



OFFICIAL REPORT
AITHISG OIFIGEIL

Standards, Procedures and Public Appointments Committee

Thursday 26 November 2020

Session 5



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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
22nd Meeting 2020, Session 5

CONVENER

*Bill Kidd (Glasgow Anniesland) (SNP)

DEPUTY CONVENER

*Patrick Harvie (Glasgow) (Green)

COMMITTEE MEMBERS

*Neil Findlay (Lothian) (Lab)

*Jamie Halcro Johnston (Highlands and Islands) (Con)

*Gil Paterson (Clydebank and Milngavie) (SNP)

*John Scott (Ayr) (Con)

*Maureen Watt (Aberdeen South and North Kincardine) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Roddy Angus (Scottish Government)

Graeme Dey (Minister for Parliamentary Business and Veterans)

CLERK TO THE COMMITTEE

Katy Orr

LOCATION

The Sir Alexander Fleming Room (CR3)

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 26 November 2020

[The Convener opened the meeting at 08:30]

Subordinate Legislation

Scottish Parliament (Elections etc) (Miscellaneous Amendments) Order 2020 [Draft]

The Convener (Bill Kidd): Good morning and welcome to the 22nd meeting in 2020 of the Standards, Procedures and Public Appointments Committee.

Our first item of business today is to take evidence on the Scottish Parliament (Elections etc) (Miscellaneous Amendments) Order 2020. We are joined by Graeme Dey, the Minister for Parliamentary Business and Veterans, and his officials Roddy Angus, Iain Hockenhull and Ewan McCaig. The minister will make a short opening statement.

The Minister for Parliamentary Business and Veterans (Graeme Dey): Thank you for the opportunity to set out the Government's position on the order that is before you today. The order makes a number of changes to the rules and procedures for the running of the Scottish Parliament elections. It builds on those that were in place for the previous general election in May 2016, which is widely regarded as having been run successfully.

A number of the changes are technical and reflect the transfer of competence for electoral registration for Scottish Parliament elections from the United Kingdom Parliament to the Scottish Parliament, as was set out in the Scotland Act 2016. Those changes do not affect how the election will be run; they simply move the existing requirements from UK to Scottish legislation.

The election in May 2021 will be the first in which everyone who has leave to remain in Scotland will be able to vote at a Scottish Parliament election. That is an important change and will rightly ensure that everyone who has chosen to live in Scotland will be able to have a say in matters that affect them.

It is impossible to think about the election next May without considering how the coronavirus pandemic might have an impact. Regarding the committee's considerations today, the order does

not make any other changes that relate specifically to the pandemic apart from extending the right to an emergency proxy vote to those who might be unable to attend a polling station in person due to Covid-19.

The committee is currently considering the Scottish General Election (Coronavirus) Bill and it is our intention to bring forward further secondary legislation to set out how any changes to the bill that are agreed by Parliament are to be implemented in practice. To include those in this order would have required us to anticipate the will of the Parliament.

I hope that the committee will agree that the order sets out sensible rules for the running of the Scottish Parliament election next May. My officials and I are happy to answer any questions that the committee has although, given the technical nature of the order, I am likely to rely on my colleagues.

The Convener: Thank you for your honesty, minister.

Patrick Harvie (Glasgow) (Green): Will the minister lay out in more detail the exemptions from expenditure limits and the evidence that would have to be provided to substantiate those exemptions?

Graeme Dey: I can offer some examples. A constituency might have a large community from a certain nationality, and a candidate might translate a leaflet into the appropriate language so that that sector of the community is aware of the candidate's views. The cost of translation would not count towards the expenditure limit, but the cost of printing the leaflet would still be a cost, as it would be for an English version of that leaflet. If a candidate received a request from a number of blind voters for a braille version of a campaign leaflet, the cost of providing the braille leaflet would not count towards the expenditure limit.

If a candidate was to invite a controversial individual to speak at an event such as a hustings in the constituency and there were legitimate concerns about a possible risk of violence at that event, making it prudent to employ security, the cost of that security would not count towards the expenditure limits.

The Electoral Commission prepares guidance and advice for candidates on how to evidence all of that.

Patrick Harvie: Would there be any impact on candidate expenditure limits if the election was postponed under the terms of the Scottish General Election (Coronavirus) Bill?

Graeme Dey: That is the subject of on-going discussion with the Electoral Commission. It would depend on the length of the postponement. If it

was a postponement of a day or a few days, it would be reasonable to suggest not. However, if we got into the territory of five and a half weeks or more, for instance, that would be a different matter.

Maureen Watt (Aberdeen South and North Kincardine) (SNP): As you have said, the committee is currently considering the Scottish General Election (Coronavirus) Bill, which proposes that the date of dissolution be moved to the day before the election on 6 May, so that Parliament can meet if there is an emergency. What are the arrangements for candidates' expenditure limits if the poll is postponed by further legislation?

Graeme Dey: I might bring Roddy Angus in on that. Do you mean in the context of what we have just touched on with Mr Harvie—if there is a short delay or a much longer delay?

Maureen Watt: If we move the date of dissolution to the day before the election day so that we can meet in emergency session if necessary, are there different arrangements for candidates' expenditure limits if the poll is postponed further, past 6 May?

Graeme Dey: Do you mean if it is substantially postponed?

Maureen Watt: Well, even if there is any postponement. Everybody wants to put out an eve-of-poll letter or a last-minute leaflet in the last week of the campaign.

Graeme Dey: The short answer is that it would depend on the length of any postponement.

Iain Hockenhull (Scottish Government): Essentially, that is right. The length of the delay would be a factor. We are in discussion with the Electoral Commission about how we would approach that, and we will take the commission's advice on what would be required. There is already provision to make any necessary changes by secondary legislation, so that would not need to be specified in the bill itself.

Maureen Watt: Okay—that is in other legislation.

The Convener: Minister, are you in discussion with the political parties about how it will go, on the basis that they must prepare for the election?

Graeme Dey: Without question, there would be discussion with the political parties, but we would need to receive the advice of the Electoral Commission to form the basis of those discussions. In the process of preparing the Scottish General Election (Coronavirus) Bill, we have worked closely with all the electoral authorities and professionals and the parties. In the first instance, we would want some guidance

from the Electoral Commission, with its views on the best way to proceed.

The Convener: That makes sense.

Jamie Halcro Johnston (Highlands and Islands) (Con): The opportunity to inspect expenditure returns is now at the discretion of the returning officer. How is the transparency of the process guaranteed by the changes that are proposed?

Graeme Dey: Do you mean the transparency of the process of inspecting returns?

Jamie Halcro Johnston: Yes.

Graeme Dey: It is not about removing the option of advertising through newspapers, as is currently available; it is about devolving the judgment to local circumstance, so that the relevant authority will make a decision about the best means possible. We all know that newspaper circulation has fallen dramatically over the past few years, but it might be the case that, in a particular circumstance, there is still a local newspaper that is considered to be the best method of getting the message out there. However, there might be other means of doing that.

Of course, whatever method is used to publicise the message, every election agent will continue to receive individual notification of the time and the place for inspecting expenditure returns. There is an expectation that the returning officer will make every effort to make that information available more widely, but we entrust that to them.

Jamie Halcro Johnston: This is a very technical point about the minimum type size for the imprint which, as you will be aware, sets out the details of the printer. How have the decisions on that come about? What consideration has been given to those who are blind or hard of seeing?

Graeme Dey: That is a difficult one, because the Electoral Commission had a view and political parties had a view. Consideration was given to merely referencing legibility, but that is very subjective. We tried to strike the right balance between delivering legibility and ensuring legibility, if you get my point. Therefore, we have gone for a font size of at least 9 point in Times New Roman for anything that is smaller than A4—for survey cards and so on. Anything above that size is done in a font size of 11 point. That strikes the balance between providing a readable imprint and not going to excess, particularly with the smaller materials. We have asked the Electoral Commission to monitor the success or otherwise of that approach. Your point about visual impairment is interesting. I will bring Iain Hockenhull or Roddy Angus in on that.

Roddy Angus (Scottish Government): The answer depends on the nature of the visual impairment. There are some people who would not be able to see it, regardless of the size of the imprint. However, they are unlikely to be trying to read a printed document in any case. They are more likely to use a computer, on which a document can be blown up. Similarly, any imprint can be enlarged so that someone can read it. The imprint size of most printed documents is based on the premise that most people have reasonable eyesight and can read it. For example, I wear glasses, and one of the tests that I used was to print out a document at 9 point font size and take off my glasses to establish whether I could read it at a reasonable distance, which I could. We tried it with different font sizes to see how close you had to be to read it. However, as the minister said, we realise that it is not a perfect solution. We have asked the Electoral Commission to monitor that and to bring to us any concerns that are raised with it.

Previously, there was no restriction on the size of an imprint. There have been cases where it was so small that it was difficult for people to read it at all, but the argument was that, because there was an imprint on the document, it complied with the law. However, we have said that it must be of at least a certain size.

Jamie Halcro Johnston: We have probably all been in the position of searching the leaflet to find an imprint—the imprint is there, but it is almost a test to find it. I wonder whether, in future—not necessarily in relation to this—given that people with visual impairments will get leaflets through the door like everybody else, there will have to be a QR code on every leaflet, not just for the imprint but for all the information in the leaflet, so that there is a link to online information for those who have difficulty seeing. I do not want to create problems, but that might be something to think about for the future.

Graeme Dey: You make a fair point. As the committee is aware, we have an on-going dialogue with the visually impaired community, and it is not slow to make suggestions, which is really useful. We will bear that in mind going forward.

The Convener: We were not sure whether we would ask you that question, because of the technicalities, but it brought forward quite a bit of detail, so that was worth while.

Roddy Angus: I will just add that there is nothing to prevent parties from doing that already—they could put on their own QR codes. There might be an issue about whether we would want to legislate to make that mandatory, but there is nothing to prevent political parties or candidates from using that system as it is.

The Convener: Thank you.

08:45

Neil Findlay (Lothian) (Lab): How does the order impact on the cost and practicalities of any postponement of a poll?

Graeme Dey: I go back to what I said earlier. The question is how long that poll is delayed for, and whether it is a matter of days or weeks, or longer. In the first instance, our intention is to allow the returning officer to reuse any material that has already been printed with the original date of the poll on it, where that is possible. That will reduce the cost of a postponed election. It is about a commonsense approach. We do not want to waste money if that is avoidable.

That is a general answer. Are there particular aspects of the issue that you want to explore?

Neil Findlay: If, for example, a poll is delayed, will the stuff that has a date on it be pulped and will we start again, or will we continue on the basis that—

Graeme Dey: It will not be pulped, if that is avoidable. If, for example, a poll was to be rescheduled within three weeks, it would not be possible to reprint all the ballot papers in that period, and nor would it be desirable to do so. We are looking to have flexibility so that we could still use the ballot papers with the original date on them. However, if we get into the territory of a much more extended period, the option will of course be there to change the date on the ballot paper, for example. It is about having flexibility to take a commonsense approach to situations.

Neil Findlay: I am just reflecting on the recent election across the water and wondering whether wrong dates on things might open up a legal can of worms.

Graeme Dey: Touch wood but, in Scotland, we generally have a history of running elections quite efficiently, certainly when set against events across the pond.

I will bring in one of my officials to perhaps give you a bit more detail on what the measures will look like in practice.

Iain Hockenhull: One point is that the order amends the law as it stands at present. It amends section 2 of the Scotland Act 1998, which will then be amended by the Scottish General Election (Coronavirus) Bill. At the moment, the provisions in relation to reusing materials envisage the Presiding Officer being able to postpone the election by up to one month, and that does not take account of the change to six months under the bill, because that is not yet law. Therefore, once the order and the bill are in force, and if a

postponement is envisaged, we would have to make a tweak to the references in order to allow that to carry over further.

If we get away from the original date of an election by more than a month, we will probably need to reissue materials to avoid confusion. This is really about an event other than coronavirus leading to a postponement of only a few days, and saving waste in that situation. People would, I hope, be aware that the date was originally to be, for example, 6 May but was now 11 May and would make that calculation in their heads.

Neil Findlay: I assume that the electoral and constitutional lawyers have looked at this and said that it is all okay.

Okay—I am glad that I just asked that question on the record.

Gil Paterson (Clydebank and Milngavie) (SNP): The order amends the provision relating to the minimum number of counting agents who have to be appointed by the returning officer. Can you explain the rationale behind the proposal to set a minimum number of counting agents per individual candidate and party?

Graeme Dey: That is about addressing a slight anomaly and ensuring fairness of treatment. Currently, there is no minimum number of counting agents that the returning officer must allow, as long as each candidate has the same maximum number.

The change is that the returning officer must now allow at least the same number of counting agents as there are counting clerks, and each candidate and party must be allowed the same number of counting agents. That is already the position for other elections, which is what I meant when I said that there was an anomaly. For example, if there are 125 counting clerks at a count, and there are five candidates standing, each candidate must be allowed to have at least 25 counting agents. That is the lower limit—the returning officer may allow more than that if they want to, although there is a maximum limit. However, there has to be flexibility for the returning officer, bearing in mind social distancing needs in the current situation. Of course, they also have the flexibility to recognise that perhaps one candidate will not require 25 counting agents. It is about delivering consistency of approach across elections but still giving the returning office a degree of flexibility.

Gil Paterson: I am trying to get my head around it. I can do the maths, but I cannot work out how the physical presence of that number of people will be dealt with if space is constrained. Is there a limit to the number that is in the hands of the people who are in control at the count?

Graeme Dey: The limit is set by dividing the deliverable number by the number of candidates.

Gil Paterson: Is the limit not set according to the space?

Graeme Dey: The space is absolutely relevant. I was just giving an example when I referred to 125 counting clerks. We know that there are counting venues in which there could be more, and there are others in which there could not be anything like that number. It would be up to the returning officer, and the process would be demonstrably fair, because the returning officer would be able to explain how they had arrived at the number.

Gil Paterson: So, in reality, there would be a division of the space.

Graeme Dey: It is a case of looking at how many counting clerks there are, and therefore how many counting agents there are, and then dividing up the number of counting agents, if that makes sense.

Gil Paterson: How does coronavirus affect that?

Graeme Dey: Coronavirus has an impact, as it would give rise to special circumstances, which would allow the returning officer to say that it is not possible to deliver a certain number; therefore, the combined upper limit is X, and the division of the number of counting agents is Y.

Gil Paterson: That is the point that I was getting to. In normal circumstances, the sky was the limit and you could fit in as many as you liked, more or less. However, the coronavirus situation will determine the number based on the available space, not the maths.

Graeme Dey: Yes, or any other circumstances in the view of the returning officer.

Gil Paterson: That was a good answer, thank you.

John Scott (Ayr) (Con): I will ask about emergency proxies. The order introduces a new category of eligibility for an emergency proxy—one which is sought after 5 pm on the sixth day before the poll—with the final decision resting with the electoral registration officer. The proposal is time limited, and it ceases to have effect two years after coming into force. How will awareness be raised among voters of the potential to request an emergency proxy vote and the procedure for doing so?

Graeme Dey: That is a good question. It touches on an area that we covered last week, involving the circumstances that might mean that an individual requires to have an alternative means of voting.

Every elector who is not registered for an absent vote will get their polling card. The card will include the information that if, after 5 pm on the Tuesday the week before the poll, the elector is unable to vote in person, they can apply for a proxy vote. The card will provide a helpline number through which electors can obtain the help and information that they need. The Electoral Commission website, as well as most, if not all, council websites, will provide information on how people can apply for proxy votes. That option will form part of the narrative of the election.

John Scott: That takes me on to the next question, which is about standardising the deadline for replacement of spoilt or lost ballot papers. From whom can voters seek a replacement of a lost or spoilt postal ballot, and how will they be made aware of that provision and the deadline, which has been moved from 5 pm to 10 pm?

Graeme Dey: Again, that involves the polling card.

Every elector who is registered for a postal vote will receive a postal voter's poll card. On it will be the information that they will receive their postal vote by a certain date, and a phone helpline number for them to call if they do not receive it. Every postal voter polling card will also include information that makes it clear that, if the voter loses or spoils the ballot paper, they can phone that helpline, and that a replacement can be issued up to 10 pm on the day of the poll.

In addition, each postal ballot pack will have information that if the voter makes a mistake, or loses their ballot paper or postal voting statement, they should phone the helpline and that replacements can and will be issued before 10 pm on the day of the poll. There is a double hit of information.

John Scott: I confess that I have not thought about this, but is there no potential for fraud? Are safeguards in place for people not to vote twice in such circumstances?

Graeme Dey: I will bring in Roddy Angus to provide some assurance on that.

Roddy Angus: If someone has spoilt their ballot paper or lost part of their postal ballot pack, they will be asked to bring the remaining documentation to the returning officer, so that the returning officer can check it all. The returning office will then take that documentation off the person and issue them with a new pack.

If the postal ballot pack has not turned up at all, a new pack will be issued. The old ballot pack is numbered. That number will be highlighted on the returning officer's systems; if a vote is cast using that ballot pack, it will not be counted.

That is a double check. If someone is physically returning the pack, they have the documentation; if it is not there at all, the original ballot pack is cancelled and a new ballot pack is issued.

In addition, if there is any uncertainty about the identity of an individual, the returning officer may request proof of identity if they have concerns that it might not be a legitimate request.

John Scott: Thank you very much.

The Convener: Does Maureen Watt have a follow-up question?

Maureen Watt: Yes, it is on John Scott's first question about someone needing an emergency postal or proxy vote because they have to self-isolate. Do they have to prove in any way that they have to self-isolate, or are people just to be taken on their word that they are not able to go to the polling station?

Graeme Dey: I should clarify something on that, and I will bring in Roddy Angus to provide more detail. It is not just about the individual who may be required to self-isolate. For example, a carer in someone's household can legitimately request a proxy vote, and there is no attestation process around that.

Roddy Angus: As the minister has said, there is no attestation requirement. No actual proof is required that someone has to self-isolate or is shielding. After all, how could they prove it? However, the electoral registration officer will be aware of the coronavirus risks in their particular area. Similarly, they will be monitoring requests for proxy votes and, if they think that the numbers being requested are excessive compared with the prevalence of coronavirus in their area, they may undertake further investigations.

Jamie Halcro Johnston: You mention the further investigations that electoral registration officers could be doing to prevent people from voting illegitimately, but we are talking about late timescales. The whole nature of proxy voting is that it is relatively last minute. Quite legitimately, for example, if one member of a household has to self-isolate, all members may have to self-isolate—which could mean that five people need a proxy vote. There would likely not be time for a registration officer, who is going to be very busy anyway, to investigate such a case.

It sounds as if there are not safeguards; there is a lot of trust in and reliance on people. I appreciate that the individual would have had to be pre-registered for a vote anyway, but the electoral registration officers would probably not be able to investigate given the timescales and the workload at the time.

09:00

Graeme Dey: We are in the business of facilitating and encouraging people to vote, so there is an element of trust and a belief that the system will not be abused, but we are in a particular set of circumstances that require particular measures.

Jamie Halcro Johnston: I will move on to the main question that I want to ask. We have talked a lot about postal ballots and the capacity to be able to process them given the increased demand. Going back to the timescales for proxy voting, if there was a surge in demand a few days before the election for whatever reason—for example, because there has been an outbreak in a certain area—what additional capacity are EROs being advised to put in place, or is that being left for them to decide?

Roddy Angus: I will respond to that. EROs have already faced those circumstances: at the 2014 independence referendum, the rules for applying for a proxy were more lax than they are currently and there was a large number of late applications.

What most electoral registration officers did in that situation was pull in staff from other parts of their organisation who were assessors. The EROs pulled staff off the assessment side and put them on the electoral registration side to process applications, check and enter them, and so on. We would advise them to take a similar approach.

The EROs prepare plans and are aware of the possibility of a late increase in postal vote applications or proxy applications. They know that that is a possibility and will be making contingency plans to prepare for that eventuality.

Jamie Halcro Johnston: On that basis, I will ask what is possibly an unfair question—you might not be able to answer and, if you do not, I will accept that. In the 2014 independence referendum and in standard elections in normal times, is there a considerable percentage of requests for a proxy vote that are rejected or unable to be processed?

Roddy Angus: Normally, proxy votes would be rejected only if they are not made on grounds that are allowed. There are certain grounds on which someone can apply for a proxy vote, and we have had to change the list to include shielders and self-isolaters. Normally, rejections would be on the basis of those grounds.

As the minister said, electoral registration officers will tend to give the benefit of the doubt to the voter unless they have concerns. For example, if an electoral registration officer received 10 applications for a proxy from one household on the basis that they all happened to be attending a

course that day, that would raise concerns with the officer and he would carry out further checks.

The decision is down to reasonableness. Electoral registration officers know their area and the size of households in that area, and they will take that into account when considering applications.

Graeme Dey: It is also worth being clear that, as we touched on last week, there are two processes going on in preparation for the election. There is the one that we are all directly engage in with the legislation preparation, and there is also extensive work being done by the Electoral Management Board for Scotland, EROs and returning officers. The nuts-and-bolts work is going on as well, and we trust those individuals who know the running of elections inside out to be on top of the process.

Jamie Halcro Johnston: I absolutely appreciate that, and I recognise that the elections will take place in a difficult time, but when we are looking at what those people are being asked to deliver, it is our responsibility to ensure that we consider the problems that might arise. There will be great pressures on a lot of people running into the election—people who are already under pressure during election processes due to the nature of elections. It is important to make sure that those points are covered.

Graeme Dey: Absolutely.

The Convener: We have a wee bit of time—albeit not very much, it has to be said. Do members have any other questions?

Gil Paterson: These questions concern the printing of the party name on the regional ballot papers. The draft order makes provision for the printing of the names of political parties in capital letters and contains a range of other provisions that will alter the arrangements for the administration of the election. What form did your consultation take among the various stakeholders? Were you content with the level of engagement from the bodies that were consulted? *[Interruption.]*

Sorry—somebody is phoning me to check I am asking the question right. My apologies.

Graeme Dey: I am glad that was not me.

The requirement for party names to be printed in capitals simply clarifies existing practice. The example ballot paper in form J in the Scottish Parliament (Elections etc) Order 2015 showed party names in capitals, but the printing instructions did not specify that requirement. The change aligns the example and the printing directions.

I will explain what has happened in the development of the draft order. Since the most recent Scottish Parliament election in 2016, the Scottish Government has kept a record of possible changes that would require to be made to the next conduct order. That was informed by recommendations from the Electoral Commission and by comments and suggestions from electoral administrators and others, including political parties. That was all brought together through that process.

In early 2020, Scottish Government officials met electoral administrators and representatives of the Electoral Commission to discuss the list of possible changes. Further consultation was carried out with those bodies by correspondence. In mid-August, the Government wrote to stakeholders, including the political parties, to inform them of the changes that we were proposing to make to the administrative arrangements for running the election.

As you can imagine, the interactions since March have, unfortunately, not been of a normal nature, because of the pandemic. There has been disruption, with people working from home and so on. To all intents and purposes, we have made everyone who is involved in the process aware of the proposed changes, and there has been an opportunity for feedback.

The draft order before you today represents where we have ultimately arrived. I stand to be corrected by officials, but there have been no particular concerns raised about the content of the order, which reflects expectations and the asks that were made of us in preparation for the next election.

Gil Paterson: So it is more of an administrative change.

Graeme Dey: Very much so. It is a very technical order, as you may have realised.

Gil Paterson: It is for the running of the process. I understand.

Neil Findlay: I have an associated question for you, minister, while you are here, relating to the potential postponement of the election. Presumably, if the election was going to be postponed, the Government would approach the Presiding Officer and a discussion would take place. Presumably, that would involve the Government receiving legal advice. In those circumstances, if the election was going to be postponed and such advice was given, would that legal advice be published?

Graeme Dey: It would be self-evident that there was a need to postpone the election. That is not something that would be done lightly—there would be a set of circumstances. Elections can be

postponed for reasons other than pandemics, as we know.

We have had a very open and transparent process for finding a way forward. How would things work in practice? All parties would have legal advice, and the Presiding Officer would take advice on the position. The Government and political parties would get advice. Discussions would develop to the point where the Presiding Officer would be asked to take a view on whether or not a recall of Parliament was necessary.

I do not think that getting into the territory of who has legal advice, whether they would publish it or whether the Presiding Officer or the Government would publish it, is particularly relevant. The circumstances would be crystal clear, and no participant in the process would be operating outwith the bounds of what is appropriate.

Neil Findlay: I accept all that. I am not having a go at anybody over this; I am asking about the principle. It would be a monumental decision to delay an election. It would be huge.

Graeme Dey: It would be a decision of the Parliament.

Neil Findlay: Yes, but it might be a controversial decision. There might be opposition to it. In the interests of democracy, the rationale behind such a decision should be in the public domain.

Graeme Dey: It would be in the public domain.

Neil Findlay: The legality of it should also be in the public domain.

Graeme Dey: It would be self-evident that no Government, Presiding Officer or Parliament would act in a way that was outwith the appropriate. I hope that that answers your mischievous question.

Neil Findlay: No, it really does not. We have seen another Parliament 600 miles away acting illegally, so there is precedent. However, I accept that you are not going to answer my question.

John Scott: From the discussion that you have had with Neil Findlay, minister, can I now take it that the Government has conceded that there would be a vote in Parliament rather than just a discussion with the Presiding Officer if ministers wanted to postpone an election?

Graeme Dey: The whole point of the approach of not dissolving Parliament but going into a recess is to afford members of the Scottish Parliament the opportunity to vote. That is clear in the bill. It would not be a decision to be taken lightly.

John Scott: If the discussion that you have with the Presiding Officer and the legal advice that he

takes disagrees with the legal advice that the Scottish Government takes and its reasons for wanting to postpone an election, how would that be resolved?

Graeme Dey: Let me be clear about the circumstances. We expect the election to go ahead as planned. No one is looking to postpone the election.

There would have to be a set of self-evident circumstances and a consensus across Parliament. We should remember that, in the circumstances that we are talking about—if I recall correctly—the Presiding Officer will consult various bodies, including the chief medical officer, before he decides that it is appropriate to recall Parliament and ask it to consider making that decision.

There is a clear process in place, and I hope that the committee will accept that it is the right way to proceed. We are trying to ensure that any such decision would not be taken lightly and that it would not be the Government's decision but the Parliament's decision. The Presiding Officer decides whether to recall Parliament, and Parliament votes.

John Scott: That is perfect; thank you.

Patrick Harvie: We are in danger of turning the meeting into taking supplementary evidence on last week's meeting.

To come back to the order, minister, your opening remarks referred to the fact that this is the first election in which the franchise will be based on residency rather than citizenship. As you know, that is something that I welcome. Has that factor influenced any of the contents of the order? Does the fact that we need to administer and promote the take-up of the right to vote by a great many more international visitors—such as international students who might not be here for very long, for example—influenced anything in the order? Is anything being done apart from the order to promote awareness of the opportunity that people will have to vote for the first time?

Graeme Dey: It is a very good question, Mr Harvie. I will pass over to my expert, Roddy Angus.

09:15

Roddy Angus: The only thing in the order that could be seen as being impacted by the extension of the franchise is the removal of translation costs from within expenditure limits, although it was not the particular reason for that change.

There is nothing about the extension in the order, but electoral registration officers have been undertaking work in their local areas to encourage

foreign nationals who are now eligible to vote to take advantage of that. That was done during the canvass. Similarly, in the run-up to the election, the Electoral Commission will emphasise the change of canvass in their television and other adverts, which we will all have seen. They will remind foreign nationals that they are now entitled to vote and encourage them to register.

There are no particular changes in the order, but work is being undertaken outside it.

Patrick Harvie: Thank you.

Iain Hockenhull: The Electoral Commission has a custom campaign called "Welcome to your vote", which it has been running and continues to run. It involves a number of advertising aspects, stakeholder resources and educational resources, and it has some updated forms for prisoners, who have also had the franchise extended to them.

The Convener: I thank the minister and the officials for that detailed and very useful advice and evidence.

We move to agenda item 2, for which the minister will remain present. I invite him to move and speak to motion S5M-23119.

Graeme Dey: Given the workload of the committee, I will constrain myself to simply moving the order.

Motion moved,

That the Standards, Procedures and Public Appointments Committee recommends that the Scottish Parliament (Elections etc.) (Miscellaneous Amendments) Order 2020 [draft] be approved.—[*Graeme Dey*]

Motion agreed to.

The Convener: Are members content for me to sign off the committee's report on the order?

Members indicated agreement.

The Convener: That ends the public part of the meeting. I thank the minister and officials.

09:18

Meeting continued in private until 10:56.

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