

## Referendum on independence for Scotland - question assessment

<b>Meeting date</b>	<b>16 January 2013</b>
<b>Agenda item</b>	<b>3</b>
<b>Purpose of paper</b>	Decision
<b>Decision recommended</b>	<ul style="list-style-type: none"> <li>• Note the briefing material</li> <li>• Raise any issues to be reflected in our final report on question assessment, to be circulated prior to the Board meeting on 24 January</li> <li>• Approve the draft question assessment at Appendix 3, to be contained in our final report. Our assessment includes a recommendation that the question be redrafted from 'Do you agree that Scotland should be an independent country? Yes/No' to 'Should Scotland be an independent country? Yes/No'. Note: Our assessment includes consideration of a summary of external research findings. We will circulate the full external research report prior to the next Board meeting on 24 January, identifying anything that would cause us to depart from the conclusions we have reached.</li> </ul>
<b>Key risks</b>	<p>There is a risk that the Scottish Government will not accept our assessment of the question and will not amend the question that it includes in the Referendum Bill.</p> <p>Because views about the question tend to reflect whether people are likely to vote 'Yes' or 'No', it is very unlikely that we will satisfy all political commentators, whatever recommendations we make.</p> <p>As to public information, we propose to say that we believe it important that voters have some</p>

	<p>agreed factual information before they vote, about the process that would follow the referendum. We propose to recommend that the UK and Scottish Governments should provide clarity on that process, sufficient to inform people what will happen next if a majority vote 'Yes' in the referendum. There is a risk that our proposed recommendation about public information will not be acted upon by the UK and Scottish Governments.</p> <p>Our strategy for mitigating these risks is explained in the attached paper.</p>
<b>Resource implications</b>	<p>The Referendum (Scotland) Bill will provide for the Commission to be funded by the Scottish Parliament for our functions in relation to the referendum. However, as the Bill is not expected to become law until the end of 2013, alternative arrangements are necessary to fund our expenditure before that time. The Scottish Government will, for practical convenience, meet our charges for assessing the question. These are expected to be between £120-130,000, comprised of external research, internal staff costs and staff travel and subsistence. The Scottish Government are aware of and content with these costs.</p>
<b>Communication and next steps</b>	<p>As soon as possible after the meeting on 16 January, further documents will be sent to the Board for the videoconference meeting on 24 January, as follows:</p> <ul style="list-style-type: none"> <li>• A cover paper</li> <li>• Our draft report on question assessment</li> <li>• Final report from Ipsos MORI Scotland of our public opinion research.</li> </ul> <p>We propose to publish our report by the end of January, date to be confirmed.</p>
<b>Programme</b>	1
<b>Author</b>	Kay Jenkins

## 1 Executive summary

### 1.1 This paper:

- contains information on our role in assessing the referendum question
- summarises the main findings from our external public opinion research
- summarises the main issues raised by interested parties
- contains our draft assessment of the referendum question, subject to receipt of the full report of Ipsos MORI Scotland's public opinion research

## 2 Questions and recommendations

### 2.1 The Commission Board is invited to:

- Note the briefing material
- Raise any issues to be reflected in our final report on question assessment, to be circulated prior to the Board meeting on 24 January
- Approve the draft question assessment at **Appendix 3**, which will be contained in our final report. Note: Our assessment includes consideration of a summary of our external public opinion research. We will circulate the full external research report prior to the Board meeting on 24 January, identifying anything that would cause us to depart from the conclusions we have reached.

2.2 The Board is scheduled to meet again (with some Commissioners attending by videoconference) on 24 January, when the full draft of our report will be circulated. That will be an opportunity for the Board to make any additional comments and to delegate approval of the final draft to the Chief Executive, in consultation with the Chair and Commissioner for Scotland.

## 3 Background

3.1 On 8 November 2012, Nicola Sturgeon MSP, Deputy First Minister, asked the Commission to provide advice and assistance to the Scottish Government by considering the wording and intelligibility of the proposed question for the referendum on independence for Scotland.

3.2 The proposed question is: "Do you agree that Scotland should be an independent country?" Vote 'Yes/No'. We received the question in ballot paper format, attached at **Appendix 1**.

## Legal framework

3.3 On 15 October 2012, the UK Government and the Scottish Government reached an Agreement to work together to ensure that a referendum on independence for Scotland could take place. Part of their agreement was that the Commission should review the referendum question<sup>1</sup>.

3.4 The request from the Scottish Government for our advice and assistance was made under the terms of Section 10 of Political Parties, Elections and Referendums Act 2000 (PPERA). The Scottish Government recognised and requested that we would be publish our advice in a report, which will inform the Scottish Parliament's consideration of the Bill.

## Question assessment process

3.5 We have followed our preferred approach to assessing referendum questions by:

- Carrying out public opinion research with people from different backgrounds and different areas of Scotland, through focus groups and in-depth interviews
- Asking for advice from experts on accessibility and plain language
- Writing to interested parties (including the political parties represented in the Scottish Parliament) and would-be campaigners, to seek their views and to offer meetings to hear from them
- Receiving views and comments from individual people or organisations who contacted us, having seen from our website or otherwise heard that we were undertaking the question assessment

3.6 Our public opinion research is complete. A copy of the final report from our research Agency, Ipsos MORI Scotland, will be circulated as soon as available for the Board meeting on 24 January.

3.7 We have received a good number and range of responses from interested parties and campaigners. A list of those who responded is attached as **Appendix 2**. In total, including unsolicited responses from members of the public, we received 457 responses.

## Timescale

3.8 Dependent on the Board's decisions on 16 January, our question assessment will be published as soon as all the relevant materials are ready

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<sup>1</sup> UK Government and The Scottish Government *Agreement between the United Kingdom Government and the Scottish Government on a referendum on independence for Scotland* (Edinburgh, 15 October 2012)

for publication, that is: our own report; the external report on public opinion research; and our accompanying external communications.

3.9 Publication of our assessment during the week commencing 28 January means we will have taken just over 12 weeks from receiving the request from Scottish Government to complete our assessment. This includes the Christmas and New Year period. Our published approach to assessing referendum questions is normally to complete assessments in ten weeks, but if we exclude the two-week period when it would not have been practicable to complete our public opinion research, we will have met that timescale.

## 4 Summary of issues

### The referendum: an expression of views

4.1 Our report will describe the context for the referendum, which sets the scene for our assessment. The Agreement between the UK and Scottish Governments says that the referendum should: “deliver a fair test and a decisive expression of the views of people in Scotland and a result that everyone will respect”. The Agreement commits the two Governments to continue to work together constructively in the light of the outcome, whatever that is, in the best interests of the people of Scotland and of the rest of the UK.

4.2 This contrasts with other recent referendums in the UK, where a favourable vote in the referendums brought into effect pre-existing legislation. After the result of the independence referendum, the Agreement that the two Governments will work together constructively in the light of the outcome will apply.

4.3 Our report will explain that the Scottish Government has indicated that it will set out its views as to what independence would look like by publishing proposals in a White Paper in autumn 2013<sup>2</sup>. The UK Government have said they will be publishing a series of papers, ‘Manifesto for the Union’ which would also indicate what independence would mean. However, it is not possible to anticipate the outcome of post-referendum discussions between the UK and Scottish Governments in advance of the poll or the extent to which the final shape of independence would reflect the proposals in the Scottish Government’s White Paper.

4.4 In assessing the referendum question, therefore, we will make clear that the precise consequences of a vote in favour of independence will not be known until after the referendum. In our research, people did want more information about the pros and cons of independence in the lead up to the referendum, which they acknowledged would largely come from the respective ‘Yes’ and ‘No’ campaigns.

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<sup>2</sup> Scottish Government consultation paper *Your Scotland Your Referendum* (January 2012)

4.5 Our report will detail what people in our public opinion research understood 'independent' to mean and what interested parties thought about the issue. This provides context for our testing of the question.

4.6 We also propose to make a recommendation to the UK and Scottish Governments about the role of public information in the referendum in helping to address this issue, as explained further below. Our proposed recommendation is about providing clarity on the process that would follow the referendum, if there were to be a vote either in favour of independence or against.

### **Voters' views**

4.7 Our report will contain a detailed chapter explaining the nature of our public opinion research and the findings.

4.8 Our question testing research included:

- eight focus groups, in a geographic spread of locations and covering a representative demographic sample, including Gaelic speakers;
- two focus groups in different schools with 16-17 year olds (based on Ipsos MORI's experience of organising research with young people)
- 203 in-depth interviews, including participants with lower literacy, learning difficulties and visual impairments.

4.9 The findings of the research were consistent and conclusive across all groups, including 16-17 year olds.

4.10 Further details on the methodology are attached as **Appendix 4**.

4.11 The Scottish Government's proposed question is: 'Do you agree that Scotland should be an independent country? Yes/No'. We tested the proposed question in every group and with every participant.

4.12 We use alternative questions in our assessment exercises to maximise the usefulness of the research by eliciting further thoughts and comments from participants, both on the proposed question and the alternative presented. We tested three alternative questions across the research:

Should Scotland be an independent country? Yes/No

Do you want Scotland to be an independent country? Yes/No

Should Scotland become an independent country? Yes/No

4.13 These alternatives were based on wording that was suggested spontaneously by participants in the groups and interviews, and on alternative wording that we suggested following our initial review of the proposed

question against our guidelines, taking into account the findings of previous question assessment exercises. In the first round of focus groups, the Scottish Government's question was tested first. In subsequent groups, the proposed question and alternative versions of the question were rotated to limit any potential effects that order might have.

#### 4.14 The main findings were:

**Overall understanding:** All the versions of the question that were tested were found to be easy to understand and straightforward.

People who spoke Gaelic as their first language could also understand the question easily and there were no difficulties to their completing the ballot paper in our research and voting the way they intended.

**Neutrality** People commonly felt that the phrase 'Do you agree?' was leading and encouraged a Yes vote. People gave a variety of reasons for this which our report will explain. The preferred neutral formulation was 'Should'.

No issues emerged about the 'Yes/No' responses; people had no difficulty answering the question in the way they intended.

**'Independent country'** People felt there was a lack of clarity and a number of unanswered questions about what this meant - but the term was unproblematic in terms of people's ability to understand and complete the question in a way that matched their views. People understood the concept. Specifically, participants had a clear understanding that it meant being separate from the rest of the UK. A few participants, mainly people who voted 'No' when completing the ballot paper in the research, suggested adding to the question 'independent from the UK' or 'separate from the UK'. Participants did, however, want more information about the pros and cons of independence in the lead up to the referendum. They acknowledged that this would come from the respective 'Yes' and 'No' campaigns, although some said they also wanted 'factual' information about what would happen if Scotland became independent, particularly in terms of its economic impact. Participants also felt that any information about the outcome of the referendum should be provided in advance. Very few participants wanted additional information on the ballot paper in a preamble.

**'Country'** No participants saw this word as problematic. Consequently, no suggestions emerged in the research to change 'country' to alternatives such as 'state' or 'nation'.

**'Be' or 'become'** Some participants preferred 'become' over 'be', on the grounds that it suggests a process of change. However, people saw 'become' as problematic as it created more uncertainty over

timescales and less certainty about the outcome – it might not definitely happen.

4.15 In all rounds of testing in focus groups and in-depth interviews, the most favoured version of the question was:

Should Scotland be an independent country? Yes/No

4.16 Our report will contain a redraft of the question in ballot paper format, based on our published guidance for governments on design of voter materials<sup>3</sup>. The redraft is shown in this paper at the end of Appendix 3.

### Views of interested people

4.17 Our report will contain a chapter summarising the views we received from political parties, campaigners, academics and other interested parties, as well as the unsolicited responses we received from members of the public.

4.18 The key themes raised were:

- **‘Do you agree?’** The majority of people who responded commented on how the question was formulated, with views ranging from those who strongly supported the current formulation; those who said even if the question was leading it would not have much impact on the result; to those who were strongly of the view that it was a leading question.
- **The meaning of ‘independent country’** Respondents recognised that people would understand the term, but what it would mean for Scotland was not yet clear. However, views diverged as to whether or not the question was ambiguous and, if so, what should be done about it. The main themes were:
  - **Independent – from what?** Some respondents thought that the question should specify that independence would mean leaving the UK. Some submitted that the question should specify ‘separate from the UK’.
  - **Country, state or nation** Some responses were about whether ‘state’ or ‘nation’ was a better term to use than ‘country’. However, a number of respondents commented that although ‘state’ was a more legally correct term, it was unlikely to resonate with or make a meaningful difference to voters.
- **‘Be’ or ‘become’** A theme of some responses was that the use of ‘be’ was incorrect, because the question could be understood as applying to the present and did not convey change. None of the respondents who advocated this anticipated the issue that arose in our user-testing

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<sup>3</sup> The Electoral Commission *Making your mark* (2009)



research, however, to the effect that 'become' creates uncertainty about when change would take place. As both Governments committed in the Edinburgh Agreement to continue to work together constructively in the light of the outcome, whatever that is, the expectation should be that independence would follow as a consequence of a 'Yes' vote.

## 5 Our assessment

5.1 The concluding chapter of the report will assess the question against our question assessment guidelines, using the evidence we have gathered. A draft of our assessment is attached at **Appendix 3**. The summary also reflects the style that will be adopted in our full report.

5.2 We propose to recommend that the question be redrafted using 'Should...?' instead of 'Do you agree..?', giving weight to the conclusive evidence of our public opinion research. The redrafted question in ballot paper format is shown at the end of Appendix 3.

5.3 We propose to make a further recommendation about the role of public information, explained below.

### Public information

5.4 People taking part in our public opinion research wanted factual information to be available in advance of the referendum. We believe it will be important to provide factual public information about how, if most voters were in favour of independence, the shape of independence would be decided.

5.5 Our report will explain that the process to be followed after the referendum, whatever the outcome, is a matter for the UK and Scottish Governments and Parliaments. Independence would not be an immediate consequence of a 'Yes' vote but the end result, after a process of deliberation by the two Governments and after Parliamentary legislation has been made.

5.6 Referendum campaigners will promote their views about what independence would mean, what rejection of it would mean, and what they believe will happen after the referendum, depending on the result.

5.7 However, while the campaigners will highlight the issues at stake, we know from experience that this may not necessarily lead to greater clarity for potential voters ahead of the referendum. There will be claims and counter-claims, information and misinformation.

5.8 We propose to say that, based on our experience and what people told us in our research that we believe it important in the context of this referendum that voters have some agreed factual information before they vote, about the process that would follow the referendum, whatever the outcome.

5.9 We propose in our question assessment report to recommend that the UK and Scottish Governments should provide clarity on the process that will be followed after the referendum. The clarity provided should be at least sufficient to inform people what will happen next if a majority vote 'Yes' in the referendum and, conversely, what will happen if the a majority vote 'No'.

5.10 We will ask both Governments to agree a joint position, if possible, to avoid two alternative explanations that could add to rather than reduce confusion. The political challenge in doing this would clearly be significant, so we would be careful to make clear that we are not asking the Governments to agree what form independence would take. We would look for clarity, for example, on the timescales for negotiating independence and the roles of the UK and Scottish Parliament in agreeing it following a 'Yes' vote, or for taking forward discussions on the future of Scotland following a 'No' vote. This would give voters the clarity they need about what would happen after the referendum, whatever the outcome, and allow them to understand how the different claims made by Governments and campaigners ahead of the referendum will be resolved. Without that, it would only be possible to say that both Governments have agreed to work together whatever the outcome of the referendum.

5.11 By autumn 2013, we intend to review the state of preparations for the delivery of the referendum and make a public statement. We would use this as an opportunity to report on whether or not we had received the information we had requested from both Governments.

5.12 We would then consider if this information was appropriate to include the in the leaflet about the referendum we would expect to send to all households in Scotland, as part of our public awareness campaign. The leaflet would also contain information about how to register to vote and how to vote.

## **6 Wider implications**

6.1 Although this question assessment did not fall within our statutory duty in the Political Parties, Referendums and Elections Act 2000 (PPERA), we have interpreted our responsibility for advising on this referendum question in the same way. That means we have interpreted the scope of our responsibility to give views on 'intelligibility' as going further than simply looking at whether people understand the language used in the question. We are able to suggest alternative drafting but not alterations that might change the substance of the question or introduce new factors that might alter the nature of the debate.

6.2 We have anticipated that the research sample and evidence-gathering process that we have used will be subject to close external scrutiny so we have sought to be especially rigorous in planning and delivering those.

6.3 The overall costs of the research will be higher than the two referendum question assessment exercises carried out in 2011. These costs (including VAT) were around £46,300 for the Wales referendum and around £71,700 for

the UK Parliamentary voting system (PVS) referendum. The cost for the current research in Scotland will be higher at around £117,150 (including VAT), although the unit costs (for an individual focus group or interview) within the research are similar to the previous exercises. The difference is largely due to the greater number of participants included in this assessment – approximately 260 individuals, compared to 96 for Wales and 163 for the PVS assessment.

## **7 Risk**

**7.1** There is a risk that the Scottish Government will not accept our assessment of the question and will not amend the question that it includes in the Referendum Bill. Not accepting our advice will cause controversy in the public domain.

**7.2** The outcome of our question assessment is likely to have a high external profile. Because views about the question tend to reflect whether people are likely to vote ‘Yes’ or ‘No’, it is very unlikely that we will satisfy all political commentators, whatever recommendations we make. Alternative versions of the question, different again from the alternatives that we tested, have already been proposed and attracted support or opposition from different political parties or campaign groups. Significant external criticism is therefore possible.

**7.3** However, to our knowledge, none of the alternative suggestions have been tested by research. To mitigate the risk of our assessment being undermined, our assessment is substantiated by conclusive evidence. Our research methodology has been rigorous and designed to withstand close scrutiny, as well as following the approach we have adopted for referendum question assessments since 2009.

**7.4** There is a risk that our proposed recommendation about public information will not be acted upon by the UK and Scottish Governments. To mitigate that risk, the recommendation is linked to the public statement that we propose to make in autumn 2013 about the state of readiness for the referendum, including on public awareness.

## **8 Key audiences/stakeholders, and their views**

**8.1** We will publish all relevant documents as soon as possible after all Board decision-making has concluded, that is, by the end of January. We will publish on our website:

- Our question assessment report. Appendices to the report will comprise: the Scottish Government’s proposed question in ballot paper format; our proposed redraft in ballot paper format; our question assessment guidelines; our published preferred approach to assessing referendum questions; a list of all interested parties and members of the public who have submitted their views.

- Ipsos MORI Scotland's research report
- Board papers
- Draft minutes of Board meetings

8.2 We anticipate a high media profile and will have a suitable handling plan in place.

8.3 Our report will inform the Scottish Parliament's consideration of the Referendum (Scotland) Bill. We may provide further advice and assistance during consideration of the Bill by the Scottish Parliament.

## **9 Attachments**

9.1 The following are attached as appendices:

1. Referendum question proposed by the Scottish Government
2. (Not published as confidential information)
3. (Not published as draft only at that point)
4. Public opinion research – methodology

<b>BALLOT PAPER</b>	
<b>Vote (X) ONLY ONCE</b>	
Do you agree that Scotland should be an independent country?	
<b>YES</b>	<input type="checkbox"/>
<b>NO</b>	<input type="checkbox"/>

## Appendix 4: Public opinion research – methodology

The Commission has been working with the research agency Ipsos MORI Scotland to test the proposed Scottish referendum question with the public. This process has involved eight focus groups, two mini-groups with 16/17 year olds and 203 depth interviews in the following locations:

- Edinburgh (Focus group and depth interviews)
- Glasgow (Focus group and depth interviews)
- Stornoway (Focus group and depth interviews)
- Oban (Focus group)
- Kelso (Focus group)
- Falkirk (Focus group)
- Huntly (Focus group)
- Ayr (Focus group)
- Stirling (Depth interviews)
- Dumfries (Depth interviews)
- Dundee (Depth interviews)
- Aberdeen (Depth interviews)
- Inverness (Depth interviews)

### Composition of the focus groups

Group	Location	Age	Social Grade
1	Edinburgh	18-24	ABC1
2	Glasgow	18-24	C2DE
3	Oban	40-59	ABC1
4	Kelso	25-39	C2DE
5	Stornoway	60+	Mix (also included 4 native Gaelic speakers)
6	Huntly	40-59	C2DE
7	Ayr	60+	C2DE
8	Falkirk	25-39	ABC1

### Demographic quotas for depth interviews

Characteristic	Quota
<b>Gender</b>	
Male	90
Female	90
<b>Age</b>	

16-20	22 (min. 12 aged 16-17)
21-44	52
45-64	52
65+	54
<b>Highest educational qualification</b>	
Higher/A-level or equivalent	76
Less than Higher or equivalent	104
<b>Social Grade</b>	
AB	27
C1	45
C2	36
DE	72
<b>Ethnicity</b>	
BME	15
<b>Language</b>	
English as a second language	15
Gaelic as a first language	10

### Specific groups

Group	Quota
Lower literacy skills	8
Mild learning difficulties	6
Visual impairment	6