



OFFICIAL REPORT
AITHISG OIFIGEIL

Standards, Procedures and Public Appointments Committee

Thursday 25 November 2021

Session 6



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Thursday 25 November 2021

CONTENTS

	Col.
DECISIONS ON TAKING BUSINESS IN PRIVATE	1
ELECTIONS BILL	2

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
9th Meeting 2021, Session 6

CONVENER

*Martin Whitfield (South Scotland) (Lab)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Paul McLennan (East Lothian) (SNP)

*Edward Mountain (Highlands and Islands) (Con)

*Tess White (North East Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

George Adam (Minister for Parliamentary Business)

Iain Hockenhull (Scottish Government)

CLERK TO THE COMMITTEE

Katy Orr

LOCATION

The Sir Alexander Fleming Room (CR3)

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 25 November 2021

[The Convener opened the meeting at 09:00]

Decisions on Taking Business in Private

The Convener (Martin Whitfield): Good morning, and welcome to the ninth meeting in 2021 of the Standards, Procedures and Public Appointments Committee. I remind members who are joining us on BlueJeans to put an R in the chat function if they want to speak.

Agenda item 1 is a decision on taking business in private. Does the committee agree to take in private item 4, which is consideration of its approach to standing orders rule changes, and item 5, which is consideration of the committee's work programme?

Members indicated agreement.

The Convener: Agenda item 2 is another decision on taking business in private. Does the committee agree that its consideration of complaint reports from the Commissioner for Ethical Standards in Public Life in Scotland will be taken in private at future meetings?

Members indicated agreement.

Elections Bill

09:00

The Convener: Agenda item 3 is an evidence-taking session on the Elections Bill. I welcome to the meeting George Adam, the Minister for Parliamentary Business, and his Scottish Government officials. Penny Curtis is deputy director in the elections and freedom of information division, and Iain Hockenhull is the Elections Bill team leader.

I invite the minister to make a short opening statement on the legislative consent memorandum.

The Minister for Parliamentary Business (George Adam): Thank you for asking me along to this morning's meeting, convener.

Elections are governed by a complex series of interconnecting laws. I must stress from the outset that I am not opposed to developing a common approach to elections across the United Kingdom, if there are benefits for voters and administrators in doing so. However, I have to point out that although the UK Government has briefed us on its proposals there has been no collaboration on them. Instead, UK ministers have set out their plans in the expectation that we will fall into line to avoid creating differences between reserved and devolved elections.

To do so would make a mockery of devolution. Scotland has already established a proud record of innovation in electoral law, with the devolved franchise having been successfully extended to 16 and 17-year-olds and foreign nationals. We are also the first nation in the UK to require digital imprints for online campaign material. The Elections Bill's attempt in effect to replace that regime is not the result of considered discussion about the merits of different approaches, but is an example of the UK Government taking a very broad view of the internet service reservation—a view that we contest.

There are other areas, such as voter identification, postal voting and the Electoral Commission, on which I am concerned about the UK Government's approach, but I also recognise that the bill contains less contentious proposals on which I have tried to work with the UK Government in the past.

Our legislative consent memorandum is not a refusal to consider reform. I want to take time to assess the proposals in the bill and to hold a public consultation on the best approach next year. That work will inform a Scottish electoral reform bill to be introduced in 2023. It is also worth stressing that the next major devolved election to

be held after the UK bill becomes law will be in 2026.

I am happy to answer members' questions, convener.

The Convener: Thank you for those opening remarks. There are a number of areas of questioning that members will lead on according to their interests, but I will kick off by looking at the strategy and policy statement that is proposed for the Electoral Commission. You have already explained why the Scottish Government thinks that devolved elections should not be part of that. What discussions have you had with the UK Government on the proposed strategy and policy statement and can you share any outcome with us?

George Adam: We have had a number of bilateral meetings with the Westminster Government and with my Welsh colleague. My Welsh colleague and I are of the opinion, in respect of the Electoral Commission, that there is work that we could do on our side that might be a lot better than what Westminster has proposed. Westminster seems to see the Electoral Commission almost as the enemy, while I and my Welsh colleague are trying to find a way forward by working with the commission. We have, for example, suggested that the Scottish Parliament and the Senedd might have a role in relation to the commission, but that suggestion has been left to one side and has not really been accepted.

That is at the heart of what we are trying to discuss. My Welsh colleague and I have been very open and up front in the discussions about what we want and what we want to do, but we have come to the same conclusion: we would rather have a process ourselves. The Scottish Parliament and the Senedd should make the decisions.

We have recently had arguments in the chamber about the idea that there seems to be a push back from Westminster against the devolved nations. That is not a political statement; it is purely a statement of fact. We are trying to ensure that we get the best under devolution and that we retain the powers that we currently have. We have been pushing with regard to the Electoral Commission, and we have serious concerns about what is almost a threat from Westminster to the commission.

The Convener: What do you see as being the strategy and policy statement's potential impact on devolved elections?

George Adam: We are proposing to bring forward our own legislation to ensure that we decide what happens in devolved elections. The process in general will cause confusion when there is a UK election. As I said in my statement,

an unfortunate point about the UK Elections Bill process is that we were given what was published at the very last minute and were expected just to toe the line. My Welsh colleague and I believe that that is not showing respect to the devolved Administrations.

The Convener: Are you reassured that you have a road map to ensure that an election bill would be enacted before the next expected devolved election in 2026?

George Adam: Things have changed; the bill has been a moveable feast. It has always been on our minds that, if there is a way forward and a different way of doing business that is valuable to us, for the people of Scotland, we will be happy to look at that for our bill. We have always looked at timescales. Sometimes things have been challenging, but we are pretty confident that we will be able to do everything that is needed for the bill in time for the next election.

The Convener: We have heard evidence that there is concern about the strategy and policy statement's potential to affect the Electoral Commission's independence, and we have received letters from the Scottish Parliament's Presiding Officer and the UK Government's Minister for Equalities and Minister for Levelling Up Communities. I do not know whether you have had an opportunity to look at those letters. Do you want to comment in particular on the Presiding Officer's letter and the Speaker's Committee on the Electoral Commission's involvement in relation to the statement?

George Adam: In the process that we have been going through, we have tried to work with the Electoral Commission to find a cohesive way forward. As I said earlier, one of my concerns is that the approach seems to be an attack on the Electoral Commission. It feels as though the UK Government does not want the positive engagement that we all want. The Electoral Commission is there to do a job that probably helps us rather than hinders us and makes everything open and above board, so I cannot see why any Government, regardless of its party colour, would not want to ensure that the commission has an independent view and is able to do its job. I do not see why anybody would have a problem with that.

The Convener: I am grateful for that. The Presiding Officer has a role with regard to Electoral Commission funding in respect of its role in Scottish elections. Is there concern that there could be challenges about funding if the Scottish Parliament is not involved in discussions about the strategy and policy statement? Should its being responsible for funding the Electoral Commission be enough for the Scottish Parliament to take part in those discussions?

George Adam: I gave the example of how I have interacted with the UK Government on the situation. I have some concern that, further down the line, the statement might create the scenario that you describe, convener, because the UK Government's attitude seems to be that things must be done how it wants them to be done or not at all.

I will bring in one of my officials to tidy that up for you.

Iain Hockenhull (Scottish Government): The existing arrangements in relation to the Electoral Commission and the Scottish Parliamentary Corporate Body were put in place by the Scottish Elections (Reform) Act 2020. There were serious discussions on that legislation about the nature of the relationship with the Scottish Parliamentary Corporate Body. Given that there is potential for the Elections Bill to impact on the Speaker's Committee on the Electoral Commission, there might be an argument for revisiting that arrangement. We might want to raise that in the consultation paper that is planned for next year.

The Convener: I am grateful for that. My penultimate question relates to the letter that we have received from the UK Government, which again goes to the heart of the commission's independence. The Minister for Equalities was unable to attend this meeting in person—I understand that there was a diary clash. Her letter says:

"To improve the parliamentary accountability of the Electoral Commission, the Bill makes provision for a Strategy and Policy Statement"—

which we have just discussed—

"that will set out guidance and principles, which the Commission will have to have regard to in the discharge of its functions."

There are significant assertions in the UK Government's evidence about the importance of the Electoral Commission's independence, but I have concern about the phrase "will have". Its use means that the strategy and policy statement will bind the commission; therefore, the matter of its independence is pertinent to today's scrutiny. What are your comments on that?

George Adam: I am happy to have given you my standpoint already, in response to your earlier questions. For more technical answers, it is probably better to go to Iain Hockenhull.

Iain Hockenhull: The UK minister has indicated that, when there is agreement that something is within the Scottish Parliament's devolved competence, the UK Government will remove such aspects from the bill when the House of Lords considers it. That appears to include the impact of the strategy and policy statement on

devolved elections; we therefore expect the statement ultimately to relate only to reserved elections.

The bill includes an obligation to consult the Scottish and Welsh ministers in relation to their devolved functions. Ministers have said in representations to the UK minister that the statement could, even if it relates only to reserved matters, still have a knock-on effect on how the commission interacts with devolved Administrations, and that it seems, therefore, to be appropriate that there be an obligation to consult across the board, even if the statement does not apply to devolved elections. The UK Government is considering that.

George Adam: We will leave it at that, but with the caveat that things have not gone exactly smoothly in the process. Who knows what could come from that negotiation?

The Convener: It might have a successful conclusion.

George Adam: I hope so.

The Convener: Tess White has questions on clarification of the offence of undue influence of voters.

Tess White (North East Scotland) (Con): Good morning. What would the benefit be of introducing Scottish legislation on undue influence?

George Adam: I am not opposed to the moves in the bill on that issue. We have already said that we intend to consult in 2022 and to introduce a bill in 2023, and that we would consider the matter. However, in discussions that we have had, we have found that the issue is not as serious as others have said it is. Nonetheless, we are not opposed to introducing legislation on it. We are happy to consider the matter and, possibly, to make it part of the bill that we will introduce.

Tess White: Okay. What would be the benefit of introducing Scottish legislation?

09:15

George Adam: As I said earlier, in recent elections we have not had any examples of undue influence being a major issue. Third sector organisations and groups that are involved in elections are not screaming from the rooftops that the Government has to make a change in that regard. We are taking cognisance of the issue. We are listening to what the UK Government is saying and we are interested in what is going on, but, after our consultation in 2022, we will look at the matter—along with a raft of others—for our electoral reform bill in 2023.

Tess White: Would I be right in summarising the answer as being that you do not know the benefits yet but you might after you have been through the consultation?

George Adam: A more accurate way to summarise it would be to say that I can understand where the UK Government is going on the issue but I want to consult on it and get more information and data, so that I can see what the main benefits would be for us when our bill comes to the Scottish Parliament in 2023.

Tess White: Okay. So you are keeping an open mind for now.

George Adam: As I said in my statement, there are many areas where we have common ground with the UK Government, but some parts of the bill are toxic for the Scottish Parliament and Government.

Tess White: My next question is quite long. What consideration has the Scottish Government given to the potentially different levels of protection from undue influence that will be afforded to voters in Scotland and voters in the other parts of the UK if the legislation is not taken forward on a UK-wide basis?

George Adam: The next election in which that would affect us is not until 2026. If, after consultation, we find that undue influence is a major issue and we decide, as a Government, to go down a similar route to the UK Government, we will add that to our electoral reform bill. I do not believe that there could be a major difference if we do everything that we set out to do.

That goes back to the crux of the matter, which is that the UK Government is changing the playing field, and we are being expected to fall into line. I do not think that that is right and I do not think that you, Ms White—or any other members of this Parliament—should be treated in that way. We need to have an open discussion.

The matter that you have raised is at the very heart of the issue, which is that a bill has been published that the UK Government expects our colleague in Wales and me to just accept. However, on all the issues, my colleague in Wales and I are of the same mind and have agreed a way forward. It is not just about me, George Adam, the Scottish National Party Minister for Parliamentary Business—a Labour member in Wales who is in a similar role to mine has come to the same conclusions.

Tess White: Thank you. I have a final question. If and when the Scottish Government introduces legislation to update the offence of undue influence, will it be primary legislation?

George Adam: At this stage, as I said, I do not even have a draft bill in front of me. We will go

through the whole process and take it from there once we have decided the best way in which to make the update valuable. I am happy to bring Iain Hockenhull in, in order—I hope—to back me up.

Iain Hockenhull: Electoral law is such a complicated mix of secondary and primary legislation that it is often difficult to say confidently whether a change will be made through primary or secondary legislation. The fact that the UK Government is making the change in primary legislation suggests that the Scottish Government would also do so, because we normally amend primary legislation with primary legislation and secondary legislation with secondary legislation. The particular offence of undue influence on voters is old; one of the reasons for updating it is that it is out of date. It almost certainly lies in archaic Westminster legislation that applies across the board, so the answer—

George Adam: Ms White, the answer to your question is that it is as clear as mud. [*Laughter.*]

Tess White: Thank you.

The Convener: Minister, the committee understands the attitudinal difference in the way that the UK Government has presented that legislation to you, but it is the role of the committee to scrutinise the legislation, notwithstanding the attitudinal approach that has been taken.

George Adam: I understand, convener. It is purely that my colleagues and I have been living this for the past six months, so we just—

The Convener: I feel your frustration, but we have a role to play, which is in part what Tess White was following through on.

On undue influence, is there agreement that the law is out of date and that change is needed? The change would be the subject of consultation of the public and others. Is there a bottom-line agreement on what the UK Government is asserting, which is that the law on undue influence is out of date and needs to be modernised?

Iain Hockenhull: I am not aware of any suggestion to the contrary. There seems to be widespread agreement that the law on that is archaic.

The Convener: I am grateful for that response. We will move on to questions from Paul McLennan.

Paul McLennan (East Lothian) (SNP): I refer members to my entry in the register of members' interests, as I am a serving councillor in East Lothian.

Minister, as the briefing paper touches on, the bill covers three main areas in relation to the regulation of expenditure for political purposes: the restriction of all third-party campaigning to UK-

based entities and eligible overseas voters; restrictions on co-ordinated spending between parties and third parties; and third-party campaigner registration.

I know that the Scottish Government's position differs from that of the UK Government. I would like to explore a few issues around that. What assessment has the Scottish Government made of the potential for confusion if reserved and devolved electoral events have different requirements on campaign expenditure?

George Adam: It is a concern because, in a busy world, if there are two processes, it is natural that people can get confused. We all know agents in our various political parties who believe that they know the process, but mistakes can be made, so that difference could cause issues.

However, again, I go back to the process that we have had to go through. When we have tried to explain that we think that there is a way of doing things differently, we have more or less been met with, "Speak to the hand," to use the modern colloquialism. It has been very difficult for us. I am aware that there could be issues, but we believe that we can sort them out in our own bill.

It sounds as though I am repeating myself here, but my Welsh colleague and I had a very long conversation on all aspects of the UK bill and concluded that we would both be going down the route of having our own legislation. Where there are good parts in the UK bill, we will take them, and, where there are parts that we fundamentally disagree with, we will not. The situation could lead to general confusion between the two processes, but we are doing our best to try to ensure, within the powers that we have, that we can deliver for Scotland as my Welsh colleague is trying to deliver for Wales.

Does Iain Hockenhull want to add to that? He is shaking his head. That is unusual—I must have been bang on the money there, convener.

Paul McLennan: You mentioned agents, and one of the key issues relates to compliance and transparency around expenditure. Are there specific concerns in that regard?

George Adam: Iain Hockenhull can respond to that.

Iain Hockenhull: It is quite a complicated set of proposals—I certainly would not claim to understand the full implications. One advantage of having a consultation is that a lot of the issues will come out then and the consultation will be on the basis of the final version of the UK bill rather than the bill as introduced. There might also be the benefit of seeing some of the proposals being exercised in practice, although possibly not during the consultation. However, by the time the Scottish

Parliament legislation is introduced, we might have seen some of the proposals deployed in action in UK elections and be able to draw observations from that.

George Adam: Committee members will be aware that there will be people who have been involved in the process, like us—we have known each other far too long—and our agents. Such people will be able to get involved in the consultation; they know, organically, how the process works. Getting information from those people will make a difference as we move forward.

Paul McLennan: I have a couple of other questions. You talked about plans to legislate. Do you think that that is likely? What direction, timing and nature of legislation will be required?

Secondly, you talked about the next electoral event being in 2026. If there was an unscheduled event before then and before the legislation was brought in, where would that come in—

George Adam: What do you mean by "unscheduled"?

Paul McLennan: I mean an unscheduled Scottish election that came about for whatever reason at whatever time.

George Adam: That would be an extreme event. I am not a betting man, but I would not bet on that happening. That is an extreme example of a possible problem, and we feel pretty comfortable that we can get everything in place before our next major electoral event.

As I told Ms White, and as I said during my opening remarks, we will consult during 2022 and introduce the bill in 2023. That will give us ample time to ensure that we have everything in place for the next Scottish election.

Paul McLennan: Do you envisage the bill being introduced at the end of 2023?

George Adam: Being the Minister for Parliamentary Business, I know that there are plans and plans. I think that the D day landings were probably easier than getting the programme for government together, given the organisation involved. I am not going to make myself a hostage to fortune on that, but we feel comfortable that we will have something in place in 2023, ready for the elections.

Paul McLennan: What is the Government's position on foreign spending or money from overseas being spent in devolved Scottish elections?

George Adam: I have issues with that. A number of issues relating to the bill concern me, and that is one of them. The idea that someone can live in a tax haven thousands of miles away and invest in an election—whether it be millions,

thousands or hundreds of pounds—concerns me, because they are not part of the democratic process and do not contribute to the UK. I am not even talking about Scotland; I am talking about the UK. I am concerned that people who invest money in various campaigns from abroad skew elections to a certain degree. It is unfair. It is just not right. I am a great believer in doing things by the book, and that kind of thing just smells bad to me.

Paul McLennan: That is clear. Thank you, minister.

The Convener: Bob Doris would like to come in with a supplementary question.

I am sorry, Bob, but we cannot hear you. Can you put your thumb up if you can hear us?

Bob, we will move on, but I have you on my post-it note and we will return to the minister to answer your question in due course, when we can connect with you.

Can I come to Edward Mountain for questions on the disqualification of offenders from holding elected office?

Edward Mountain (Highlands and Islands) (Con): Of course you may, convener, if you can hear me.

The Convener: We can.

Edward Mountain: Minister, I am sure that you agree with me that skewing elections by intimidating people or any such means is completely unacceptable.

George Adam: Was that the question? I do believe that—

Edward Mountain: I cannot hear you.

The Convener: Can you hear me, Edward?

Edward Mountain: I can, and I can see that the minister's microphone is lit up, so there is a chance that I will be able to hear him now.

George Adam: Yes, I agree that anything that interferes with the election process is wrong and that we should ensure that we make it as safe as possible for everyone to fill in their ballot paper. That is part of the reason why we want to have legislation of our own for those processes. As I said to Ms White, that is why we are looking at the issue and waiting to see what comes from it.

As my official has said, the current system is archaic, so we need to find a way to modernise it—that might be part of the bill. I cannot tell you what will be in the bill because we obviously have to consult people first.

09:30

Edward Mountain: You have no idea what you would put in the bill as a sanction for people who practise intimidation at elections.

George Adam: I think—

Edward Mountain: A yes or no answer would suffice.

George Adam: It is not as simple as giving a yes or no answer. I have said that we will look at the process and at ensuring that we can incorporate something in our bill once we have consulted everyone. Mr Mountain, there is a process. I may be a St Mirren supporter and our colours may be black and white, but unfortunately the world is not black and white—there is a grey bit in the middle, and we must ensure that we can get things done and go forward. In answer to the question, the matter will be considered as part of our election reform bill.

Edward Mountain: Okay. Based on the fact that you and I agree that intimidation should not happen, do you think that five years would be an unreasonable ban?

George Adam: Let us see what is in my bill in 2023, Mr Mountain. I know that you are enthusiastic and want to know what is happening here and now but, as I said, there is a process that we have to go through, and we need to get—

Edward Mountain: Minister, with the greatest respect—

George Adam: Mr Mountain—

The Convener: Edward, let the minister answer, and I will then come to you. I appreciate your frustration.

Edward Mountain: Convener, it is not just frustration—

George Adam: Mr Mountain, we are going through a process. I have accused the UK Government of putting things before this Parliament at the very last minute, telling us how we should take things forward and assuming that we would do so. For me to make a solid commitment on any aspects of the bill at this stage would be to do likewise; I would not be giving the Parliament and you, as fellow MSPs, the opportunity to engage with the process.

I am saying at this stage that we will consult, go through the process and consider the matter ourselves.

The Convener: To be fair, minister, Edward Mountain was not asking for a commitment; he was asking for your view on the period of five years. It is absolutely up to you whether you wish to express your view, but I do not think that he was looking for a Government commitment. He

certainly was not looking for a parliamentary expectation; he was merely asking whether five years felt unreasonable to you.

George Adam: To be fair, convener, in front of me is a sign that says “Minister for Parliamentary Business”. George Adam’s opinion is irrelevant in this situation. I am here as the Minister for Parliamentary Business to talk about legislation that we might introduce in the next while. Yes, I have my own opinions on various things but, in my role, I have to take proposals through Parliament in a way that is open and transparent and that gives everyone the opportunity to engage.

The Convener: I am grateful.

Edward Mountain: I absolutely understand that what I was asking for was an opinion. Mr Adam has given various opinions this morning, but he is not prepared to voice an opinion on this matter.

My question to you is this, Mr Adam. It is likely that the Scottish elections will be in 2026, as you have said. You said that it would only be in extremis—in a situation that you could not predict—that they would happen before then. The UK elections will happen before then. Your timescale of consulting in 2022 and introducing proposed legislation in 2023 would probably mean that you would end up in a different position from that of the UK Government on intimidation. Do you think that that would be a good position to be in?

George Adam: Mr Mountain seems to have stumbled on to the actual issue that we are dealing with here and now. The problem is not one of my making; I am not the one who is dramatically changing UK electoral law—I cannot legislate for UK elections. It is the UK Government that is dramatically changing electoral law.

We have had discussions during the process and we have tried to engage with the UK Government on the matter. At one point, we tried to bring the UK Government round and to change various things, so that we could have a level playing field for all elections, but that just was not going to happen—and it did not happen.

The UK Government has made an assumption, whether or not you think it is right—I think that it is wrong—that it will just carry on and do things its way. It is not we, in this Parliament, who have created the problem. If there was a UK election during the intervening period, it would be under UK electoral law anyway, so there would be no difference in that regard. I agree with Mr Mountain that the UK Government has included various things that would create differences in the process, many of which we have discussed today.

I am not to blame for this. My colleagues have tried to influence the situation but have been unable to do so. The Welsh Government and I

totally agree on the way forward. Our colleagues in Wales are doing the same as I am doing. In fact, they are going further, as they are adding to their electoral bill some other ideas that are not part of the proposed UK election legislation.

Edward Mountain: Thank you, minister. I do not think that I “stumbled” on to anything. I read the papers and understood them.

George Adam: Good for you, Edward.

Edward Mountain: I understand that there is no compromise—

George Adam: Good for you, Edward.

Edward Mountain: Pardon?

George Adam: I said, “Good for you, Edward.”

Edward Mountain: Right—fine. Convener, I have had enough of—

The Convener: I am sorry to interrupt, Edward. Minister, all committee members have read their papers.

George Adam: I just said “Well done” to Edward for that. That is all that I was suggesting.

The Convener: Yes. I will politely put it this way: perhaps choose a more helpful tone.

George Adam: I will do so in the future.

The Convener: Edward Mountain is a very important member of the committee and, as I said, every member of the committee has read their papers. I know that you have lived the bill for six months but, over a much shorter period, the committee has also lived the bill, listened to evidence and probed on a lot of matters.

George Adam: Apologies, convener, and apologies to Mr Mountain.

The Convener: I am very grateful for that, minister.

Is there anything else that you would like to ask about, Edward?

Edward Mountain: I understand that there are strong feelings on both sides. I am looking to find areas in which there could still be compromise. I am trying to investigate that. I understand that, although we all agree that intimidation of witnesses should not happen, there does not appear to be a compromise, so I am happy to leave my questions there.

George Adam: I appreciate that Mr Mountain is trying to find common ground. I have done that myself over the past six months. However, key parts of the proposed legislation make that extremely difficult for us all—it is very difficult to find that common ground.

The Convener: I am grateful.

I hope that Bob Doris is now able to rejoin us—that he is able both to hear us and to speak.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): I can certainly hear you, convener. Can you hear me?

The Convener: We can hear your lovely tones coming down the line. We can therefore return to the regulation of expenditure for political purposes, on which I understand you have a follow-up question. I will then hand over to you to ask about notional expenditure.

Bob Doris: That is perfect, convener. Before I ask my question, I will take the opportunity to comment on the exchange between Mr Mountain and the minister.

Good morning, minister. The Scottish Government's position appears to be that there has been very little time in which to have meaningful engagement and dialogue with the UK Government. The Scottish Government's position is that that dialogue has not been substantive or meaningful, and you do not feel that you have been co-producing the UK bill. The committee will reflect on that, and we will take a view on that.

My question is on the Scottish Government's view. It is clear that there is a timescale in which the Scottish Government will itself legislate for the bits of the bill where you believe there is clearly merit, but you would wish to consult appropriately and meaningfully within Scotland to get the best bill for Scotland. When you do that, however the UK Government legislates at a UK level, will you learn from that experience? When you legislate in Scotland, will you continue a dialogue with the UK Government? I would hope that, if the Scottish Government or the Welsh Government found a better way to change electoral legislation, that would be shared across the UK.

Even though, to date, relationships have not been positive, it is important that the Scottish Government uses the consultation for its pending electoral reforms to feed back to the UK Government. Can you give some reassurance that that dialogue will continue, irrespective of the different positions of the Scottish and UK Governments?

George Adam: Yes I can, Mr Doris. The dialogue continues. We still have bilateral conversations with Wales or Westminster and trilateral conversations all together.

I admit that the most recent meeting was pretty fraught. The process has not been helped by there being a reshuffle in the UK Government, which meant that the minister with whom we had built up a relationship moved on, so we had to deal with a new minister and a new relationship. The UK

minister's portfolio has also become larger, so electoral reform is just one aspect of it.

We will continue to engage and communicate to try to find ways forward when we can. We are trying to work through the matter in a way that avoids confusion. I am not going to say that that will be easy, because of the way that things are, but we are doing our best to work through the situation.

Bob Doris: That is important. The Governments of the UK are allowed to disagree with one another. No one in the Scottish, Welsh or UK Government has a monopoly on wisdom, so it is important that the dialogue continues.

I listened to Mr McLennan's exchange with the minister about how, with third-party campaigners in elections, we ensure greater transparency about where money comes from and how it is spent. I apologise if I missed this during the exchange, but I did not hear the expression "dark money". I do not know whether the UK bill—I must admit that I should perhaps read it more carefully—will deal with concerns about that.

For example, there were concerns about spend ahead of the Scottish elections. In particular, it was hard to shine a light on where the money came from for a £46,000 Facebook campaign that perhaps sought to influence the Scottish elections. The point that I am making is all in the public domain, but I want to ensure that it is not prejudiced by party-political views, perspectives and interests, so I have not given a context to that spend.

The public are well aware of the expression "dark money". They have concerns about the lack of transparency about where money comes from, how it is spent and how it could interfere in, and unfairly try to influence, elections. Is there anything in the UK bill that deals directly with dark money? Will the proposed Scottish bill seek to address that as well, to ensure that our elections in Scotland—and throughout the UK—are open, transparent and appropriately funded in a way that voters believe is fair and free?

George Adam: On the Scottish elections, that is exactly what we want to aim for. We want to ensure that they are open and free and that changes are not made by funding from elsewhere.

In my exchanges with Mr McLennan, I did not use the term "dark money" but I expressed severe concerns about money from abroad. The bill provides the opportunity for someone who has not been involved in the electoral process, who has not been a taxpayer of the UK and who has not been in the country for 14 years to influence a UK election if they have the financial ability to do so. That is a concern. It is not transparent, as Mr Doris says. It is not what we are all about here, because

the Scottish Parliament has always been about ensuring that the elections are fair and above board.

I have concerns about allowing someone who has not been involved in the electoral process or even lived in the country for 14 years being able to engage and spend money in a UK election.

Bob Doris: I see from the meeting papers that how we assign and categorise notional expenditure will change under the UK bill. I also see that the Scottish Government has a degree of sympathy for that. Will you say some more about it?

George Adam: I will give you a nice, simple answer, Mr Doris. Yes, as in many parts of UK bills, we see common ground in this bill, and we will look at that common ground when we move towards the Scottish electoral reform bill in 2023.

09:45

Bob Doris: As the minister would expect, I have a follow-up question. Have you made any assessment of whether there could be potential confusion with different rules on notional expenditure across the UK? You said that taking different approaches to how that is operated has not been a choice of the Scottish Government, but, as you look, perhaps, to legislate separately on notional expenditure, what reassurances can you give that you will make sure that there is no confusion with potentially different rules across the UK?

George Adam: To generalise across the piece, we are working towards making sure that there is no confusion, regardless of what part of the UK bill we are talking about or what ends up in the Scottish bill. We are trying to work out a way in which we cannot cause that confusion. However, at the same time, if we find a better way of working, with regard to any parts or aspects of the bill, we will also go forward with that, as my Welsh colleagues have done. We recently—towards the end of the previous session—had a bill in that area, but my Welsh colleagues have not had that, so they are playing catch-up and looking at various things.

From our perspective, part of this bill is about digital imprints, which we have already legislated on. In effect, the UK Government has come in and said, "Ours is the right way forward," but we were the first UK Administration to legislate in the area. To put your mind at ease, Mr Doris, we are trying to find ways to make sure that there is no confusion, which is why we are consulting before bringing forward a bill in 2023.

Bob Doris: When the legislation on digital imprints was introduced in Scotland, did the UK

Government raise concerns that it would lead to different election rules across the UK?

George Adam: At that point, I was your chief whip rather than the minister, so I will ask Iain Hockenhull whether he knows anything regarding that.

Iain Hockenhull: No, I do not think so. The UK Government was quite interested in what we were doing but, ultimately, it has come up with a different set of proposals.

Bob Doris: That is interesting, because it is about consistency of argument, and the UK Government did not have a concern about Scotland deviating from the rest of the UK in order to improve matters. I will leave it at that.

I have a final, specific question. Has the Scottish Government had any discussions with the Electoral Commission about the need for clarifying legislation in the area of notional expenditure? The particular example that is given in our committee papers—I wish that I could say that it was my clever thinking, but it is not—is discussions in the light of the 2018 Supreme Court case *R v Mackinlay* and others (Respondents).

George Adam: We have had on-going dialogue with the Electoral Commission. It was one of the first meetings that I had when I became a minister—because I knew that the bill was coming and that it was one of the important ones—in order to ensure that we had that on-going relationship. That relationship is extremely important for all the Administrations—the UK, Wales and Scotland—but part of the legislation that the UK Government is suggesting makes that relationship extremely difficult for the Electoral Commission.

I ask my colleague Iain Hockenhull to comment on the technical aspects of the legal case that you mentioned.

Iain Hockenhull: It is a part of the whole consideration. We have had quite close discussions with the Electoral Commission on that and on the campaign finance proposals.

Bob Doris: Thank you very much.

The Convener: As we mentioned digital imprints only a few moments ago, I will pass over to Paul McLennan, who has some questions on that issue. I think that there are follow-up questions on that as well.

Paul McLennan: Minister, I know that you have touched on the issue already, but what are the key differences between the digital imprints regime that is in place in Scotland and the one that is being created by the UK bill?

George Adam: We could probably look at many aspects of the UK's idea. Although we were an innovator on that, other people can come up with

ideas that might be helpful and guide us in another way, and we could consider digital imprints again for our electoral reform bill. The whole idea would be for us to take the digital imprints idea and move it to the next level, if there is one. However, it comes down to one of the disagreements between the Scottish and UK Governments, which is that the UK Government believes that it has the right to impose its process and system on us because the area of internet service provision is not devolved. Its argument is therefore that it can do that. Our argument—which is based on the arguments and advice that I have had from officials—is that that is not the case. We believe that we can still legislate for digital imprints ourselves. If the committee wants further detail, I will get Iain Hockenhull to add to that.

Iain Hockenhull: The UK's proposed regime is broader and applies outwith the electoral cycle and election campaigns, whereas the Scottish regime is focused on particular elections. It goes further in one key respect in that it applies to unpaid-for material, although there is an exemption for people expressing a personal opinion. The UK provisions apply to unpaid-for material in some instances but not across the board in the same way. That is probably the key difference.

Another key aspect is that, because the UK Government can legislate in relation to internet services, it has a take-down provision that enforces taking-down measures. I think that we indicated in the legislative consent memorandum that that is an attractive aspect that we would consider trying to mesh into if the Scottish regime continued.

However, the UK Government's overall position is that, because it has gone very broad, it is all reserved and therefore it will all apply. I think that that would mean that we would, in effect, be obliged to repeal our regime to avoid having two digital imprint regimes operating at the same time. The option of trying to tie into it appears to be off the table at the moment.

Paul McLennan: I will ask about one specific point. The UK Government says that it is about

“electronic material of a political nature on the internet and behaviour and conduct on the internet by users and internet service providers at all times”.

Although I think that the minister touched on the matter, what are his views on that? The minister also touched on the question of whether there would be legislation to create a similar regime.

George Adam: As I said in response to the original question, there are many parts to this. We do not believe that we have a monopoly on genius or ideas, but we do believe that there are different ways forward. We all live in a digital world. Our

legislation was for the electoral process itself. We all live in a digital world and we know what goes on within various internet providers and on social media. We would look at ways of modernising that. Although I am not prejudging it, I assume that that will probably be one of the things that will be highlighted when we go to consultation. I am happy to bring Iain Hockenhull in if there is anything else to add.

Iain Hockenhull: To refer back to the minister's opening remarks, there is a difference between the two regimes. The proposals in the UK Elections Bill are not the result of a dialogue as to which regime is to be favoured; it is the UK Government saying, “This is the way to go.” Its position is that its regime will apply across the board, because it thinks that the area is entirely reserved.

The Convener: To clarify a couple of matters, does the Scottish Government have take-down powers now, or are they reserved?

Iain Hockenhull: They are within reserved powers.

The Convener: That element is reserved.

In the minister's letter to the committee, she points out that

“a UK wide regime will ensure a coherent and consistent approach for both those enforcing the regime and for campaigners.”

Putting aside the political element—I know that it is difficult to do that—we can see that it is a given fact that, given the internet and the base from which people start off, we would need a UK-wide policy to ensure a coherent and consistent approach. That is almost a *fait accompli* because of the way that internet users and providers are located and how the worldwide web works.

George Adam: I understand the convener's point. However, the situation is that we have already partly legislated for digital imprints. If there had been an open dialogue in which we could have engaged, in a perfect world, I would be sitting here, in front of the committee, saying that there was no LCM and that we were going forward with the bill because we agree on so many things and want to do what is best for everyone. However, I tried that during the negotiations in my initial meetings with the Westminster Government. I tried to get that agreement, as did my Welsh colleague—although I should point out that he is in a slightly different position to us, as our justice system is fully devolved—but it just was not going to happen. In effect, we tried to say, “Let's work together and find a way to sort this out”, but the answer was “No—it will be done this way.” I do not believe that that is in the spirit of the devolved settlement involving all the UK nations, nor is it the way forward, and I believe that a minister of any

party colour doing my job in our chamber would have a very similar opinion about how we, in the Scottish Parliament, should take the matter forward and deal with it.

I am quite happy for Iain Hockenhull to add to those comments.

The Convener: I was going to ask about that, minister. As I have said, and as you have made plain in your evidence today, the bottom line is that there have been very serious communication difficulties. That said, one of the things that I am picking up is that, notwithstanding that substantial problem and challenge with regard to communications and engagement, there are still fundamental elements of the bill on which there would be disagreement on other grounds, which have been articulated in written evidence and in your evidence this morning.

Homing in on one such area—digital imprints—I note that such a regime applies in Scotland only at election time. On my reading of the bill, it seems that the substantial change to that regime relates to an ability to do something that is, by common agreement, reserved, but it is also proposed that the regime be extended to be applied at all times. Subject to consultation, does the Scottish Government see any value in broadening the digital imprint requirement in that way?

George Adam: If you are talking about our own consultation on the matter, my answer is yes, I do. As I said in response to an earlier question, we have the option to consult the people who are involved in the process and ensure that they engage with us on that issue. We, as public figures, all know how toxic social media, in particular, can be with regard to some of the things that can be said. However, for me, the most important thing has been to find a way forward, given that we have been a leader in the digital imprint area. When I, quite reasonably, said to my UK colleague, “I am quite happy to take this forward in a Scottish bill, look at some of the ideas you’ve had and see where we go from there,” I was more or less told, “No—we’re totally in charge of that.” In fact, we have received legal advice that suggests that those grounds are a bit ropey.

The Convener: Thank you for clarifying your position on, and your understanding of, the matter.

That concludes our specific questions on the LCM, but it would be helpful to get your evidence on other matters that are covered in it. I call Edward Mountain, who will ask about voter ID.

Edward Mountain: I say at the outset that, as we all accept, there are significant differences between UK and Scottish elections. To my mind, that is a benefit of devolution, and I am proud that Scotland is leading the way on aspects such as 16-year-olds being given the vote.

However, what I want to talk about is voter ID, which the UK Government has identified as a problem in UK elections. Do you accept that view or do you take the view that, because it is not a problem in Scotland, it is not a problem in the UK?

George Adam: Voter ID is the main issue on which we cannot agree, and that has been the situation from day 1 of our discussions. We feel that voter ID makes it even more difficult for people to engage. We have just come off the back of a Scottish Parliament election that had the highest-ever turnout of people going to the polls to express their opinion.

10:00

My fear is that voter ID will cause confusion because we will not be using it. We never know when there will be a Westminster election, even though we have the Fixed-term Parliaments Act 2011. As Mr Mountain mentioned, there will probably be an election well before there should be one. A Westminster election could happen at any point and we could have a scenario that would be difficult for us and the Welsh to deal with, in which a UK election was held on the same day as or within the period of a Scottish election.

Let us imagine that the two elections were held on the same day. That would be a nightmare scenario. UK officials have told us that they will try to avoid that, but that does not fill me with confidence. We could end up in a situation in which people were voting on the same day in elections in which there were two different voting systems with different processes and, added to that, voter ID was used for one of them but not for the other.

I am against voter ID because, for example, an elderly person who had voted at the same polling station for the past 20 to 25 years could turn up to vote in a Westminster election, regardless of when it might be, and say, “I’ve voted here for the past 25 years,” only to be asked for their voter ID and told, “You’ve not done it.” It just makes the process more difficult at a time when we are trying to get the public to engage more with the political process.

Let us look at the successes of the most recent Scottish parliamentary elections and encourage people to vote. The voter ID proposal is an example of how to discourage and dissuade people from voting.

Edward Mountain: Thank you for your opinion on that, but it was not the question that I asked. What I asked was, because you do not see voter fraud as being a problem in Scotland, do you therefore not perceive it to be a problem across the UK? That is the specific question that I asked.

George Adam: To answer that specific question specifically, I would say that it is not for me to decide what the UK Government does in its area of government.

Edward Mountain: On that basis, if the UK Government wants to bring in voter ID for UK parliamentary elections, it is not for you to decide.

George Adam: It is not for me to decide, but I am fundamentally against voter ID. Democracy means that there is a Conservative Government at Westminster and it decides what it does in its jurisdiction.

Edward Mountain: Okay. There are two things that I want to go back to, if I may. First, we know that holding different elections on the same day does not work. We have seen that, and I totally agree with you on that. I would be very surprised if anyone thought that it would be a good idea to run two different parliamentary elections on the same day. That just does not work.

Secondly, you said that we will not have voter ID in Scotland, which gives me a clear indication that you have decided what will be in your election bill. However, you could not answer a question that I asked earlier about what would be in the bill. You have decided to disclose some parts of it, but you cannot disclose other parts. Is that right?

George Adam: We fundamentally disagree with the UK Government on the issue. I do not think that the Scottish Government has been quiet about its position that it does not believe that voter ID is the way forward. As Mr Mountain has heard from me today, it has been shouted from the rooftops that we fundamentally disagree with voter ID.

There is a big difference between something that we all fundamentally disagree with and aspects of the bill where we could probably find a Scottish solution.

Edward Mountain: You are saying that you are going to put everything else out to consultation but, because you fundamentally disagree with voter ID, you are not going to put it out to consultation, and that you personally want a separate decision to be made in Scotland regarding UK elections that is not part of the devolved settlement. Have I got that wrong?

George Adam: Mr Mountain, as the Minister for Parliamentary Business, in our chamber of minorities, I would have difficulty getting voter ID passed.

I am not making judgments, but I think that the Conservatives would probably be the only party that would support such an idea. There are issues that we fundamentally disagree on, and I think that I can draw a line and say that there is no feel for voter ID in the Scottish Parliament.

The Convener: To be fair, I think that Edward Mountain's question was about whether voter ID would be consulted on. I gather from your evidence that it will not form part of the consultation. Is that right?

George Adam: I would be open to it being part of the consultation, as we are with everything. However, at the end of the day, the Government makes decisions on various aspects; the Government is against voter ID and, even if the Government was for it, we would probably not get a majority to get it through this Parliament of minorities.

Edward Mountain: So, if it was put out to consultation as part of the democratic process and voter ID was agreed to, you as a Government would vote against it and would not push it through the Parliament. That is what you have just said to me. I understand your position, minister—thank you.

Bob Doris: It is important to set out why voter ID has been ruled out. We heard last week that just 0.7 per cent of poll workers thought that electoral fraud was an issue, which is a tiny amount. In one of the voter ID pilots in England, up to 30 per cent of voters were turned away from the polling station.

It might be helpful to put on the record, minister, why you believe that voter ID should be categorically ruled out. I happen to agree, but it is important to be clear about why that should be done.

George Adam: It is not so much about the confusion that voter ID causes; it is to do with the fact that, as you quite rightly state, there is not the will to introduce it, because people do not believe that there is a level of electoral fraud that means that we need something such as voter ID.

We are trying to encourage the public to engage with the voting process; fundamentally, voter ID would make that more difficult. It would put a barrier in the way of a member of the public being able to cast a vote. I do not want that. I want to ensure that we have elections such as the one that we had this year in Scotland, in which there was an open and frank discussion and the public came out in numbers.

Bob Doris: That is helpful. Other members may wish to highlight that certain groups are more significantly impacted by the requirement for voter ID than others—I will let them do that, but we should acknowledge that those are the facts.

My line of questioning is on the possible dangers of having voter ID at UK elections but not at Scottish elections. That would not be a reason for introducing voter ID at Scottish elections, but do you see any such dangers? Are there any

concerns about polling staff possibly needing to become gatekeepers and having to turn people away if they did not have voter ID or had ID that turned out not to be on the list of acceptable IDs?

Can you talk specifically about any concerns around having different voting regimes in Scotland for UK and Scottish elections? On that issue, I think that Mr Mountain makes a reasonable point, although I do not agree with his conclusion; it is for the UK Government to decide what voter ID looks like at UK elections. However, it is absolutely for the Scottish Government to take a view on whether that could have negative consequences on democracy in Scotland for devolved elections.

George Adam: I have already explained a couple of times, and I gave an example of why I believe that it would cause confusion. Even if elections were not on the same day, staff members would need to be retrained to ensure that they knew what levels of ID were available and how people could identify who they were.

The problem—as you quite rightly say, Mr Doris—is that people could be turned away. We have all been at various polling stations when someone has not been on the voters roll and we have seen how upset or aggressive they can be, and in certain situations that can escalate.

In a democracy as mature as ours, I do not think that we need that level of voter ID, because the public understand the process and have not abused it. We would be treating the public with disdain and causing unbelievable confusion, because the position is that we cannot guarantee that there will not be two elections on one day here in Scotland. We know that that would be a problem, having experienced it in the past.

The Convener: We heard evidence from others that personation—in other words, someone pretending to be somebody else—is one of reasons why voter ID is helpful. Does the Scottish Government have any evidence on the extent of personation in Scotland?

George Adam: I will bring in Iain Hockenhull after I comment. On the whole, personation is not seen as a major issue. If we consider the issue from the perspective of the various communities that we live and work in, there has been a handful of such situations over decades. We have all heard various stories of that happening in mass cases, but that has not been proven. There have been only minor cases. We would be using a sledgehammer to crack a nut. We are trying to solve a problem that is not a major problem, and I do not see how voter ID would help with the situation that you mention, convener.

Iain Hockenhull: The only thing that I would add is that it might be helpful for the committee to note that the House of Commons library published

a research briefing paper on 1 September that includes a helpful table of personation events across the UK.

The Convener: As you have pointed out, minister, subjective evidence seems to abound, but objective evidence is much harder to find. However, if personation was successful, we would not know about it, would we?

George Adam: Indeed, but that would involve a level of conspiracy theory that would make YouTube producers blush. For us not to find out, it would have to be done on a massive scale, and I do not believe that that is the case.

The Convener: I am grateful. The committee does not endorse YouTube. We are not reflecting on that—that was from the minister.

Edward Mountain will now deal with postal, proxy and overseas voting changes.

Edward Mountain: I have some quick questions for the minister. Does the Scottish Government believe that UK citizens who live abroad should be able to vote for more than 15 years?

George Adam: I have said previously that the issue is murky, Mr Mountain. I am not convinced that that is the way forward.

Edward Mountain: Will you consult on that for Scottish elections?

George Adam: Possibly. I will need to check with Iain Hockenhull with regard to the consultation—if I wish to do it.

Iain Hockenhull: I highlight that the predecessor committee considered the issue of overseas voting during the passage of the Scottish Elections (Franchise and Representation) Act 2020 and concluded against it, but that is not to say that—

George Adam: Mr Mountain asked for my personal opinion and tried to get information about how things will go with regard to the bill. We disagree on some fundamental issues and that is one of them. I do not think that it is right, Mr Mountain.

Edward Mountain: We heard in the previous evidence session that, when people apply for a postal vote, it lasts for five years. The problem with bringing the period down to three years is just a problem of checking the electoral register, which is relatively easy with digital electoral registers, although before digital it was complicated. Would bringing it down to three years increase people's ability to vote?

George Adam: I hate to sound as though I am repeating myself, but it would add to the confusion, because we are in a five-year period for

devolved elections and every three years people would have to reapply. Even if it is a simple application, can you imagine out there, in the real world, being told that you have to reapply to be able to vote? Someone might have managed to get their postal vote sorted out after moving house in a traumatic situation, so the idea of reapplying for it might seem difficult. That is the problem. In effect, voters have to reapply. It would be a new application every three years, as opposed to the current system, which is a continuation of what we have done before.

10:15

Edward Mountain: My view is that it is important to keep the register up to date, and some people will move in a shorter period than five years. I think of people in the armed services who are posted abroad and would benefit from being reminded to change their postal vote so that they got it on time if there was a snap election, which could happen in Scotland. That could not happen at the moment, obviously, but it might if there were a minority Government.

If the UK Government provided additional funding to ensure that we could bring the period down to three years, would you be more comfortable with it?

George Adam: We are considering the process and ideas all the time. Nobody has suggested that to us yet. If the suggestion is made, I will consider it.

Edward Mountain: It could be part of the consultation in 2022 for the bill in 2023.

George Adam: I am all for open government and open dialogue, but you are trying to dictate what will be in my consultation.

Edward Mountain: No, no—I am helping you.

George Adam: I am happy to include in the consultation most things that we have discussed so that we get an open and frank discussion. However, there are various red-line points, such as voter ID and the expatriates situation, with which I have severe difficulty, as I think most people would.

Edward Mountain: I am more sanguine on expats. They have contributed to their country and should not lose their vote because they have lived abroad for 15 years. That is my opinion and I understand that it is contrary to yours.

The Convener: I will ask about accessibility to polls. In the LCM, the Scottish Government states that it

“agrees that there is a need to improve the law in this area and intends to make a full assessment of possible

improvements for devolved elections in order to bring forward its own changes”

for the forthcoming one.

We have had evidence about tactile voting devices. Many people, when they read about those on paper, imagine something terribly sophisticated when, in fact, they are not. However, they are also not particularly successful. I am not trying to force anything into the consultation and certainly not trying to dictate anything, but will you ensure that the range of people and groups that you consult will be broad enough to address the full challenges that disabled users face going into a polling station?

George Adam: You can guarantee that that will be the case because, as most committee members will be aware, my wife, Stacey, has multiple sclerosis and is a wheelchair user, so it is important to me personally that the challenges are addressed.

On the tactile voting proposal, as I think that you are aware, I visited Forth Valley Sensory Centre to see how it works, because I am a great believer in seeing approaches. You are right that, in a digital age, it is a very analogue way of dealing with the issue but, from what I have seen and from trying it out myself, I know that it works and makes it easier for everyone with sight loss to engage with the electoral process.

I am all for trying to find easier ways for people to engage with the process but I am also all too aware how difficult it can be for people with physical disabilities, such as sight loss, to do so. A lot of that has to do with the training of staff in the polling stations. I will make one commitment: we will endeavour to ensure that that is not an issue.

The Convener: We have discussed that aspect in the committee in relation to elections that are much closer to hand than other anticipated ones.

I am in no way questioning your experience, but some of the results of the tests that have taken place seem to show that those who felt most challenged and least supported in casting their vote made the greatest errors with the current equipment. The committee has heard of groups out there with the expertise and experience to be part of the consultation, and I think that it is very important that you go out and ensure that they are included.

George Adam: If you are willing to give the names of these individuals and groups to my team, convener, we will quite happily include them. After all, we want to ensure that the process is full, frank and open and that they have the opportunity to say what they want to say. Having been involved with disability groups for most of my political life, I know only too well that they will be

pretty vocal, and I am quite happy to engage with them.

The Convener: I am very grateful for that. I think that Bob Doris wants to ask a question.

Bob Doris: Even though I do not agree with a lot of the policy intent in the bill, this is one area on which I think that we can all agree and say quite straightforwardly that it is a positive aspect. If the Scottish Government is reviewing accessibility at polling stations, that is a good thing, and we should just get on with it.

Last week, there was an exchange about the fact that, although the list was imperfect, a lot of the requirements for making polling stations accessible were on the face of the bill, and concern was expressed that a move to regional adjustments could give rise to vagueness and a patchwork approach in Scotland. I seek reassurance that, however the Scottish Government takes this forward, a consistent approach to accessibility will be taken in all polling stations in all places in Scotland.

In addition, I ask that the situation be kept under review with the establishment of, say, a voting accessibility panel that could directly influence statutory guidance to the Electoral Management Board or returning officers on what polling stations might look like. I think that this should happen not just once; instead, the situation should be kept under review, and I would welcome your thoughts in that respect.

Given the time constraints, I will ask just one more question about consultation. You should—absolutely—consult on things that you are minded to change or are considering for change, but I would suggest that, if there are other matters that you are pretty sure that you are not going to change, you should not consult on them, as you will simply create the expectation that change is coming when that is not the case. I do not think that that is the right thing to do in any consultation. I hope instead that you will provide some space in the consultation paper to afford individuals or groups the opportunity to raise additional matters that are not covered by the thrust of the policy and that those comments will be analysed.

Those final comments were just about a technical aspect of consultations, but my substantive question is about ensuring that accessibility is not just a one-off consideration but is kept under constant review.

George Adam: On accessibility, I am a member of Renfrewshire access panel and I have been since I was a councillor. I think that I have previously mentioned the panel in this forum, but it does some fantastic work with Renfrewshire Council to ensure that any new buildings such as polling stations are accessible. When an access

panel works well, it will effectively audit a new building, but the problem is that, because it is not a statutory group like a community council, it does not get automatically included in the process. As a result, you have to ensure that a relationship exists between local government and the panel.

I think that that sort of thing can be done at a local level while we will do everything we can to ensure that we are reviewing these matters and that everything is open for those who have accessibility issues. Locally, the local authorities should be working with the volunteer groups—the access panels—across Scotland. As with any other volunteer organisation, there are areas where the panels have more volunteers and work better. In Renfrewshire, for example, the panel carried out audits on the access to the new St Mirren stadium in 2009 and on Paisley's new town hall when it was being renovated. It is now being renovated again and the panel will have access to that, too.

If local authorities automatically deal with access panels and include them in work on polling stations, which is what should be happening, we should be okay. We would therefore suggest to local returning officers that it might be an idea to engage with their local access panels or disability groups on such matters.

The Convener: Bob Doris also asked about ensuring that the very minimum expectations—I am choosing my words carefully here—apply across the whole of Scotland to ensure that we do not have, in essence, a constituency lottery.

George Adam: I agree with that, and it has been an on-going issue. Again, it is all down to training in accessibility issues, consultation with organisations and so on. There are returning officers who have all of these things in place and others who do not, and we need to tell them, “You need to do X, Y and Z so that we get this done.” We have to ensure that it becomes part of the culture.

The Convener: I am grateful for that.

We have covered a lot of ground this morning, but is there still anything that you or your advisers would like to put on record?

George Adam: I do not think so—I think that we have covered just about everything. Perhaps Penny Curtis or Iain Hockenhull has something to add.

Iain Hockenhull: It might be worth highlighting that the Scottish Elections (Reform) Act 2020 introduced a requirement for the Electoral Commission to report on moves being taken by returning officers to assist voters with disabilities. Indeed, the Electoral Commission included that

information in its report on the 2021 election, and it is an on-going requirement.

The Convener: I am grateful for that. With that, I thank the minister and his officials for entering the committee den and wish you well for the rest of the day.

We now move into private session.

10:26

Meeting continued in private until 11:39.

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