Minister for Parliamentary Business and Veterans
Ministear airson Ghnothaichean Pàrlamaideach agus Seann Ghaisgich
Jamie Hepburn MSP
Seumas Hepburn BPA

T: 0300 244 4000
E: scottish.ministers@gov.scot

Scottish Government
Riaghaltas na h-Alba

Jenni Minto MSP
Convener,
Standards, Procedures and Public Appointments Committee
Scottish Parliament

By email: SPPA.Committee@parliament.scot

10th November 2026

Dear Jenni

Stage 1 Report – Scottish Local Government Elections (Candidacy Rights of Commonwealth Citizens) Bill

I am grateful to the Standards, Procedures and Public Appointments Committee for their scrutiny of the Scottish Local Government Elections (Candidacy Rights of Commonwealth Citizens) Bill, and for reporting on their conclusions following Stage 1 consideration of the Bill.

The Government's response to the Committee's recommendations are as follows:

Report Paragraph 32: *This Bill is to correct an error in legislation passed in 2025. It should be acknowledged that it was not picked up during Parliamentary scrutiny. Nonetheless, there is a heavy responsibility on the Scottish Government, with the significant resources at its disposal, to take care over any prospective legislation and ensure it gets it right. It is disappointing to be in the position of having to use resources and scrutiny time to address this error and we urge the Scottish Government to ensure its pre-introduction processes are robust, so that similar errors are avoided in future.*

The Government acknowledges that the Bill has been brought forward to remedy an omission in the Scottish Elections (Representation and Reform) Act 2025. It agrees with the Committee that it is regrettable to be in the position of requiring primary legislation to correct an error, but notes that this was the only method identified which would allow the gap to be addressed.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

INVESTORS IN PEOPLE™ We invest in people Silver
disability confident LEADER

The Government has an extensive range of checks in finalising Bills and is committed to continuously improving their processes. As the Committee has recognised the issue here arises from a complex background of different provision having been made in the legislation for different purposes over time. While we seek to minimise errors like these as much as possible, regrettably they will arise from time to time. The Government will, however, do everything it can to ensure that the quality of the legislation put before the Parliament is as high as possible.

Report Paragraph 33: *As the Scottish Government has noted, the error was made against the backdrop of a messy and complex statute book, which made mistakes more likely. However, piecemeal reform from government has helped create this unnecessarily cluttered legislative landscape. The Scottish Government (where necessary working with the UK Government) should consider consolidating the relevant law into one clear statute, so that candidates, administrators and the public can understand it better.*

The Scottish Government agrees with the principle that electoral law should be consolidated where possible. While it acknowledges that consolidation on the scale recommended by the Committee would be beneficial, it would be a considerable task, which would require the ongoing co-operation of all Governments in the UK in order to be most effective.

The Committee might be interested to note that consolidation of electoral law has also been discussed at Westminster, during the passage of the Representation of the People Bill. On 14 September, Baroness Taylor of Stevenage gave a similar assessment of the challenges behind significant consolidation of electoral law, noting: *"A full-scale consolidation and simplification would need an in-depth review and modernisation alongside consolidation, which would be the job of more than one Parliament to achieve."*

The Scottish Government will consider opportunities to consolidate electoral law when next preparing electoral legislation.

Report Paragraph 34: *We accept that the Bill has been introduced to correct an error; to put Commonwealth and non-Commonwealth citizens with limited leave to remain on an equal footing as candidates in Scottish local elections, and that there is a logical case for doing so. However, upon reflection, we do not accept the premise that there should be a general right for non-UK citizens with limited leave to remain to be councillors or MSPs and are concerned that agreeing to this Bill may further entrench this policy. We therefore do not support the general principles of this Bill.*

The Scottish Government notes that in 2024 the Scottish Parliament voted unanimously to allow foreign nationals with limited leave to remain to have the right to stand for election and to hold office as local councillors and Members of the Scottish Parliament. The Government disagrees that this Bill further 'entrenches' that position. The Bill makes no provision in relation to MSPs or non-Commonweath nationals in council elections. Rather, its purpose is to ensure the law accurately reflects the stated intention of the Scottish Elections (Representation and Reform) Act 2025. The changes made by that Act enabled foreign nationals from any country with limited leave to stand as MSPs and non-Commonwealth foreign nationals with limited leave to stand as councillors. Since this Bill does not create, extend or protect those rights, and in fact makes no provision in relation to them, the Government does not agree that this Bill can be said to entrench those existing rights.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

INVESTORS IN PEOPLE™ We invest in people Silver
disability confident LEADER

The Government also notes the evidence the Committee heard from Professor Toby James during the Stage 1 evidence sessions, where he stated: *the inconsistency does represent an inequality, and not one that seems to have been intended."*

This is a Bill brought forward to an expedited timescale to correct a mistake.

Report Paragraph 80: *The Committee strongly supports the principle that our elected representatives should be diverse and, collectively, should look like the communities they represent.*

The Scottish Government welcomes and agrees with this statement from the Committee.

Report Paragraph 81: *Before the passage of legal reforms in 2025, Scotland already had relatively progressive rules on who could stand for election. The 2025 reform, which allowed non-UK nationals with limited leave to remain to stand as MSPs and councillors on a non-reciprocal basis appear to have run ahead of public opinion, made Scotland a relative outlier in this area, and were not clearly evidenced as needs-based. At a time when confidence in politicians and state institutions is fragile, especial care is required in relation to any electoral reforms that may risk undermining trust in the democratic process. The Committee therefore recommends that the Scottish Government reconsiders its position of allowing foreign nationals with limited leave to remain to stand for Scottish Parliament and local government elections.*

The Scottish Government agrees that it is important to maintain trust in democratic systems and processes. However, it would note that this Bill does not introduce a new policy position. Its purpose is to align the law with the stated intention of the Scottish Elections (Representation and Reform) Act 2025.

The Government would also note that in recent years, serious examples of actual and alleged interference in democratic processes have been reported elsewhere in the UK. To date, no concerns have been raised with the Scottish Government that foreign nationals with limited leave to remain having candidacy rights has resulted in any attempts to undermine our elections.

The Government also highlights that foreign nationals from five EU countries with which the UK Government has agreed voting and candidacy rights treaties are able to stand in local elections anywhere in the UK, even if they have limited leave to remain.

The Government will give consideration to the matters the Committee raised. As I indicated when giving evidence to the Committee, we are ready to engage on any work the Committee decides to take forward on this area.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

INVESTORS IN PEOPLE™ We invest in people Silver
disability confident LEADER

Report Paragraphs 82-83: *Our evidence-taking has also underlined the extent to which trust and confidence are key elements in the electoral process. In particular, the rules on eligibility to stand are largely self-policing, with no built-in process for checking whether nomination forms appear accurate. We are partly reassured to know there is cross-governmental and cross-agency working to monitor election interference. Robust election campaigning and media reporting also play a role ensuring candidates play by the rules. The process is nonetheless significantly dependent on candidates acting in good faith. We also live in a time of growing geopolitical tension with international actors increasingly having the tools and motivations to intervene in domestic public affairs.*

All of this underlines the need for future approaches to electoral law reform to be pragmatic, practical and hard-headed. We urge the Scottish Government to reconsider whether the current system for checking candidates' eligibility in Scottish Parliament and local government elections remains fit for purpose for current times.

The Scottish Government agrees that electoral law should be fit for purpose and support administrators in delivering elections effectively. It notes that Returning Officers are not required to police candidate eligibility and that no concerns around ineligible candidates have previously been raised. Any such change would be a significant departure from their current role. The Government agrees with the Committee that there is an important role for political parties, media, and the public in ensuring that candidates are scrutinised throughout election periods.

A Government consultation on electoral reform will be published later this year, and the Government is considering include questions relating to candidate eligibility.

Report Paragraph 84: *We also urge the Scottish Government to ensure more data is collected about candidates, including details of their nationality and visa status, in order to have a better understanding of the extent to which candidates are reflective of communities.*

Scottish Government has called on the UK Government to commence Section 106 of the Equality Act 2010, which would require political parties to publish candidate diversity information for Scottish Parliament elections. The Scottish Parliament is unable to legislate for the commencement of this provision. Previous surveys championed by the Scottish Government have had poor response rates which mean the data gathered is of limited use. The Scottish Government is currently reviewing its approach to further data collection.

Report Paragraph 87: *The Committee accepts that new costs created by this Bill are likely to be low or negligible and is broadly content with the Financial Memorandum. There has been a cost to the Parliament and Scottish Government, in terms of use of time and resources in introducing and considering this Bill.*

Scottish Government welcomes the acknowledgement of the low or negligible costs related to provisions the Bill, and acknowledges that there has been some cost to the Government and Parliament in conducting the necessary scrutiny of the Bill.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot

INVESTORS IN PEOPLE™ We invest in people Silver
disability confident LEADER

I look forward to discussing the general principles of the Scottish Local Government Elections (Candidacy Rights of Commonwealth Citizens) Bill during the Stage 1 debate later this week.



JAMIE HEPBURN

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot

INVESTORS IN PEOPLE™ We invest in people Silver
disability confident LEADER