



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Local Government and Communities Committee

**Wednesday 26 October 2016**

**Session 5**



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**LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE**  
**8<sup>th</sup> Meeting 2016, Session 5**

**CONVENER**

\*Bob Doris (Glasgow Maryhill and Springburn) (SNP)

**DEPUTY CONVENER**

\*Elaine Smith (Central Scotland) (Lab)

**COMMITTEE MEMBERS**

\*Kenneth Gibson (Cunninghame North) (SNP)

\*Ruth Maguire (Cunninghame South) (SNP)

\*Graham Simpson (Central Scotland) (Con)

\*Alexander Stewart (Mid Scotland and Fife) (Con)

\*Andy Wightman (Lothian) (Green)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Roddy Angus (Scottish Government)

Joe FitzPatrick (Minister for Parliamentary Business)

Katie Gallogly-Swan (Electoral Reform Society)

Councillor David O'Neill (Convention of Scottish Local Authorities)

Brian Peddie (Scottish Government)

Charles Reppke (Argyll and Bute Council)

Paul Vaughan (Fife Council)

**CLERK TO THE COMMITTEE**

Clare Hawthorne

**LOCATION**

The Mary Fairfax Somerville Room (CR2)



## Scottish Parliament

### Local Government and Communities Committee

Wednesday 26 October 2016

*[The Convener opened the meeting at 09:31]*

### Decision on Taking Business in Private

**The Convener (Bob Doris):** Good morning and welcome to the eighth meeting in 2016 of the Local Government and Communities Committee in session 5. I remind everyone present to turn off their mobile phones. As meeting papers are provided in digital format, tablet devices may be used by members during the meeting—that is really a polite way of saying that if you see us using our phones and iPads, it is because we are looking at briefing papers for the committee.

No apologies have been received—we have a full house again this week, which is good.

Agenda item 1 is a decision on taking business in private. The committee is asked to consider whether to take in private item 9, on consideration of its draft report on the Council Tax (Substitution of Proportion) (Scotland) Order 2016. Do members agree to do so?

**Members indicated agreement.**

## Local Government Boundary Commission for Scotland's Fifth Electoral Reviews

09:32

**The Convener:** Under item 2, the committee will take evidence on the Local Government Boundary Commission for Scotland's fifth electoral reviews and the Scottish Government's subsequent response. We will hear from a panel of witnesses, followed by the Minister for Parliamentary Business. This session follows on from the previous meeting, when we heard from the Local Government Boundary Commission for Scotland on its review.

I welcome the members of our panel of witnesses, who are Charles Reppke, head of governance and law at Argyll and Bute Council; Paul Vaughan, head of community and corporate development at Fife Council; Katie Gallogly-Swan, campaigns organiser for the Electoral Reform Society; and Councillor David O'Neill, the president of the Convention of Scottish Local Authorities.

I believe that a couple of the witnesses have brief opening statements to make before we begin our questions. Katie—would you like to go first?

**Katie Gallogly-Swan (Electoral Reform Society):** No problem. Thank you very much for having me.

There are three specific issues that we want to point out about the Scottish Government's response to the fifth electoral reviews. First, though, it is important for us to lay out the context for our comments. There exists a democratic deficit at local level in Scotland; to comment on moving boundaries is just scratching the surface of the reforms that are necessary in local government.

That tinkering with the reforms was revealed in some tensions that we felt were present in the commission's recommendations. The commission was necessarily constrained by outdated legislation in the form of the Local Government (Scotland) Act 1973. For example, there is a focus on decreasing representation in rural areas and outlining comparisons of representativeness between rural areas and urban areas. In our opinion, decreasing representation in rural areas goes against most evidence about the reforms that we need in Scotland's local democracy.

We would also like to point out a specific problem with electoral parity. Despite being the Electoral Reform Society, we think that making electoral parity a priority is outdated. Parliament wants communities to be run by communities, but

the prioritisation of electoral parity is in direct tension with that philosophy. We want more emphasis to be placed on recognising communities as units of decision making.

Lastly, we would like to raise a specific concern about the process. This point has been made previously at the committee, but it is important for it to be recognised again, that although we sympathise with the decision that politicians made in rejecting certain recommendations from the Local Government Boundary Commission for Scotland, it was an independent commission's recommendations that were rejected. The reasons for that might point to necessary reforms and the systemic problems that Scotland's local democracy faces.

**Councillor David O'Neill (Convention of Scottish Local Authorities):** Here in Scotland, we are out of step internationally on local representation and local democracy. It is important to remind the committee that COSLA's ambitions go well beyond the current work of the boundary commission. We have a much broader vision for creating a stronger local democracy in Scotland that is more local, more empowered, more representative and more—this is a hard word to say—participative. Representation and participation are two sides of the same coin.

The independent commission on strengthening local democracy in Scotland found that, for its size, Scotland is almost unique in having a low number of local authorities that cover very large populations and geographic areas. The ratio of citizens to local elected members is approximately 4,500:1 in Scotland, whereas in England it is 3,000:1, in Germany it is 400:1 and in Sweden it is 150:1. On average, European local authorities cover 20,000 people; in Scotland, the average is 165,000 people. Denmark, which has the same population as Scotland, has 98 municipalities in five regions. The Highland Council area is the same size as Belgium, but Belgium has more than 500 councils at the level closest to the community.

Therefore, local democracy is not particularly healthy here in Scotland. We pride ourselves on being democratic, but if democracy is reduced to people putting a cross or a number on a ballot paper once every 12 months—elections are more or less an annual event now—we are not doing it very well. If we want to be serious about participative democracy, we need to do it in a different way. Our ambitions go way beyond the work of the boundary commission.

**The Convener:** Thank you very much. We now move to questions, in which we will pick up on many of the points that were made in those introductory statements. Ruth Maguire will ask the first question.

**Ruth Maguire (Cunninghame South) (SNP):** Good morning. I asked the panel at our most recent meeting about the 10 per cent cap on the change in councillor numbers in any council area. The answer that was given was that the purpose of the cap was to minimise disruption to the electorate, although there was also much talk of getting us to whole numbers. I would be interested to hear the panel's reflections on that restriction on changes. Mention has already been made of the fact that reducing councillor numbers is problematic rather than helpful.

**The Convener:** Does anyone want to come in on the methodology and the issue of the 10 per cent cap being artificial?

**Councillor O'Neill:** It is certainly artificial to say that we cannot move more than 10 per cent in either direction. That means ignoring good solid evidence that would lead us to move significantly in another direction. I will use as an example a local authority that I know particularly well—my local authority, North Ayrshire Council, which currently has 30 elected members. Its population would justify it having 36 elected members, but because of the constraints that the boundary commission has imposed, it will not move more than 10 per cent in either direction.

In common with many local authorities, North Ayrshire Council is working very hard on locality planning and aligning how we do locality planning with how other public agencies do it. The irony is that the only part of the public sector that will not be aligned with locality planning is the part of it that elected members occupy, because of the artificial constraints that the boundary commission has imposed.

**The Convener:** I do not think that anyone else wants to come in on that point. The other witnesses are desperately trying not to make eye contact with me. Ruth, do you want to come back in?

**Ruth Maguire:** No—maybe later.

**The Convener:** This might be an opportunity for Councillor O'Neill or another witness to say a bit more. I used the word "artificial" to illustrate Ruth Maguire's point about the 10 per cent cap on the change in councillor numbers. Does anyone want to put on the record anything else in the methodology that they feel was a bit too rigid or artificial?

**Charles Reppke (Argyll and Bute Council):** Yes. Argyll and Bute Council believes that our islands' unique geography and the sparsity of our population should have allowed us to retain our councillor numbers, which was eventually the decision of Scottish ministers. We made a number of arguments in written submissions, which the committee has, about why that was important, one

of which was that a number of our councillors have to travel by ferry or even plane to get from one side of their ward to the other. We felt that the boundary commission needed to provide sufficient flexibility to reflect that situation. We made a submission around that in terms of departing from the parity criterion. However, because of the pre-eminence of the concept of parity in the boundary commission's considerations, we were not successful in our argument until the Scottish ministers' decision.

We certainly feel that there should be more flexibility to recognise unique geographical situations, particularly with regard to island communities. The island councils have that benefit, but Argyll and Bute Council did not get that benefit for its islands, if you like.

**The Convener:** Thank you. I will take Mr Vaughan first, then Councillor O'Neill.

**Paul Vaughan (Fife Council):** Fife Council's submissions made three points about the boundary commission's methodology. One was about the use of the Scottish index of multiple deprivation as a proxy for councillors' workload, which I know the committee has looked at. The second point was that looking at the 3,000 population figure from the viewpoint of an urban-rural split seemed somewhat arbitrary, given the different sizes of local authorities. The third point was about the impact that the methodology has on mixed urban-rural authorities such as Fife Council, which has a wide variation in terms of having very small villages and fairly sizeable towns. The way in which the boundaries were constructed did not recognise that mixed geography. As Katie Gallogly-Swan said earlier, the current methodology has difficulty in recognising urban-rural splits.

**The Convener:** That is helpful. Members will want to come back in later with questions to explore the issues of island communities and deprivation factors, but I will let in Councillor O'Neill just now.

**Councillor O'Neill:** Again, I will use my personal experience. Ruth Maguire will understand what I am about to say as she used to represent the same ward as me. I can stand in the centre of my ward and walk 15 minutes in any direction and I will get to the ward boundary. There are other local representatives the length and breadth of Scotland who could not drive for 15 minutes and get from the centre of their ward to its boundary. We have already heard about local representatives' experiences of having to use ferries and so on to get from one area of a ward to another. Why do we insist on having a one-size-fits-all system? We can have either three-member wards or four-member wards anywhere in Scotland.

I understand that the consultation on the proposed islands bill is looking at having lower numbers of councillors per ward in the islands of the Western Isles, Orkney and Shetland. In my council area, half the landmass of North Ayrshire is the island of Arran. The mainland has a population of 135,000 but Arran has a population of 5,000. Why can we not have a single-member ward for the island of Arran? The legislation does not allow it. Why do we have a one-size-fits-all system? Rurality is important.

**Katie Gallogly-Swan:** Again, I want to highlight the Electoral Reform Society's view on electoral parity. We understand that the legislation prioritises electoral parity but we think that that is outdated. If we want communities to be run by communities, we need to have a way of emphasising the importance of communities as units of decision making.

There is a spectrum that goes from electoral boundaries being mathematically and technocratically decided via electoral parity at one end to communities being on par with one another at the other end. Somewhere in the middle, because of Scotland's diversity—as has been outlined by the other witnesses—we need to find something that works for Scotland. That is not a one-size-fits-all model, but a model that works for our diverse and different communities. The Borders is not Glasgow, and Glasgow is not Lewis.

09:45

**The Convener:** That it is helpful. It means that I am now not going to ask my supplementary question, so we will move on to Mr Gibson.

**Kenneth Gibson (Cunninghame North) (SNP):** The Isle of Arran is in my constituency and I have asked questions about the single member for Arran.

To be frank, we should go back to first-past-the-post for local authority elections. I say that as the person who, some 20 years ago, originally moved that the single transferable vote should be our party's policy. However, 10 years' experience tells me that that was not the right thing to do.

The executive summary of Argyll and Bute's written submission—in annex B of our papers—says that there is a risk associated with the

"impact of new ward arrangements in attracting a diverse range of councillors."

That is an issue for all Scotland, given the low remuneration relative to the burden that councillors have, but what issues has it created in Argyll and Bute with regard to the ability to attract people? I am talking about attracting not just pensioners to stand, but folk of working age who

might have a strong contribution to make but for economic, family and other reasons are unable to do so, given the present structures.

**Charles Reppke:** Various committees meet in regional centres, but most of our meetings are held at Kilmory. For somebody who lives on the island of Islay that can mean an overnight stay just to attend a two-hour meeting. The public transport links are very poor so, if a person does not drive, it can be difficult for them to get to meetings. I know some councillors who have to find another councillor who can give them a lift in order to get to a meeting, even if that is just to travel 20 miles, because the infrastructure links do not fit in with the timetable for meetings.

People who live in Argyll and Bute are familiar with the council—it is the biggest employer in the area after the Ministry of Defence—so they know how it works and they are aware of how it does its business, which includes holding meetings at Lochgilphead during the day. All those things must present barriers to people who have childcare or transport and mobility issues. I do not have any empirical evidence for that, to be honest, but it is the view of councillors who have difficulty travelling at the moment. That has not stopped them from standing, but it creates barriers for them, and sometimes we have to find special arrangements to get them home at night if a meeting runs on.

Those are some of the challenges that face the existing cohort of councillors. We have recognised that in our induction materials for next year's elections, as we want to encourage a more diverse group of people to come forward. The council is reflecting on its political management arrangements and is considering what changes it might make to make them more user-friendly. That work is on-going.

**Kenneth Gibson:** How concerned are you about the issue of parity? The Electoral Reform Society says in its submission that Orkney has only 813 electors, on average, per ward. You are expected to have significantly more electors per ward than that in Argyll and Bute, which must make things really difficult given the geographical size of some of the wards.

**Charles Reppke:** Yes, some of the wards are very large. As I have said, some councillors regularly take planes to travel from Oban to Tiree or Coll to do surgeries. Many councillors use ferries to get from their home to council meetings or to visit constituents. A big issue is the fact that the workload is spread out. Although new technology helps people, a large population group still wants to meet councillors face-to-face and to deal with them on the doorstep.

Our councillors are very visible in our communities. If you are in a local supermarket or hotel, everybody there knows who their councillor is. The councillors are never off duty. That is what they tell me, and that is my experience; I have seen that myself. They are constantly at work because they are never far away from their communities. Even though the community may be spread out, many of our councillors serve for a long time and they are very well known across the large constituencies.

**Kenneth Gibson:** I know how that feels.

I have one further question on parity. I can understand the frustration, and David O'Neill, too, has talked about the Arran situation. However, on the other side of the coin, if you did not have parity, you could have one ward with, say, 3,000 electors, and another three wards with 1,000 each. When it came to the make-up of the council, the votes in the wards with only 1,000 electors would, in effect, be three times more valuable, which could change the proportions of the council and therefore influence where it devoted its resources and so on. Arran, for example, has only 3 per cent of North Ayrshire's population, but it makes up half the area's landmass. I am sure that it would like to have one multimember ward, but if it had, it could make up 10 per cent of the council despite having only 3 per cent of the population and therefore have more influence in other areas. How do you square that circle?

**Charles Reppke:** It is very difficult—

**Kenneth Gibson:** That is why parity is an issue.

**Charles Reppke:** Indeed. I am a lawyer by profession, so I understand the legislative background. I have worked as an electoral administrator—a senior depute returning officer—for the past 20 years or so, so I recognise that issue.

In some respects, I have sympathy with the view that parity is an important consideration, but I am also aware that, politically, the council view was that parity did not achieve what we wanted, and we looked to depart from it for special reasons. However, my personal view is that, because of the reasons that I have outlined, we have to take some account of parity. I know that some witnesses have a different view, which I understand, but with my background as an electoral administrator, I feel more comfortable recognising the benefits of parity, even though we in Argyll and Bute Council thought that we had made a significant argument for departing from it.

As members can see, I want to have my cake and eat it.

**The Convener:** I think that all of us, including all 32 local authorities, want to do that. However,



Councillor O'Neill takes a broader view with COSLA.

**Councillor O'Neill:** My colleague is a lawyer by profession, whereas I am a blether by profession.

Parity is important because we need to concentrate on representative democracy, but we also need to concentrate on the other side of the coin—in other words, participative democracy. They are equally important. That means that we should place more emphasis on participation and getting people involved in budgetary and decision-making processes. They should be involved with the community that is important to them, not some artificial community that has been drawn up by someone sitting in an office in Edinburgh or Glasgow or, indeed, in the council headquarters.

I will again use the example of North Ayrshire, with its population of 138,000. No one—not a single person—says that they live in North Ayrshire. They say that they live in Irvine, Brodick or Saltcoats. Those places, not the artificial boundaries that we have, mean something to them.

**The Convener:** Okay. Thank you.

The theme of the discussion has been very much how the methodology takes or does not take into account rurality or island communities with regard to participative democracy. I am keen to mop up some supplementary questions on that, if there are any, before we move to wider questions.

**Alexander Stewart (Mid Scotland and Fife) (Con):** What are the panellists' views on the checks and balances that the Local Government Boundary Commission for Scotland has put in place in looking at the whole urban and rural issue? Turnout, we find, is an issue at every local government election, which must have something to do with the size of boundaries and locations of wards. There is not the same engagement between the public and the candidates in elections. What do the panellists think about that? As a serving councillor for the past 17 or 18 years, I think that the links are getting worse and becoming more unapparent.

**Councillor O'Neill:** There are many reasons for that, such as the size of wards and the ability of local members to influence what happens. There has been a council tax freeze for nine years; that is now being replaced with a cap. I cannot go to my electorate and ask whether they want me to spend more money on certain projects because central Government—the Scottish Government—does not allow that level of flexibility. As a result, people come to the conclusion that there is not really much point in going out and voting for the council as they cannot really influence what happens. We need to get local democracy back into the heart of our communities and get

participation and real decision making back to the local level.

**Katie Gallogly-Swan:** I echo what David O'Neill has said. The things that Alexander Stewart has mentioned definitely impact on voter turnout but, as David O'Neill has pointed out, there is a plethora of other things. I agree completely with his points on participation, but there is also the issue of giving real power to local communities to make decisions and to do things in and for their communities. That would encourage more people to engage with local democracy. At present, there is a great lack of that.

**The Convener:** Now might be a good opportunity to put it on the record on behalf of the committee that, next week, we will have a round-table discussion on how to increase participation and voter turnout in local government elections. The committee is conscious of that issue and we are keen to play our part in helping to improve the situation. I am sure that anyone who follows the committee will want to see that evidence session next week. Time is short, but even at this late stage, people can drop us an email, and we can raise and discuss any questions that they might ask at next week's meeting.

Members have a couple of supplementary questions on the issue.

**Elaine Smith (Central Scotland) (Lab):** I thank the witnesses for coming. From listening to the evidence, I think that we are going a bit beyond the boundaries of a boundary review. Kenneth Gibson talked about the changes to local government elections; I was one of the few members of the Parliament who voted at the time to retain first past the post, which I did on the grounds of local democracy and accountability in smaller areas. Should we carry out post-legislative scrutiny of the legislation that changed the system of local government representation? Should we take a bigger look at the issue instead of just looking at the Local Government Boundary Commission for Scotland's recommendations, as we are doing today?

**Katie Gallogly-Swan:** The argument against single transferable vote blames that system for wider problems with local democracy that have nothing to do with the voting system. We have issues of voter turnout and representativeness. As David O'Neill has outlined, international comparisons show that we are very underrepresented at local level. The issue is not necessarily with STV or the voting system—wider reforms need to happen.

I completely agree that the boundaries of this discussion on the boundary commission are becoming more expansive, but that is because the situation with local democracy is serious and,

unless we take the opportunity to have that discussion in any conversation that we have about changes to boundaries, the issue will not be fully fleshed out. We need a big vision for how to improve participation and local democracy. If we cannot bring up those issues in this arena, where else can we do that?

**Councillor O'Neill:** I will pose a question: why do we have a one-size-fits-all approach to diverse communities across Scotland? Why do we have to have STV multimember wards everywhere? Multimember wards might work well in the City of Edinburgh, for example, but not in Argyll and Bute or Highland. Why do we need just one system?

**The Convener:** Does that refer back to the earlier point about things being, as I called it, artificial? Is it artificial that there must be three or four-member wards? I would keep multimember wards and the single transferable vote but, as you have said, there could be a two-member ward or we could use STV for the election of a single person. It goes back to the issue of flexibility of approach in relation to the size of wards and the number of elected representatives per ward.

**Councillor O'Neill:** We could use a plethora of systems if that suited local areas. We could amend the single transferable vote to have single-member wards, with the member still being elected with 50 per cent plus one of the votes cast. There is a variety of approaches, but my basic point is: why do we have to do it the same way everywhere?

**The Convener:** If no one wants to add anything to that, we will move on to Andy Wightman.

10:00

**Andy Wightman (Lothian) (Green):** Thank you for coming along today. We are looking at the Local Government Boundary Commission for Scotland, and it has been interesting to explore the tension between having a system that is relatively objective and which minimises the extent of political interference in the setting of boundaries, councillor numbers and all the rest of it—although that comes with dangers—and allowing the system the flexibility to recognise that Glasgow is very different from Argyll and Bute. It is clear from your evidence that the conversation will continue. It is also clear from what you have said that looking at boundaries, councillor numbers, parity and all the rest of it is just one part of a bigger discussion about electoral systems, councillor remuneration and so on, and that is in itself part of a bigger conversation about the future of local democracy, which you have talked about.

The evidence that we have heard suggests that changes are required in how we arrive at boundaries and councillor numbers—in terms of

the timing of reviews, the criteria that are to be used, the flexibility that is required and so on, which we will consider and report on in due course—but is it time for the Parliament to undertake a more fundamental reform of the whole system of local democracy? As you point out, some of those things are intimately linked with other aspects of our local democracy that we cannot consider in isolation within a review of how the commission discharges its functions.

**Councillor O'Neill:** I have been discussing with the Scottish Government the legislation that is currently being drafted—the islands bill, for example—and, at the COSLA conference, I asked Derek Mackay whether the Government or, indeed, any of the political parties would promote a bill that would permit local communities, local authorities and public agencies to work in ways that are different from how we currently work.

I will pluck an example out of the air. The three island councils have, at various times over the years, talked about having a single public agency for the islands. In Orkney, for example, would it not make sense for the local authority, the health board and the local enterprise company to work as one? It might be possible to do something like that in the islands, and you might want the city regions to work more closely with public agencies. However, the legislative process for making that type of change now would be tortuous. Let us have a bill that gives permission for that change to happen where there is a local desire and a local request for it to happen.

**The Convener:** Does anyone else want to come in on that? Do you want to add anything, Mr Wightman?

**Andy Wightman:** No. I was just reflecting on the evidence that we have heard this morning in order to get at this early stage some idea of COSLA's level of ambition for the Parliament in the wider arena. We could go through the next five years pursuing inquiries into the commission, councillor remuneration and various other modest things, but there is an opportunity to do something rather more fundamental.

**The Convener:** I want to point out to anyone watching that this evidence session is on local government and the Local Government Boundary Commission for Scotland—its process and methodology and how that fits into local democracy. However, Mr Wightman has made a general appeal, and if you would like to contact us about what you would like the committee to look at, please do that. We are always willing to listen to ideas; indeed, we have already met some of you to discuss how that could happen.

I will reframe Andy Wightman's question. The Government is looking to reform community

planning partnerships and extend participatory budgeting; it has a community empowerment agenda; and we are looking for a better process for agreeing local authority boundaries. At some point during this Parliament, there is going to be an elections bill, which we will ask the minister about when he appears before us later. I do not know what is going to be in it, but it is a theme to hook something on to. It might not achieve all your ambitions, Councillor O'Neill, but it might tweak the process to better represent communities both in terms of parity, where that is achievable, and in terms of identifying communities and getting them more involved. If anyone would like to comment on how local authority boundaries could hook into some of that, that might be appropriate. We could then take the issue up with the minister.

I thought that it was important to put that on the record. Does anyone want to add to that or make a comment?

**Paul Vaughan:** The crucial part for us is, as we have highlighted in our submission, how that relates to local community planning. Fife Council was set up with seven area committees, which were amalgamated from multimember wards. It is critical that any changes that are made allow us to continue—as far as we can, given the electoral structure—our partnership working with local communities, which has been going on for a number of years now. Moving forward, I think that it is crucial to join up community empowerment with community participation alongside the representative democracy element. We feel that we can make a clear difference—and we are making a difference—to local communities through the local community planning approach.

**The Convener:** Although Fife Council is clearly disappointed with the outcome, are you keen to be constructive through working in partnership with local government to improve the situation in future?

**Paul Vaughan:** Yes, I think so. We will still find examples of different parts of government not speaking the same language on community empowerment and community participation, which covers all the different public services that are delivered in a local area. It is important for local people to tell us that they want to engage with us in a way that enables them to make changes and which allows for variation in what is going on in local communities to better suit the context. We do a lot of work on trying to maintain those arrangements, over and above anything to do with representative democracy.

**The Convener:** Mr Simpson, do you want to come in on that point?

**Graham Simpson (Central Scotland) (Con):** I want to explore a couple of areas, starting with the

use of deprivation as a factor in determining councillor numbers, on which there might be some questions. That change in methodology seems to have come out of left field for a number of councils, and we heard complaints from East Renfrewshire Council and East Lothian Council that it came rather late in the day. What are your views on the lateness and on the use of deprivation as a factor?

**The Convener:** Are there any takers?

**Councillor O'Neill:** I know that Ronnie Hinds is sitting behind me—I bet that he wishes that he had never heard the word “deprivation”. The change came late. Like all politicians, I have gut feelings about things and I then look for evidence to prove or disprove whatever it is. There was no evidence for deprivation to be included as a factor: there was no work done and no study was carried out on whether the issues were all about deprivation.

Artificial barriers have been put in place, some of which we discussed earlier. It is important to say that local government as a whole objects to the proposals not because it does not like them per se, but because the methodology that was used was not right. If we are going to include different factors, there must be an understanding of how those factors are decided on, and that did not happen in this instance.

To be fair to the boundary commission, I think that it now understands that, and it has indicated that it would like to engage earlier next time round.

**The Convener:** Does anyone want to add anything to that?

**Paul Vaughan:** I broadly agree. We did not really understand the relevance of the deprivation figure to councillor workload as it was portrayed. We presented evidence that showed that it was somewhat arbitrary, especially the use of the 15 per cent figure, which did not help.

One final point is that the SIMD is a geographical representation of deprivation and does not get down to the level of people. A lot of work must be done to get to the point at which one understands the deprivation that individuals and families are encountering rather than simply looking at the geographies.

Some of the work that we have done since the latest release of the SIMD again indicates that the SIMD is not a great proxy for that. We were told that a study was being undertaken of council workload to see what evidence could be found but we have still not seen the final report; it would be useful to see it.

**The Convener:** Do the witnesses agree that deprivation should be a factor—or a key factor? I will make a slightly tangential point, but I will bring it back to the deprivation factor. MSPs can get

employees who have worked for other MSPs in different parts of the country. When someone comes to work for you, they get a very good take on the type of casework that you get and how busy your office is, based on the type of area that you represent. My constituency of Glasgow Maryhill and Springburn has significant deprivation. I have had individuals tell me that they did not realise the significant amount of casework that there would be compared with other parts of the country.

Rural deprivation also has to be identified within the formulas. Would anyone argue that deprivation should not be a factor?

**Councillor O'Neill:** We should do a study to see whether deprivation is a factor and to see what other factors there are. For example, what factors prevent people from being local elected representatives? We touched on some of those factors earlier. What prevents women from wanting to be local elected representatives? Twenty-five per cent of councillors in Scotland are female. We are very lucky if we get young people as councillors. Local government is more and more dominated by white, middle-aged men—me, for example.

**The Convener:** Not just you.

**Councillor O'Neill:** If only that was so, it would be nice.

There are a lot of things that we should be looking at.

**Charles Reppke:** In Argyll and Bute, we have small pockets of deprivation within the larger datasets that cannot easily be seen. That deprivation would be masked in some of the work that is done. Our councillors are familiar with the areas, which can be very small indeed; nevertheless, they are important.

My impression is that a councillor's workload is not just directed by deprivation. A lot of work will be around planning and similar matters, which are becoming more and more contentious. The study that has been suggested is the way forward. We need to factor in rurality when the datasets are at such a level and work out how to drill down to pick out those pockets of deprivation within larger areas, which do not present in that way in the stats.

**The Convener:** That is helpful. It is not about rejecting deprivation as a factor, but about getting a better and clearer evidence-based understanding of the demands that it places on elected representatives and feeding that in to the methodology.

We have spoken a lot today about the methodology. There is also the process. I am conscious that we have Mr Reppke in front of us.

Eventually, at the end of the process, within the structures that we have, you got satisfaction—if that is the correct word to use—in terms of the outcome but Mr Vaughan and Fife Council did not get satisfaction.

If there was not a check and balance in the system, neither of you would have had satisfaction in relation to the boundary commission proposals. I am keen to find out whether you believe that there should be a check and balance in the system. That statutory check and balance sits at ministerial level at the moment. What should it look like if it was not sitting at ministerial level? Should it move away from politicians or should Parliament be given a greater scrutiny role?

The committee is wrestling with some of those things within the process as well, so any comments that you would like to make would be helpful.

**Charles Reppke:** From Argyll and Bute Council's point of view, the Scottish ministers' involvement was important because it got us satisfaction, as you have outlined. It was important that the campaign that was mounted was a cross-party campaign and that it was community driven. None of our communities was in favour of the proposals that were coming forward. I think that that gave the Scottish ministers some comfort that the decision that was being asked for was not about benefiting one party; it was a genuine response from communities resulting from their concern that the new structures would break up and divide communities that had a particular focus that had been developed.

I believe that there should be a check and balance. We felt that it was important to present a cross-party approach because that takes the politics out of the matter and leaves it at the level of saying what the community is looking for—that is, the status quo.

10:15

**The Convener:** It is worth pointing out that I did not ask the question to find out whether Argyll and Bute Council has a stronger or a weaker argument than Fife Council.

**Charles Reppke:** No, indeed.

**The Convener:** My question was about the process and whether there should be a check and balance in the system. If there is a check and balance, you will not always be satisfied with the outcome, and it is clear that Mr Vaughan in Fife was not satisfied. I appreciate that he will now want to say a little about the Fife situation, given Mr Reppke's comments, but the question is more about whether there should be a check and balance in the system, and where that should sit.

**Paul Vaughan:** It needs to be clear who is taking the final decision about the boundaries. We would have preferred no change, if not the changes in population leading to more councillors, but we felt that the process this time was significantly improved from what happened previously. There was certainly more transparency in our discussions with the commission and its officials, given their approach.

The engagement that we had with them when we realised that we were not necessarily going to maintain the councillor numbers in relation to the geographies was quite a good process, but that was also down to the fact that we, as a council, spent an awful lot of time working with councillors and getting their views on what the changes should be. When we were looking at the initial boundaries that were presented to us, we got a fairly clear set of guidance from our councillors on trying to maintain local community planning and our local area committee approach. The changes that we finally fed back were the ones that were produced under public consultation. As I said, however, we would have preferred it if we had not had to go through the changes at all.

**Katie Gallogly-Swan:** Put simply, our answer to the question is yes. We believe that there should be a check and balance. Although, in this instance, we sympathise with the reasons why five of the 30 recommendations were rejected, we still think that that should trigger a concern. We should consider why the recommendations were rejected in this case. From our perspective, it was because the 1973 act and the guidelines do not work. One size does not fit all, but undertaking the same process for 32 local authorities, which are not in fact local, is more important than considering the check and balance of the process.

**The Convener:** Okay, but is it not reasonable to contend that there is no point in having checks and balances in the system if they are never exercised? The statutory powers have not previously been exercised, but they have been exercised in this case, which has heightened public attention. When we had the Local Government Boundary Commission for Scotland in front of us, I asked whether it thought that it got things right all the time and that there should not be a review process, and the reply was, "That's for others to decide." I do not think that any politician round the table would say that they always get things right, and the check and balance that we have is an election every five years.

What is on the table is the current statutory process. Do you agree that it should be exercised if the minister feels that that is appropriate? You contend that the statutory process should change. If it should change, what should that look like?

**Katie Gallogly-Swan:** In this instance, if the ministers had not rejected the recommendation, we would be losing 10 councillors in the islands. As an outcome, that would be much worse than our asking why we have got to a juncture where the recommendation is being rejected. The check and balance should be respected but, in this instance, although we agree with the ministers, a problem is posed for the independence of a commission and the confidence in the system.

**The Convener:** Mr Gibson wants to contribute, but Councillor O'Neill has to be given the opportunity to speak again and I am still following a particular line of questioning.

Katie Gallogly-Swan said that there should be a check and balance in the system and that it should be exercised, but she also said that there was concern because it had been exercised. There seems to be a conflict in that. Perhaps the committee, in partnership with the Government and others, will have to explore that.

**Katie Gallogly-Swan:** To clarify, perhaps the tension comes from the fact that, in this instance, we agreed with the ministers that the recommendation should be rejected. However, that raises a concern about the robustness of the check and balance. In this instance, that should trigger questioning about why the rejection happened. It happened because the rules and regulations, and the methodologies used, did not work for all the communities in Scotland. We should be looking at why they did not work.

**The Convener:** That is helpful. I failed to understand your previous answer, so I thank you for clarifying it.

**Councillor O'Neill:** Not liking the outcome is not the same thing as questioning the methodology. We can be unhappy about what was decided and we can be unhappy about how it was decided. Should there be checks and balances? Absolutely. My view is that the boundary commission being more independent would be better than politicians, whether they are local or national, making decisions. We can argue that the input from the minister was helpful in some instances but not in others. However, there is a particular public perception whenever politicians take on the role of deciding what happens to politicians. My personal view is that that is a bit iffy.

**The Convener:** How would you improve the process?

**Councillor O'Neill:** Much more discussion is needed about how the methodology is worked out. Again, I would prefer the boundary commission to be more independent and less subject to directions from ministers—that is a personal point of view.

**The Convener:** But there should still be checks and balances.

**Councillor O'Neill:** Yes.

**The Convener:** We would have to explore further what that would look like.

We have supplementary questions from Mr Wightman and Mr Gibson.

**Andy Wightman:** I want to get to the substance of the matter. There is a difference between having checks and balances and having a final decision maker. The minister exercises the role of final decision maker on whether to accept recommendations. That role can provide checks and balances but it can potentially do other things. Do you think that the system needs to be reformed? That is a simple question.

One type of reform might follow from David O'Neill's argument that the process is objective and independent but the criteria that are used to arrive at boundaries, councillor numbers and all the rest of it can be more geographically sensitive. That would mean that the same criteria would not have to be used in different parts of Scotland and, further, that councils would have an independent role in adjudicating on the criteria so that they could be satisfied that the process would deliver for them. In that sense, councils would not have the power to make final decisions but would have to be satisfied and buy into the process at the beginning. Even if the council was unhappy about the outcome, it would realise that the process had worked well for it, whether it was Argyll and Bute Council, Aberdeenshire Council or whatever.

My first question, then, is does the system need to be changed? Secondly, is what I outlined one way in which it might be improved?

**The Convener:** Because of time constraints, you can probably have only one cut at that. If you want to answer both those questions, now is the time to do it. Are local politicians better at interfering with an independent process than national politicians?

**Councillor O'Neill:** The short answer to Andy Wightman's question is yes. I would be hard pressed to find anything to disagree with in Andy's summing up of the position.

**Katie Gallogly-Swan:** The boundary commission is independent and we should respect its objectivity, but that does not mean that there should not be checks and balances. Whether we want to leave that in the hands of politicians has to be discussed.

**The Convener:** Absolutely.

**Paul Vaughan:** All systems can be improved. There is no way that we could not come up with a better system. It is crucial that there is much more

transparency on the methodology and the criteria that are used if people are to have confidence in the approach.

**Charles Reppke:** If it is not a one-size-fits-all system, it will be a difficult task to work out what the new arrangement would look like. If we have criteria that will suit the geography of Argyll and Bute, I am not sure how we will match those up with other areas. How we come up with a solution that fits the whole of Scotland is a difficult question. The devil would be in the detail of what was proposed to address our concerns about geography and what impact that had on electoral participation; it would depend on whether people saw that as a plus or a minus.

**The Convener:** I apologise, Mr Wightman—time constraints mean that I cannot let you back in. Two other MSPs wish to comment in relation to this line of questioning.

**Kenneth Gibson:** Mr Reppke, in paragraph 3.8 of your submission, you say:

"Throughout the consultation phases the Council was consistently clear in its objection and opposition to the changes proposed by the LGBC."

However, the boundary commission did not seem to listen. It is an independent body, but what do we do if that independent body simply does not listen when there is cross-party support for a proposal? There is an issue about whether local councillors or national politicians should be involved. East Lothian is another example of a case in which all the politicians, as well as everyone else, were singing from the same hymn sheet, but the boundary commission simply ignored them. That indicates that there is a clear flaw in the system and that there should be much greater flexibility to address such situations before it is necessary to go to ministerial level.

**Charles Reppke:** I recognise the role of the boundary commission and the fact that it had to fit within the rules that it had set. When our case did not succeed with the boundary commission, we recognised that it had to be made to the minister.

My take on that was that the minister had discretion to look beyond the criteria that the boundary commission looks at and to recognise the strength of local and community feeling. That is why I am in favour of the checks and balances being retained. There has to be transparency as regards how the system is operated and the reasons for decisions. If the reasons are not transparent, it is possible that people will regard a decision as some sort of political fit-up. I thought that we made a good case to the boundary commission, but I understand why it did not choose to follow our proposal. That is why the council adopted the approach that it did in taking forward its argument.

**Graham Simpson:** This is the second area that I wanted to explore.

**The Convener:** Time is really against us, so it will need to be a brief question.

**Graham Simpson:** I understand that. You covered a lot of ground—you asked many of the questions that I would have asked.

**The Convener:** I point out that you took Elaine Smith's question earlier on.

**Graham Simpson:** Do you want me to ask my question?

**The Convener:** Do it now, please.

**Graham Simpson:** Would you remove politicians from the end of the process altogether?

**Katie Gallogly-Swan:** If we were looking for a purely objective methodology, that would seem to be the appropriate outcome.

**The Convener:** Would anyone else like to respond? It should be remembered that that proposal covers local politicians, too.

**Councillor O'Neill:** I think that there is scope for discussion on just how we do that. [*Laughter.*] That is a mibbes aye, mibbes naw answer.

**The Convener:** I am really looking forward to the final two answers.

**Paul Vaughan:** It is one of those issues that need to be examined more fully.

**Charles Reppke:** I am an officer of the council and I work closely with politicians all the time, so I see the benefit in having a political check and balance in areas of governance.

**Kenneth Gibson:** Well said.

**The Convener:** We will end the session on that note. I thank everyone for giving evidence. I suspect that this is an area that a local government committee ought to have looked at regardless of the outcome of the boundary commission's review and the related decisions, because it is clear that wider issues have been in play for a number of years.

I suspend the meeting briefly while we change witnesses.

10:29

*Meeting suspended.*

10:32

*On resuming—*

**The Convener:** We continue our evidence on the Local Government Boundary Commission for Scotland's fifth electoral review. Our second panel

consists of Joe FitzPatrick, Minister for Parliamentary Business; and Brian Peddie, relationship manager, and Tony Romain, senior policy officer, both from the local government policy and relationships unit, Scottish Government. You are all very welcome this morning. I invite the minister to make opening remarks.

**The Minister for Parliamentary Business (Joe FitzPatrick):** I will be brief. I thank the committee very much for the opportunity to explain our approach to the decisions that we took on the fifth reviews and to answer any questions that members may have.

I know that the committee has taken evidence from the Local Government Boundary Commission for Scotland about the reviews. The commission is an independent body, so it is not for me to comment on the detail of how the commission went about its work and produced its recommendations. However, I can describe how and why we took our decisions on those recommendations.

My starting point in considering the fifth reviews' recommendations was that the commission is an independent expert body and it had produced its recommendations after extensive discussion and consultation. Therefore, there would have to be very strong reasons for not accepting its recommendations. At the same time, Parliament has given ministers the responsibility to decide whether to accept the recommendations. That being so, it was both right and necessary that I should consider the recommendations for each area and decide in each case whether to recommend them—and that is what I did.

In doing so, I took into account councils' and other stakeholders' representations on the commission's proposals as they were developed and on the final recommendations after they were submitted to ministers. I also took into account the likely impact of the islands bill that was announced by the First Minister in the programme for government and, crucially, we had to consider the implications of not implementing any of the recommendations, for example on parity between wards in a particular council area.

I hope that that is a helpful overview of the process that I went through.

**The Convener:** Thank you very much, minister. I will let in other members in a second, but I have some very brief questions, which start where we ended in the previous evidence session, with the statutory process. As the Minister for Parliamentary Business, you have the statutory duty to be the check and balance in the system. As was mentioned earlier, you are in effect the final decision maker. Do you believe that there should be a check and balance in the system?

What are your thoughts on where the final decision should sit in the process?

**Joe FitzPatrick:** Clearly, I have to work within the parameters that Parliament has agreed. The decision that it is a ministerial responsibility stems from back in the 1970s, I believe.

**Brian Peddie (Scottish Government):** It was 1973—that is when the basis of the current legislation was set.

**Joe FitzPatrick:** In 2004, the Parliament looked at the arrangements for local government elections. Obviously, I was not a member at that time, but the Parliament must have felt that the arrangements whereby the independent commission carries out a review and ministers are then given the responsibility—in fact, it is a duty—to agree or disagree were satisfactory. I have to work within the arrangements. Of course, it would be for the Parliament to look into whether that is appropriate going forward.

**The Convener:** At the committee's previous meeting, I asked the representatives of the Local Government Boundary Commission for Scotland whether they thought that it always gets its decisions right and whether there should be a check and balance in the system. They helpfully said that that is for others to decide. Do you think that the commission always gets its decisions right?

**Joe FitzPatrick:** The commission has done a very good job. It worked hard to listen to communities up and down Scotland. Through the reports that it has produced, we can see the engagement that it has had with communities and the way in which it made changes to the initial proposals to take account of the concerns of stakeholders, such as councils and community councils. In spite of that, there were five areas where I felt that, although the commission had done as good a job as it could within the constraints that it is under from its statutory duties and the legislation, it was better not to approve those recommendations. I am not saying that anybody has got anything wrong; the point is that, in looking at the specific instances, I had to make a decision. It was my responsibility to decide whether to implement the recommendations.

**The Convener:** My understanding is that the statutory power has never been used before in the lifetime of the Parliament in relation to that statutory duty.

**Joe FitzPatrick:** I disagree. In 2006, the then minister in charge of boundaries would have made a decision to agree or disagree to the recommendations on each of the local authority boundaries. As it happened, he agreed on all occasions but, nonetheless, knowing that minister, I am sure that he will have taken his responsibility

as seriously as I did and he will have deliberated on each individual council area.

**The Convener:** I phrased my question clumsily. The power existed and the duty was exercised, but the proposed changes were agreed. You have every confidence that previous ministers will have taken their responsibilities seriously. Given that no organisation or individual always gets everything right, it could be argued that, if we have a check and balance in the system that was never exercised and proposed changes were never blocked, perhaps previous ministers were timid or did not want to be seen to be getting involved in the process.

**Joe FitzPatrick:** I do not believe that that would be true of the minister in question. I suppose that the other difference at that time was that there had to be boundary changes, because we were moving from single-member wards to STV, so the option to reject would not have been possible. I am absolutely certain that the minister in question looked at every proposal very carefully before he agreed.

**The Convener:** I have a final question before I let in Mr Wightman. You said that it is for Parliament to examine the current process, in which the Minister for Parliamentary Business is the final decision maker, and to decide whether it is appropriate. However, what is your view on that? Just as significantly, is the Scottish Government up for having a review of the process to see whether there is a way of improving the mechanism by which a final decision is made?

**Joe FitzPatrick:** It is always appropriate that we review our processes. As I said, the decision on the process for final ministerial approval predates my being an MSP. We have indicated that an elections bill will be introduced. At that point, we can look at these issues in the round and decide whether the arrangements are appropriate for the future. For this process, however, we must follow the legislation as it stands. I am pretty clear that some areas are grateful for the fact that I, as minister, was able to reject some of the decisions.

**The Convener:** I am sure that they are. That takes us on to some of the details.

**Andy Wightman:** That goes to the nub of the question. The minister commended the commission for its work and independence and all the rest of it, but we have heard evidence to suggest that people were dissatisfied not only with the outcomes but specifically with the methodology that was adopted.

Section 17 of the Local Government (Scotland) Act 1973 states:

"The Secretary of State may if he thinks fit by order give effect to any proposals made to him by the Boundary



Commission, either as submitted to him or with modifications”.

Your officials will correct me if that is not the substantive legislative basis of your powers, but it is clear that you, as the final decision maker, have very wide latitude to do nothing or something. As you correctly point out, on the previous occasion that this was done, effect had to be given in order to introduce a new electoral system. However, in 1973, there was just a Westminster Government and no Scottish Parliament, but now you as a minister are accountable to a democratically elected Parliament, and we have had a new electoral system in place for over a decade. As a politician who is interested in good governance, and having heard and read some of the evidence to suggest that people are dissatisfied with the process, do you not take the view that your very wide decision-making powers in the final instance—although they were exercised in this case to the satisfaction of some of those in whose interests you exercised them—are perhaps not appropriate because the system seems to have some defects?

**Joe FitzPatrick:** There are two separate questions there. Whether it is best that there is final oversight of the recommendations of the independent commission is one issue, but whether the system could be improved is another.

We should always look at the systems and processes. Could there have been a parliamentary process prior to the decision, when the commission was setting out its methodology? Probably, but I do not think that anything would have prevented Parliament from asking the commission to come in and explain its methodology. That has never happened before, which is probably why it did not happen in this case, so that point can perhaps be flagged up for the future.

If one is making changes, it is always better that there is buy-in to the methodology before any decisions are made. It is much more difficult to wait until people see what that methodology means for a particular area and say that it is not good because they do not like the outcome. It is better if people buy into the change at the start, so such prior consideration might be worth investigating.

**Andy Wightman:** I have a brief follow-up question on the separate issue of timing. One concern is that your decision has come quite close to the next elections. Given the complexities of parties selecting candidates in multimember wards, the process will not be quite as easy. My party in particular has some complicated processes to allow for gender balance and all the rest of it, so we have to start quite early. Do you think that the timing of the process could be

improved so that people who are standing for election have a bit more time to find out about the circumstances in which they will be standing?

**Joe FitzPatrick:** I think so. Colleagues will correct me if I am wrong, but I think that, when the timescale was originally envisaged, the elections were scheduled to happen before the changes came in. Is that correct?

**Brian Peddie:** Yes.

**Joe FitzPatrick:** The elections would have happened a year earlier, so we would have made the change afterwards. In the previous session of Parliament, we changed the timescale of local government elections to five years because of the changes at Westminster. It would always be better if changes were not so close to the elections. That said, once the commission had made its recommendations, waiting for a period of time would have taken us into recess. Good practice is to make changes no later than six months before an election, so we are ahead of time in that respect.

10:45

**Graham Simpson:** I thank all the witnesses for attending.

I am interested in what you said about the methodology, minister. You hinted that MSPs or Parliament should perhaps have some role in setting the methodology and criteria for any independent commission. To follow on from what the convener asked about, can you be clear about whether you think that there should be a political role at the end of the process, which you are clearly currently able to exercise? Should that change?

**Joe FitzPatrick:** On a role for the Parliament, it is very important that the commission remains entirely independent, but that does not prevent the committee from asking the commission to come to explain and discuss its methodology. The commission would probably find that helpful, as well. However, it has to be entirely independent.

On whether there is a role for a ministerial decision at the end of the process, it is clear that there is not for the Scottish Parliament boundaries. There is a balancing act. As I have said, if I did not have the responsibility to make the decisions that I made, the five areas for which I did not accept the recommendations would have been less happy. I guess that, in those cases, people are grateful that I had that power.

However, the issue is for Parliament to decide. The legislation was set in 1973 and the Parliament looked at it again in 2004. It must have been satisfied that it was appropriate that there should be ministerial oversight of this.

**Graham Simpson:** Is there merit in Parliament looking at the matter again? As you have rightly pointed out, ministers do not have a final say on Scottish Parliament boundaries, but they do in local government.

**Joe FitzPatrick:** It is reasonable for us to continue to look at our processes and ways forward, and it is perfectly appropriate to look at whether people think that that is appropriate. I bore quite a heavy responsibility over the summer recess, because I knew that each of the councils' representations that I received was deeply felt. Therefore, I took them all very seriously and spent a great deal of time ensuring that I understood people's concerns with the recommendations and what communications there had been with the commission.

**Graham Simpson:** That is interesting.

I would like to ask one more question about the methodology. You are right to say that the commission is independent, but would it be right for somebody else—politicians, let us say—to set the methodology that it uses and then leave it to get on with it?

**Joe FitzPatrick:** The commission will follow whatever rules are laid down. It will do its work based on statute. If there is a feeling that there should be changes to that, it will follow them. In this case, it has followed the regulations to the letter to come up with its methodology. Ultimately, the methodology is its methodology, and it is an independent body. This is the first time in 20 years that councillor numbers have been looked at across Scotland—that did not happen to any great extent previously—so it is clear that the commission had to look at its methodology for that. That methodology was a matter for it as an independent body.

**Kenneth Gibson:** The evidence that we heard from previous panels was quite clearly and distinctly that the methodology is far too rigid. The plus or minus 10 per cent on councillor numbers does not necessarily take into account particular circumstances. Parity is clearly a blunt instrument, particularly where STV wards cover huge geographic areas and island communities.

We also heard it asked why we need to have the same system in all parts of Scotland. For example, the STV system might not apply particularly well in rural areas compared with urban areas. One of the reasons for that is the difficulty in attracting people who want to stand to be a councillor, given the pitiful levels of remuneration if the person is going to do the job effectively. What will the Scottish Government do to take those concerns and issues on board so that the next reviews will be much more acceptable across the board?

**Joe FitzPatrick:** There are two things to say in response to that. We have announced the islands bill, which is a major piece of work that will have significant implications. Given that, it was not appropriate to approve changes to all the island authorities because, clearly, the islands bill could have significant impacts in that area. The islands bill will potentially impact on other authorities, too. It may impact on North Ayrshire, because it covers Arran. That is one example; there will be other examples in Argyll where the bill might have implications. Obviously, I would not want to pre-empt Parliament's scrutiny of the bill, but it would potentially allow single or two-member wards in island communities. That would help; that would give the commission flexibility.

There are other areas in mainland Scotland where, again, we would need to look to see what further flexibility we can give to the boundary commission so that it can protect communities, because communities' overarching goal was to stay as a cohesive unit, although there were a few occasions where communities were saying, "No, we do not want to be one community. We want to be two communities, so that we have more councillors covering X town."

Mr O'Neill said in the previous session that we should not have a one-size-fits-all approach. That is true. We have had STV in place for a number of years. I agree 100 per cent that STV has been the best system to provide democracy, but we need to look at how that can better represent local communities.

**Kenneth Gibson:** It certainly is not the best system in terms of accountability. I asked the Local Government Boundary Commission for Scotland questions about the issue of minimum disruption to voters and mentioned that there are communities in my constituency that are a 40-minute drive apart from each other. The answer was that that was a mistake that was made 10 years ago by the previous commission with which the current commission, in effect, went along. Surely we have to get back to first principles on that.

Where there is cross-party agreement that the Local Government Boundary Commission for Scotland is simply wrong, such as with regard to East Lothian, surely the minister should take on board the local concerns. If there is no opposition to what the local authority is saying—all the parties and communities agree—surely ministers should go along with that rather than accept a local government boundary proposal that clearly goes against the grain across the board.

**Joe FitzPatrick:** When I looked at correspondence to the commission and to me, I also looked at what changes the commission had made, including whether it had managed to make

concessions to particular councils. I also considered the impact of that on parity: for example, in East Lothian, there would have been a 16 per cent, I think, underrepresentation for Musselburgh had I not accepted the commission's recommendations. That is a significant amount by which to have one area in a council area underrepresented.

**Kenneth Gibson:** East Lothian's concern is that it is losing two councillors when it feels that it should have at least the same number, if not more. Surely East Renfrewshire is in a similar position.

**Joe FitzPatrick:** East Lothian was one of the councils whose representations the commission listened to. The commission's initial proposal was to reduce the council's number by two, but it heard the council's comments and adapted its proposal to reduce the number by one. The method was straightforward: it should have reduced the council's number by two, but it listened and came back with a proposal that reduced the number by just one. That is an example of the commission listening, engaging and trying to respond as best it can.

**The Convener:** I will let Kenny Gibson back in later.

**Kenneth Gibson:** Fine. Thank you.

**Alexander Stewart:** Some of the proposals that you and we have had in front of us have had very little or no response from communities and councils, while other much more volatile proposals had a massive response by communities, with hundreds of people turning up to public meetings and so on to express their opinions.

You have touched on your outlook on one size fitting all—or not, as the case may be—and, in this forum, we have touched on the sometimes low turnout for local government elections. We understand the criteria that the commission used, but it would be useful to get a flavour of the criteria that you used in trying to balance that and to square some of the circles that you had to deal with. Some were quite clear cut and others were controversial.

**Joe FitzPatrick:** There is no question: there were different levels of engagement in the process across Scotland, which I took into account when I was going through the review. I looked not only at representations that I received—as the minister, I received representations from MSPs, councils and individuals—but at representations that the commission received during the process.

Alexander Stewart is correct that there was very little engagement in some areas. The commission might want to look at how the process could be made more engaging. If people feel ownership of

the process, they might be more likely to take part in the election. We all want higher turnouts.

**Ruth Maguire:** What representations did the Scottish Government receive from the five local authority areas in which the proposed changes were rejected? Was there anything different in the representations that they made that meant that their requests were unsuccessful?

**Joe FitzPatrick:** I had to look at the whole breadth of evidence in each area. In the two island areas whose requests I did not accept, a specific request came from the island authorities because of the islands bill that is coming, and I felt that that was appropriate. In the case of Argyll, Dundee and the Borders, there was significant concern about changes that were being made to historical local communities. However, whereas in other areas the commission managed to make changes to the initial proposals, the constraints that are placed on the commission by legislation meant that it was unable to accommodate the concerns in those three local authorities.

**Ruth Maguire:** Did the submissions from the five local authorities reflect greater public participation?

**Joe FitzPatrick:** In all three mainland submissions, there were significant representations from the public, from politicians across the parties and from the council, which were of a different scale.

**Elaine Smith:** Thank you for joining us, minister. East Lothian Council tells us in its evidence that there was, in making its case, a lot of engagement with the public and councillors. The evidence tells us specifically that you gave no indication of what the repercussions would be of East Lothian Council not accepting the commission's recommendations. The council feels that because you had rejected several of the commission's recommendations, the argument that the review had to take a consistent approach across the whole of Scotland was not valid. East Lothian Council feels that, if you could reject some of the commission's recommendations for one or more council areas, you could have rejected them for other council areas—specifically East Lothian.

Can you add anything on what the repercussions might be for East Lothian Council of its not accepting the commission's recommendations?

**Joe FitzPatrick:** I need to be slightly careful about what I say specifically about East Lothian, given that the council has decided that it may want to take legal action. In general terms, I looked at the representations that I received from all councils and the implications for communities of accepting the recommendations. For instance, I looked to see whether community council areas

were being divided, and I put a degree of weight on that if they were. Crucially, I also looked at the implications of councils not implementing the recommendations in terms of parity.

In the case of Musselburgh, in particular, there would have been a 16 per cent underrepresentation of its citizens, which is a huge disparity in a council area. It would have meant that some people would have had less representation than others by a big chunk.

**Elaine Smith:** There are another couple of areas that I would like to explore. I will return to the methodology. The deprivation factor seems to have made a late entry to the process. Could you comment on that?

**Joe FitzPatrick:** As I have said previously, the methodology is a matter for the independent commission. Obviously, the commission made the Government aware of the methodology that was to be used. If there are future changes, there could be more scrutiny of that by Parliament, but that would be a matter for Parliament. Ultimately, the commission is an independent body and it is for the commission to determine its methodology.

**Elaine Smith:** You enlightened us about the process by saying that it was meant to have been carried out after the last council elections—which should have taken place a year ago—but the timetable was changed. That begs the question—or maybe it answers questions—about why the process seems to have been done in such a rush. It has caused difficulties for political parties to get their elected members in place. Given the possibility of judicial reviews—which might put a spanner in the works and stop the process—plus the evidence that we have taken and some of the issues that have emerged, can the process be halted and picked up again after the next election?

**Joe FitzPatrick:** The orders are laid and the new boundaries are in place. It is a matter for councils whether they choose to spend public money on judicial reviews.

**Elaine Smith:** Is the answer “No—the process will go ahead, nothing will stop it and those will be the boundaries”?

**Joe FitzPatrick:** They are the boundaries—that has already happened.

**Elaine Smith:** Thank you for clarifying that for us.

**The Convener:** I want to ask a bit more about methodology, minister. I know that you will say that it was set independently by the Local Government Boundary Commission for Scotland and that statute would have to be changed for the commission to amend that to take into account things that Parliament and others might wish to include. I saw your official, Mr Peddie, shaking his

head in relation to that, so let us go back to the first thing that you said. You said that the methodology is set independently by the Local Government Boundary Commission for Scotland. That is the situation. What criteria are used and what strictures does the commission operate under to come up with the independently agreed method?

**Joe FitzPatrick:** There is a difference because the methodology is a matter for the commission as an independent body, and drawing a council area's boundaries has to be done under statutory rules. One of the rules is that every ward has to have three or four members, which causes concern in island communities, for instance. As the law stands now, a restriction is placed on the commission and it cannot say, for instance, that Arran should be a one-member ward—with the member still elected by STV, obviously. We are looking at whether the islands bill can change that, among other things. Perhaps Brian Peddie would like to talk about the methodology and the rules.

**Brian Peddie:** It is important to make the distinction between the statutory criteria that the commission and ministers have to work to when producing and deciding on recommendations, and the method that is used to produce the proposals. At the moment, the statute says nothing about the precise method that the commission is supposed to use. The legislation sets out the ends—the criteria that are to be applied—but not the means. It does not dictate the method nor—at the moment—is there a provision for it to be subject to ministerial or parliamentary approval.

I add that the commission was open in describing its methodology. We are well aware that a lot of concerns were expressed about it. Quite a lot of stakeholders commented that they had issues with various aspects of it, although I think that it is fair to add that others welcomed it—in particular, they welcomed the use of deprivation.

It is not, perhaps, about a lack of transparency. The commission explained at some length what the methodology was, but the legislation does not dictate that. It is for the commission to decide what methodology to use in producing proposals. The legislation dictates how the proposals should look in the rules that the commission operates under.

**The Convener:** I think that I understand now, Mr Peddie. What statute contains is the ends that the Local Government Boundary Commission for Scotland is tasked with arriving at. It independently sets a methodology to meet those ends, but the ends are outlined in statute. If anything was to be reviewed, in theory, it would be what statute says about what those ends should be. That might impact on the context by which the methodology is shaped.

You were clear that the commission's hands are tied because statute says that there must be a three-member or a four-member ward. That is pretty clear. We could easily say that there could be one-member or two-member wards and that, rather than having a four-member ward—

**Joe FitzPatrick:** That is what we propose in the islands bill.

**The Convener:** But that could be rolled out across Scotland, because it could be an urban issue as much as it is a rural issue. That is clear. Any influence that Parliament would have in relation to other factors such as deprivation and parity would be determined by what statute says about the ends to which the Local Government Boundary Commission for Scottish has to operate.

**Joe FitzPatrick:** I guess that that stood the previous time when the commission decided to include rurality as part of the methodology, and the decision was made to take sparsity of population into account in determining ward boundaries. The commission has now looked at its methodology and has decided that the Scottish index of multiple deprivation is another factor that it will take into account.

**The Convener:** Thank you. I will quit while I am possibly behind with my line of questioning, minister. Elaine Smith has a supplementary question.

**Elaine Smith:** My question is probably for Mr Peddie rather than for the minister, although it is up to the minister to decide who is going to answer, of course. The question is more about the 1973 act rather than the methodology. Am I correct to say that the act requires the commission to consult councils on any proposal for a period of two months before it is put to public consultation? If so, what are the repercussions if the commission does not do that?

**Joe FitzPatrick:** First, I want to be clear that, from everything that I have seen, the commission has followed its statutory responsibilities in every case and on every point. Brian Peddie might want to answer further.

**Brian Peddie:** That is a fair summary. The legislation says that there is to be consultation of councils and subsequently consultation more generally. That is laid out in the statute. The commission approached that—although I do not think that this is specifically required by statute—by having a two-stage process. It had separate consultation processes about councillor numbers and about boundaries, but in both cases it applied the statutory rules about consultation.

**Elaine Smith:** Is it your opinion, having looked at the matter, that the commission applied those statutory rules?

**Brian Peddie:** Yes.

**Kenneth Gibson:** I have a question about consistency. When we asked you about East Lothian, you said that Musselburgh would be left with representation that was 16 per cent lower or something like that. East Lothian Council has said:

“Creating a single Musselburgh Ward abolishes the divide between Musselburgh West and East, but by doing this the Commission have weakened community ties between several communities and their closest town.”

There has also been a knock-on effect that has impacted on other wards.

I ask about consistency because all the wards in my constituency have, on average, 16 per cent more electors than those in Ruth Maguire's constituency, and both our constituencies make up North Ayrshire. For example, she has slightly fewer than 3,000 electors per councillor, whereas I have 3,500 per councillor.

Sparsity has just been mentioned. My constituency is 80 per cent of the geographic make-up of North Ayrshire.

I do not understand why such figures should be the case in one local authority area. On numbers, I should have 18 councillors and Ruth Maguire should have 15, but in fact I will have 16 and Ruth Maguire's constituency will have 17. Surely if there is to be parity in a local authority area, such anomalies should not arise.

**Joe FitzPatrick:** There will always be some anomalies. If we are talking about providing the commission with more flexibility, we are in fact saying that there will be more anomalies. It is a balancing act. The most significant—

**Kenneth Gibson:** Where is the balance in what I described?

**The Convener:** Let the minister finish.

**Joe FitzPatrick:** The most significant issue for North Ayrshire is the Arran situation, which I hope that the islands bill will rectify. It means that North Ayrshire Council will have more variation in the size of wards so that, as well as three and four-member wards, there could be one and two-member wards.

**Kenneth Gibson:** I am not sure why Arran, which has about 3.5 per cent of the population of North Ayrshire, would change the balance so dramatically for all the mainland wards. I will have five wards in my constituency; Arran is in only one of them, so why are all the others underrepresented relative to Cunninghame South? My constituency has high levels of deprivation, so that is not the reason for the numbers. We have a sparser population and a bigger geographic area.

**Joe FitzPatrick:** There is clearly a balancing act to be done. The commission will try to get as close

to parity as it can. The changes will improve parity in North Ayrshire Council, as they will do for all the other councils. The recommendations from the boundary commission will improve parity—

**Kenneth Gibson:** I am sorry, but they will actually do the reverse. There was much more balance in the numbers per councillor previously. In effect, three additional councillors have gone to Cunninghame South, so the previous disparity has increased rather than decreased.

**Joe FitzPatrick:** I do not think that the commission looked at the parliamentary boundaries.

**Kenneth Gibson:** I am not talking in a parliamentary sense; all that I am saying is that every one of the 10 wards should surely have the same number of voters per councillor, particularly given that some of the original boundaries that have been retained are completely out of kilter with local communities anyway. In parts of Beith, people can cross a road and be in a ward with Portencross, which is a 30 or 40-minute drive away. That is complete nonsense.

**The Convener:** I am not suggesting that you will have intimate knowledge of Portencross, minister, but perhaps you could say a bit about that.

**Kenneth Gibson:** The point is just about consistency.

**Joe FitzPatrick:** We received representations from North Ayrshire Council, which was one of the councils that agreed with deprivation being a factor. There was concern that the 10 per cent cap had perhaps not allowed an increase in North Ayrshire to the extent that was needed. The commission managed to retain proposals that had the best solution to maintain parity and improve representation across the council area; it also gave weight to the council's argument on community planning partnerships when it made its decisions about the workload of councillors. It is clear that the commission listened to what the council said and to the representations that it received from the public and, at that stage, it made its changes.

**The Convener:** Mr Gibson has helped to illustrate quite an important point. He made the case for consistency and parity in the local authority area in which he is a constituency MSP. However, in the earlier evidence session, Councillor O'Neill talked about not wanting a one-size-fits-all policy, and there was talk about the artificial 10 per cent rule in relation to changes to achieve parity or otherwise.

We heard from two local authorities, which were articulate and helped with our understanding of the situation. One was delighted with the process

because it got the outcome that it wanted and the other one was dissatisfied because it did not get the outcome that it wanted.

11:15

Does that remind us of the invidious decisions that any final decision maker faces? As long as people get the decision that they want, they are happy, but if they do not get the decision that they want, they are not happy. Mr Gibson outlined some of the conflicts in that, particularly in relation to Arran possibly wanting better representation, which might go against Mr Gibson's parity argument.

I put that on the record again because it brings us back to the start of the evidence session, when we considered who the final decision maker should be, how to understand the process better and where the power should sit. As we draw towards the end of this evidence session, committee members would welcome any additional thoughts that you might have on that.

**Joe FitzPatrick:** It is appropriate to look at our processes to check that they are fit for purpose. For the fifth reviews, we have the rules and the statute in place, which is what the deliberations and work of the commission and my determinations were based on.

**The Convener:** Do committee members have any further questions?

**Elaine Smith:** Mr Gibson has great knowledge of his constituency, so he can put forward cases. Iain Gray was at a previous committee meeting to ask questions on behalf of his area. One issue is that consistency is definitely a problem in relation to the areas that you are making changes in. One of those areas is Dundee, which I presume that you have great personal knowledge of.

The bottom line is that we have the methodology. We can question some of it—particularly deprivation making a late entry, for example. However, for consistency, the bottom line has to be whether the whole approach has to be reassessed, which includes who makes the decisions and whether it is better to have a final political decision. Who knows about the areas? Is it the independent commission? If it is the independent commission taking evidence, should it just be left alone to get on with the task? If it is not the commission, who is best placed to have the local knowledge and the local examples? Councillor O'Neill raised the issue that councillors are in some ways best placed. Do you have any final comments on that?

**Joe FitzPatrick:** I can certainly say that when councils and councillors, as well as community councillors, members of the community and

MSPs, wrote to the commission or to me, I looked at their submissions seriously. Just as MSPs are not allowed to set boundaries for Scottish Parliament elections, there would be the same conflict of interest if councillors were to set the boundaries for councils. However, as powers for elections in general come to the Parliament, it is appropriate for us to look at whether we want to bring the systems together.

I am certainly keen that, where possible, we have the same systems in place for local government as we have in place for the Scottish Government. Some of the changes that we will make under the orders that we will consider later today are about bringing those systems together.

As more powers come to the Parliament, it is absolutely an appropriate time for us to look at how the powers are used and to make sure that we have appropriate levels of scrutiny.

**The Convener:** Thank you very much, minister. That concludes our questioning, but you are staying with us. I repeat that we want as many voters as possible to exercise their democratic right to vote in next year's council elections. We will have a round table at our committee next week to encourage voter turnout and participation.

I give the minister a final opportunity to say whether, if our committee decided to look further at how to improve the process, including the decision making at the end point, he would be keen to work in partnership with the committee to tease some of that out.

**Joe FitzPatrick:** I would certainly be happy to be part of that process, as would my officials.

**The Convener:** I will say goodbye for the moment. We will suspend briefly.

11:19

*Meeting suspended.*

11:24

*On resuming—*

## **Subordinate Legislation**

### **Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2016 [Draft]**

**The Convener:** I welcome everyone back. Under agenda item 3, the committee will take evidence on the draft regulations. I welcome back Joe FitzPatrick, the Minister for Parliamentary Business, and I welcome from the Scottish Government Louise Scott and Roddy Angus, who are elections policy advisers.

The draft regulations are laid under the affirmative procedure, which means that the Parliament must approve them before they can come into force. Following this evidence session, the committee will be invited to consider a motion to recommend approval.

I invite the minister to make a short opening statement. I understand that he will speak not just to this draft statutory instrument but to the draft Scottish Local Government Elections Amendment (No 2) Order 2016, which we will dispose of later.

**Joe FitzPatrick:** Thank you for the opportunity to set out the Government's position on the draft instruments that are before the committee. It is generally acknowledged that the May 2012 Scottish local government elections were well run, which is why we are making only relatively minor changes to the rules that will be used for next May's elections. The main rules for local government elections are set out in the Scottish Local Government Elections Order 2011 and the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2009, and the draft instruments make only minor changes to those rules.

We will make a number of amendments that are mainly to reflect wider electoral changes, most of which were made for this year's Scottish Parliament elections, such as setting a deadline of 5 pm on the day of the poll for the issue of replacements for lost or not received postal ballot papers, allowing postal ballot packs to be issued earlier and requiring the returning officer to record on a list the reasons why a postal voting statement was rejected.

We will make a number of technical changes that allow for more information to be provided to voters in polling stations on how to complete their ballot paper. Given that we use STV in local government elections, that seems appropriate. All

the changes are detailed in the policy notes that accompany the draft instruments.

I will highlight one significant improvement that we are making. We will change the definition of personal expenses so that a candidate's disability should not affect the amount that they can spend on campaigning. Some disabilities can result in candidates having to incur extra expenditure—for example, from the need to use taxis instead of public transport or from a requirement for a sign language interpreter. The change will mean that any costs that are directly attributable to a candidate's disability no longer count towards their election expense limits.

I pay tribute to the work of the one in five campaign, which is a cross-party group that campaigns to encourage empowerment and increase political participation among disabled people in Scotland. Without its input, that amendment would probably not have been brought forward, so I thank the campaign for its help with that.

Although it does not form part of the draft instruments, I would like to mention the launch of the access to elected office fund. The fund, which is operated by Inclusion Scotland, will provide grants to individuals who are standing for selection as electoral candidates in their areas, to assist them with any additional costs that they have because of a disability. The Scottish Government has provided Inclusion Scotland with funding to operate and manage the scheme as well as to cover grant payments to individuals who wish to stand for election.

I am pleased to say that the fund is going well and that Inclusion Scotland has had more than 25 expressions of interest in it from all parts of the country. Inclusion Scotland is working with those individuals to take forward their applications and the applications will be decided on by an independent decision panel for the access to elected office fund, which is made up predominantly of disabled people and includes expertise about reasonable adjustments and the overcoming of physical, social and cultural barriers that disabled people face. The panel will include disabled former MSPs Dennis Robertson and Siobhan McMahon.

The important thing is that, in the future, any additional costs that are directly attributable to a candidate's disability will not count towards their election expense limits. It is only right that everyone should have the same opportunity to be elected as a local councillor and that any extra cost that is directly attributable to a disability should not be counted.

I hope that the committee agrees that the draft instruments set out sensible rules for the running

of the local government elections next May and I am happy to answer any questions that members have.

11:30

**The Convener:** Thank you. Do members have any questions?

**Elaine Smith:** I am not sure that my question relates directly to the instruments that are before us but, given that the minister went a bit beyond their scope, he might wish to respond, although I will understand it if he does not. The policy note mentions proxy voting. If someone has a temporary disability, they might apply for a proxy vote quite late. They might not have applied for a postal vote and they might want someone to vote for them so that they are not disenfranchised.

Do you have a comment to make on the fact that a medical person might have to sign the form? Would you expect a general practitioner to sign the form and not charge for doing so? If GPs charged people who have a temporary disability—I am thinking of something such as an infection in a wound that prevents someone from getting to a polling station—for signing the form in the way that they charge in relation to passport applications, that could disenfranchise people. GPs might even refuse to sign people's forms.

**Roddy Angus (Scottish Government):** We would normally expect people who use the emergency proxy system to be in hospital rather than people who are housebound for a particular reason. There is nothing in the legislation that says whether a GP can charge for a signature. I am afraid that I do not know whether that is set out in any of the health board regulations.

**Elaine Smith:** The committee might want to consider the issue further at some point.

**Joe FitzPatrick:** We will look at that. Am I right in saying that an emergency postal vote would be available to somebody in such a situation?

**Roddy Angus:** For a postal vote, a person would have to know well in advance.

**Joe FitzPatrick:** As Elaine Smith said, the issue does not fall within the scope of the instruments that are under consideration, so we will take the point away. The aim is to make sure that the maximum number of people can exercise their vote. If we can make improvements in any areas, we should look at them. We would need to consult stakeholders in councils, but we will consider the point.

**The Convener:** That would be helpful.

As there are no other questions, we move to item 4, which is formal consideration of the draft Representation of the People (Postal Voting for



Local Government Elections) (Scotland) Amendment Regulations 2016. There is now an opportunity to debate the motion on the regulations, should members wish to. Would anyone like to do that?

**Members:** No.

**The Convener:** I therefore ask the minister to move motion S5M-01514.

*Motion moved,*

That the Local Government and Communities Committee recommends that the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2016 [draft] be approved.—[Joe FitzPatrick]

*Motion agreed to.*

### **Scottish Local Government Elections Amendment (No 2) Order 2016 [Draft]**

**The Convener:** We move to item 5. As I said under item 3, the minister made a statement on the regulations that we just considered and the draft Scottish Local Government Elections Amendment (No 2) Order 2016 together. As we have taken evidence on the order and have afforded members the opportunity to ask questions, I move to item 6, which is formal consideration of motion S5M-01515. Members have the opportunity to debate the motion on the order. Do members wish to do so?

**Members:** No.

**The Convener:** I therefore ask the minister to move motion S5M-01515.

*Motion moved,*

That the Local Government and Communities Committee recommends that the Scottish Local Government Elections Amendment (No.2) Order 2016 [draft] be approved.—[Joe FitzPatrick]

*Motion agreed to.*

**The Convener:** The committee will report on the outcome of its consideration of both instruments in due course. I thank the minister and his officials for giving evidence.

### **Representation of the People (Variation of Limit of Candidates' Local Government Election Expenses) (Scotland) Amendment (No 2) Regulations 2016 (SSI 2016/263)**

### **Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment (No 2) Regulations 2016 (SSI 2016/264)**

**The Convener:** Item 7 is consideration of two instruments that have been laid under the negative

procedure and which will come into force unless the Parliament votes in favour of a motion to annul them. Members will note that the Delegated Powers and Law Reform Committee considered that it did not need to draw the Parliament's attention to the instruments on any grounds in its remit. No motions to annul the instruments have been laid. I invite members to comment on either of the instruments.

As members have no comments, I invite the committee to agree that it does not wish to make any recommendations in relation to the instruments. Is that agreed?

**Members indicated agreement.**

**The Convener:** That is excellent. As previously agreed, we now move into private session.

11:35

*Meeting continued in private until 12:59.*



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