In relation to the questions posed, I would make the following comments:-

1. **Should the PO elections continue where possible to take place at the first meeting of the Parliament, after the oath taking, or should there be a gap between the oath taking and the PO elections?**

I believe the public have an expectation that the new parliament will begin its business as quickly as possible. Given the other delays which are unavoidable after a general election, such as the need to appoint ministers, set up committees, have initial meetings etc, it seems to me that it would be unfortunate if further delays were built into the system unless these are absolutely necessary. Therefore I would suggest that standing orders should make the default position to be that PO elections should continue to be as at present, except when circumstances such as a dearth of candidates, such as occurred in 2007, may make it sensible to have a postponement.

3. **Is one nominator and one seconder for PO/DPO candidates sufficient? Should there be any requirement for a seconder from outside the candidate’s own party?**

One could no doubt come up with plausible arguments as to why some alterations should be made to this to the current system, but I fail to be convinced that they would make any significant practical difference, other than to make the system more complex than it already is.

4. **Are additional steps needed to ensure that members, particularly new members, have an informed basis for voting?**

With the best will in the world, I do not think that much can be done about this. I can imagine that the committee might find itself under some pressure to accept the idea of speeches by candidates, but it is not clear how this would actually inform new members or others about the candidates' potential in the job of PO. It might well tell something about that person's ability to make an interesting or witty speech, but it would tell precious little about their potential ability for the many other aspects of the PO's job which will be just as or more important over the coming four years. A gap between nominations and voting, presumably of not insignificant duration, while it would certainly allow much more time for lobbying, would not necessarily contribute much to the ability to make more informed choices and would also run into that very problem of extending time scales which I mentioned in my answer to your question number one.

Whatever is decided in regard to the PO election, I suspect that the arguments for change in relation to the DPO elections are weaker, given that those officers have less freedom to initiate action and therefore have probably less of a manifesto for office to set out.
7. Do the current provisions relating to political balance provide adequate safeguards?

8. Are the current requirements sufficient?

In your call for evidence you state "There is no requirement for a Presiding Officer to suspend membership of their political party but in practice all the Presiding Officers to date have chosen to do so". Now I do not know about other political parties, though I suspect the arrangements are similar, but certainly in the SNP there is no provision for a member to suspend his or her membership (as opposed to a provision for the party to suspend membership as a temporary disciplinary measure). One either continues as a member or one resigns - there is no halfway house.

In your background paper you include the quote from Sir David Steel, then PO, in 2001 "I will say a word about the roles of Presiding Officer and Deputy Presiding Officer, because they are not always understood outside Parliament. The Presiding Officer is under an obligation to withdraw from party politics in Scotland." Sir David was wrong, as your paper implies, but there is no doubt that the current practice is one which is fast on its way to becoming a convention and I would ask the committee to consider whether this is actually desirable and whether a PO remaining a party member, though not generally active, would be equally acceptable.


The committee will be aware that in the Welsh Assembly, the PO does not give up his or her party membership and indeed on the current Welsh Assembly website, the current PO is shown as being an AM for the Labour Party. I would suggest that this has caused no insuperable problems in Wales and therefore there is a case to consider whether such an arrangement would not work just as well in Scotland.

Clearly those ill-disposed to any given PO, if he or she were to be a member of a political party, would no doubt use that against them, but I suspect those inclined to pursue criticisms of bias would do it in any case and that the mere fact of being a current party member or not does not change anything in reality.

One of the main problems with the current position is that, if an MSP genuinely gives up all party connections, then it is difficult to see how that member could ever contest a subsequent election successfully and therefore we confine ourselves in selecting POs to those members who are at the end of their career in parliament. Some might think that this may have an advantage in that such members are perhaps more likely to have the necessary experience for the position, but it does certainly narrow the field from which candidates can be chosen, a field which can be in any event uncomfortably small.

For example I believe nearly all parties select their regional lists before Parliament goes into recess prior to an election and therefore it would not be possible for a PO who is not a party member to be chosen to be on a party’s regional list. This is tantamount to disqualifying list members (56 out of 129) from being PO, unless they
do not wish to contest a subsequent election. In most normal circumstances the same problem applies to constituencies, since there can be few if any constituencies where the leading contenders are not selected well prior to an election.

The reference in the call for evidence to POs suspending membership of their political party implies that the suspension is potentially temporary. In that event I am not clear what the great difference is between a PO who has temporarily suspended their party membership, the implication being that it will be renewed later, and the model I would prefer whereby the PO, if he or she wishes, can retain their party membership, but not participate actively in national party politics. This of course requires no change to standing orders, but I believe it is useful to air the issue.

Regardless of views on the desirability or otherwise of giving up party membership, I believe a technical problem exists in relation to the giving up of membership by a PO and the requirement in regard to party balance in relation to the totality of the POs. The current standing order 3.3.8 states “In the case of an election under paragraph 8, where the elected Presiding Officer and a deputy Presiding Officer represent the same political party and there is a vacancy in the office of the other deputy Presiding Officer, a member representing that party is not eligible for nomination as a candidate for election as that other deputy Presiding Officer.” While this may work as originally intended when all elections follow in rapid succession and the new PO has had no opportunity to give up his or her party membership prior to the election of the deputies, it would not seem to be have the intended effect in cases where the voting and election period is extended or in those cases where additional DPOs need to be appointed during a session.

If the PO has given up party membership, he or she no longer represents any political party and therefore previous allegiance would not seem to be of relevance for the purposes of the standing order. I think this interpretation is confirmed by the fact that the wording is substantially identical to that of the order concerning membership of the Parliamentary Bureau, where changes in party membership by MSPs during sessions can immediately alter the membership of the bureau. It would therefore seem that there might be some advantage if in terms of party balance for the standing order as currently written if the PO did at least nominally maintain party membership. Otherwise this standing order needs to be altered to refer in some way to the PO’s party affiliation at election.

8. Are the current requirements sufficient?

There are various circumstances where an additional DPO might be required of which some might be foreseen e.g. a planned stay in hospital, while others might be unexpected and perhaps for a fairly short time. The Scotland Act 2012 refers to any additional DPO being “elected”, so there I suspect there is no way Parliament can simply appoint someone by motion, but I wonder if any thought has been given as to whether it is possible to alter the election procedure to making it quicker than normal in the case of the election of a short-term deputy.
9. Are there any considerations the Committee should take into account in drawing up the rules for the appointment of additional DPOs?

If my knowledge of the latest relevant statutory instruments is defective in some regards, then I apologise in advance, but I assume that it is the intention that any additional DPO should draw the salary appropriate to that office during their tenure of it; indeed I do not think the legislation affecting salary as at present drafted would discriminate between a DPO elected at the beginning of the session for the entire length of it and one elected during the session for a shorter period.

Therefore it appears that the effect of the Scotland Act 1998 (Transitory and Transitional Provisions) (Grants to Members and Officeholders) Order 1999 no. 1081 is that at the end of their period of office any temporary DPO is entitled to a grant of one quarter of annual salary, which depending on circumstances might actually be larger than the amount the person received when in office. There is also the possibility that such a person may become entitled to such a grant more than once during a parliamentary session. I realise that this is unlikely, but the position should be considered.

Alasdair Morgan
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