There are "expulsion" (removal) statutes in other countries, like the U.S., that give state legislative bodies the ability to remove members for, as in North Carolina, "corrupt practices in an election." The participation "quota," whilst having a tradition in local bodies, does seem contrary to the role of elected officials. A member who chooses not to do their job should be punished at their next election. But a member who behaves in a corrupt manner should be subject to removal by the Parliament - how such a standard is created should certainly be a high bar, but one should be in place. As to recall - I realise that's a tradition as well, but given the 5-year term, which is not long in the grand scheme of things, seems to just create too many elections. By-elections do not have the greatest participation - so, again, let voters make the decision at the next election instead of having MSPs face being harassed by a minority of malcontents, then having to spend money and time running in a recall election. All that said - I support this debate, and giving the Parliament and the people of Scotland the tools needed to increase MSP accountability.

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.

I addressed this in my previous answer. I think - yes, legislation is required, especially in the area of removal. As to participation and recall - the Party system serves a formal/informal role enough, I believe, to "whip" inattentive members into shape. If they do not, then the voters have the ability to give their opinion at the next selection. Perhaps instead of a "stick" approach, I would be interested in a "carrot" of mandating certain training of all elected MSPs. Just as other jobs have required hours of continued education, perhaps a small requirement (or just voluntary, perhaps) of training in how to be a MSP and how to perform the myriad of jobs well would be supporting MSPs instead of just punishing them. Is the Parliament/parties doing enough to train work/life balance for MSPs to ensure they are not stuck on their own, missing participation in the Parliament, instead of assisting them?

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

Partially opposed

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). Voters elect MSPs - if MSPs are doing their job, in the eyes of their voters, then it should be the job of the voters to give their feedback to the member and, worst case, not support them at the next election. Parties can also punish their members, in a variety of ways. The people and the party are in the best position to "punish" non-participation - the Parliament should only be involved for removal of MSPs when their is actual malice, corruption, or other malicious behaviour from a MSP.

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?

Neutral (neither support nor oppose)

Please explain the reasons for your response, including detailing how long you consider a minimum prison sentence should be to trigger the automatic removal. The criminal justice system is varied, and there are a myriad of offenses that a MSP might be sentenced

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?

to. There is some thought that being found guilty of a felony is the standard for removal. I think that's right. I don't think sentencing should control - it should be the substance of the offense. In which case, a removal statute that categorises the types of behaviour that would be grounds for removal would be more helpful.

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?

Partially opposed

Please explain the reasons for your response.

Ultimately - the people rule. If the people wish to return a MSP who has been removed (and a party chooses to select such a member), then the verdict has been made. There should be very limited circumstances in which the State (Parliament, in this case) takes the decision out of the voters' hands in a functioning democracy.

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

Partially opposed

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.

Recalls can be a messy business. I recognise that it's a practice outside of the Parliament - but the five-year term is enough without having to worry about recall elections, recall efforts, etc. Let the people decide at the next election and let a MSP have a chance to do their job. In the worst case, a recall should not be allowed until some time has passed in a term - one can imagine a vocal malcontent minority, promoting recalls after losing an election. As if MSPs don't have enough duties to keep them busy - it just becomes an unattractive job for the general public to pursue public office, if a vocal minority can come after their job at any time. The fixed five-year term allows MSPs a chance to do their jobs - and then the voters have their say.

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?

Partially 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.

I don't believe there is necessarily a need to wait for the appeals process to be complete. I understand from the hypothetical MSP's perspective that due process should be followed to its end. But, logically, a MSP convicted and then pursuing various appeals will not be quite focused on their job. If they are subsequently exonerated, they can take that absolution into the next election and stand again. But the general phrase "prison sentence" should have a qualifier -- how long? for what type of offense?

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:

some increase 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.

If we are increasing recalls and possibilities of removals, then we are increasing costs for more by-elections with, if we are honest, low participation. Now - democracy is a cost, and we should all be prepared to pay it, even if that means more elections. It also means more campaigning by MSPs and challengers and parties, which means potential (in rare cases, to be sure) corruption of funding of campaigns. This bills does have costs, both in real money, time, efforts, etc. But we just have to know that is the cost.

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.

At first blush, it would not seem to have an effect on equality, but I'm sure there are more informed individuals and groups that can speak to the possibilities than someone such as myself.

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.

More campaigns and elections means more resources. Certainly nothing to have a great affect on our environment, but an effect none the same. Obviously we all need to be doing our party for sustainable campaigning and holding elections.

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)?

I believe the idea behind this bill - give the Parliament and people of Scotland more tools in holding errant MSPs accountable - is a good idea. It's fundamental to Scottish democracy, if I can use such a term. This Parliament said it would be a place where the people, of all ages and backgrounds, would be involved. Also, it must also be a place where we treat MSPs in the same way we treat the Scottish people and voters - with respect and dignity and as fellow people. If we want the people of Scotland, of all backgrounds, to become the next MSP in their constituency or region, it should be a place that allows them to be supported and thrive if they are elected to such office. But it should also be a Parliament with clear expectations of behavior - and if there is corruption or maliciousness, the Parliament should have the tools to remove an offending member.