



Martin Whitfield MSP
Convener
Standards, Procedures and Public
Appointments Committee
c/o Clerk to the Committee

Graham Simpson MSP

9 February 2025

Dear Convener

Thank you and all other members of the Committee again for your scrutiny of the Scottish Parliament (Recall and Removal of Members) Bill including the recent detailed Stage 2 proceedings. As discussed with you last week, I am keen to engage with members across Parliament as we approach Stage 3, including any member of the Committee who, given their insight on the Bill following Stage 1 and 2 scrutiny, wishes to feed into the final stage of policy development for Stage 3 amendments on the regional recall process. As you know I am also engaging with other members who are not in political parties represented on the Committee before Parliament as a whole considers the Bill for a final time.

I and my officials from NGBU have also been engaging with the Electoral Commission and the Electoral Management Board at key points throughout this process. This includes meeting them at the policy development stage prior to the Bill's introduction, seeking input on the methodology and figures of the Financial Memorandum, seeking further views following the introduction of the bill including a meeting with the Electoral Commission during Stage 1. I also shared a detailed policy note setting out how I envisaged my revised regional recall process working with those organisations in December last year. Officials have since held further meetings and engaged in further correspondence to tap into their expertise to inform amendments at Stage 2 and continue to do so in the lead up to Stage 3.

I have also been engaging with the Minister for Parliamentary Business and Veterans in relation to the points raised at Stage 2 by the Scottish Government and I understand he has written to you in response to my most recent correspondence. The policy on the regional recall process was set out

in many of my amendments, all but one of which the Committee supported and agreed to. Now, in light of the Minister's advice to the Committee not to approve amendment 65, and the Committee's support for this position, I am busy establishing additional details for a new amendment, over and above the information in amendment 65, that needs to be on the face of the Bill.

As I said during Stage 2 I want to give Parliament sufficient opportunity to scrutinise and consider whether to approve the policy on the face of the Bill whilst also ensuring regulation making powers provide sufficient flexibility and enable sufficient input from key stakeholders in developing the detail. In addition, detail being placed in regulations enables processes, which closely mirror election processes, to be updated as the specifics of electoral law develops and changes over time. I will endeavour to produce amendments that strike that balance and satisfy the Committee and other parliamentarians. I want to reassure the Committee that I am working at pace to do so.

The Minister refers in his correspondence to you to my private letter of 3 February. Given the Minister responds to the points in my letter, I thought it would be helpful to attach a summary of that letter as context. The letter essentially set out the importance of ensuring, should the Bill be supported by Parliament at Stage 3 on policy grounds, that the Bill does not fall based on the drafting of one amendment. My letter also invited the Government to consider drafting an amendment in place of my amendment 65 given the Government's concern on the balance of detail within amendment 65. This seemed to me to be the most efficient approach in the time available to ensure my policy detail was reflected in the amendment and on the basis that the Government has detailed policy instructions setting out the detail of my policy to base this work upon. In inviting the Minister to instruct the amendment, I wanted to ensure the Government was satisfied with the balance of detail.

Yours sincerely

Graham Simpson MSP

Summary of private letter date 3 February 2026 to the Minister for Parliamentary Business and Veterans

I provided the first draft of amendment 65 to the Scottish Government in a batch of draft amendments, through my officials, on 16 January. I very much appreciate the drafting support from the Scottish Government on other amendments which were shared with my officials and for the extensive engagement from Government officials in the lead up to Stage 2. And I appreciate that timescales were challenging to finalise the detail of every amendment.

During that process I sought Government perspective on the drafting. Specifically, a view was sought on the level of detail to be included on the face of the Bill, and on the policy approach being taken including in a draft version of amendment 65. Further detail was then added to amendment 65 based on this feedback.

I had therefore hoped, in the absence of any communication from the Minister to me to the contrary, that the Government deemed there was sufficient detail in all the amendments to inform the Parliament's deliberations, including in amendment 65.

Following this process, I welcomed the anticipated Government support for all of my other amendments on 29 January during Stage 2 proceedings of the SPPA Committee. However, I had not appreciated the Minister would speak against amendment 65 to the extent that the Minister would advise the Committee to vote against it.

The Minister maintained this position despite my suggestion that the current level of detail in amendment 65 could be passed at Stage 2 and then added to by further amendment at Stage 3. As I stated on the record, for example, I could have brought forward a further change to the text of amendment 65 at Stage 3 to provide clarity on the role of the returning officer in the process. This approach is common practice in the legislative process and as I suggested at Stage 2 would have been a helpful approach to inform other parliamentarians of the revised policy to inform Stage 3 scrutiny.

The Minister later suggested numerous times to the Committee that this Bill could certainly still fall at Stage 3 and made no mention of working constructively with me to ensure the revised amendment contained sufficient detail to enable Parliament to consider an amendment the Government was satisfied with in more detail at Stage 3.

The Minister also suggested to the Committee that the detail in amendment 65 is a matter for Parliament. But there are many elements of the Bill where the Government gave a clear position despite these also being 'matters for Parliament'. For example comments on the record in relation to Mark Griffin's amendments, Sue Webber's amendments, Alex Cole-Hamilton's amendment and Kevin Stewart's amendments confirmed the Government's clear positions on a variety of matters for Parliament. The Minister's comments during formal

proceedings also conveyed that the Government had provided assistance to Members on drafting amendments that are 'matters for Parliament'.

As I made clear in Committee, this Bill is a matter for both Parliament and Government. Indeed, the recall legislation in the UK Parliament and the Senedd have both been introduced by the respective Governments.

At the Committee meeting, I confirmed that while content that the way the regional recall process would operate was sufficiently clear in my amendment 65, that I would of course be amenable to adding further detail at Stage 3 if requested by any member of Parliament. No Committee members raised specific points on the amendment, or suggested any additional detail they would appreciate in the amendment, however they did follow the clear steer from the Government to vote against the amendment.

I would be very happy to lodge a revised amendment, for the Government to lodge it, or for any other MSP to lodge it, for the Parliament's consideration. Frankly, all I care about after over 4 years of work on this policy is making the recall of MSPs process into law and this requires Parliament to consider this new amendment at Stage 3.

If the Bill falls then an entirely new Bill would need to be consulted on and drafted next session and this would be a complete waste of taxpayer money and Parliamentary time when we are so close with this Bill. It would also delay the introduction of a process for the recall of MSPs by years.

With the deadline for lodging amendments for Stage 3 fast approaching on 16 February there could be insufficient time for the same drafting process for amendment 65 to be pursued as was taken at Stage 2. Namely for me to have an amendment drafted, then await the Minister's position on it, and then should the Minister have further concerns, for me to have the amendment redrafted to extremely tight timescales based on those concerns. This is not the best way to proceed to make good law.

The Minister is best placed since he has the concerns about the balance of detail in the original amendment, to redraft to his satisfaction. It would be a disservice to a policy that I believe the Parliament supports, if I lodged an amendment second guessing the exact level of detail required, then the Minister raises concerns with it in the Chamber at Stage 3 during the final hours of parliamentary scrutiny. As a result of the drafting of one amendment, the whole Bill could fall.

The Minister has stated recently to me when I have asked whether the Government will draft an amendment that the basis for being unable to do so is drafting capacity so close to the end of the session on the basis that drafting this amendment is a very substantial piece of work.

Taking each of these points in turn, given their expertise I am using drafters from Parliamentary Counsel, as are the Government on this Bill. So it is the same resource being called upon to draft an amendment whether instructed

by NGBU for me or by Government officials for the Minister. Indeed, if the Government does not draft the amendment, it may take more drafting and other resource to play ping pong with drafts until it is drafted to the Government's satisfaction.

On further drafting work, amendment 65 already makes clear that the eligibility to vote in a regional recall poll and the means by which you can vote is the same as in a Scottish Parliament election. I had understood these established procedures do not need to all be repeated on the face of the bill. The petition process is set out in detail as it is new and novel and needs to be established. Electoral law on eligibility to vote and voting processes does not.

Technical details from the Scottish Government on how to approach drafting this amendment, which the Minister is sighted on, suggest other elements such as voting offences should not be on the face of the Bill and so are not included in amendment 65. Other elements of the process that mirror the provisions for the petitions process for constituency MSPs were added to the Bill through other amendments. Timescales for the process and for the rearrangement of a poll in exceptional circumstances were also already covered in amendment 65.

The letter then sought agreement from the Minister to draft the amendment enabling the Government to include as much of my policy detail as the Government considers is necessary based on the lengthy policy instructions they hold that reflect my policy. This is to ensure there are no outstanding concerns on the drafting from the Government's perspective. This approach would presumably remove the Minister's concern that, should the Bill pass, the Government would be deliberating within the development of secondary legislation on matters for the Parliament.