



OFFICIAL REPORT
AITHISG OIFIGEIL

Standards, Procedures and Public Appointments Committee

Thursday 23 November 2023

Session 6



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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
19th Meeting 2023, Session 6

CONVENER

*Martin Whitfield (South Scotland) (Lab)

DEPUTY CONVENER

*Ivan McKee (Glasgow Provan) (SNP)

COMMITTEE MEMBERS

*Stephen Kerr (Central Scotland) (Con)

Evelyn Tweed (Stirling) (SNP)

Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

George Adam (Minister for Parliamentary Business)

Iain Hockenhull (Scottish Government)

Jill McPherson (Scottish Government)

CLERK TO THE COMMITTEE

Catherine Fergusson

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 23 November 2023

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (Martin Whitfield): Good morning. I welcome everyone to the 19th meeting in 2023 of the Standards, Procedures and Public Appointments Committee. We have received apologies from Evelyn Tweed, but we are expecting Annie Wells to attend the meeting.

Agenda item 1 is a decision on whether to take in private agenda item 3, under which we will consider the evidence that we will hear from the Minister for Parliamentary Business under agenda item 2. Do members agree to take item 3 in private?

Members *indicated agreement.*

Minister for Parliamentary Business

09:00

The Convener: The next item is evidence from the Minister for Parliamentary Business. Good morning, minister. I welcome Steven MacGregor, Iain Hockenhull and Jill McPherson, who are joining the minister.

We will plunge straight into questions, unless you want to make any opening remarks.

The Minister for Parliamentary Business (George Adam): I would like to say a few words, if that would be okay, convener.

The Convener: Please feel free to do so.

George Adam: It is a pleasure for me to be here, in front of the committee, to discuss everything to do with my remit and the committee's remit. I hope that members of the committee are aware that, over the past couple of years, I have sought to have a good working relationship with the committee and with the convener in particular. It is important that that continues over the coming period.

I am sure that there is a whole sack of matters and that we will touch on many topics. That is why I have the equivalent of an MGM chorus line of officials with me. I look forward to discussing issues with the committee.

The Convener: Thank you very much, minister.

I echo that. The committee has a very strong relationship with you, but there is also a very strong relationship at the clerking level with your officials in respect of the assistance that is given.

George Adam: That is important for all of us to make things work. We are the face of everything that is happening, but all the hard work happens behind us. The officials and the clerks ensure that everything works.

The Convener: Let us see where that relationship goes. I will pass over to Ivan McKee.

Ivan McKee (Glasgow Provan) (SNP): Good morning, minister and officials.

I want to touch on voter registration. You will have seen the recent evidence session that we had with the Electoral Commission on that subject. It is clear that we have concerns about the apparent number of potential voters who are not registered and the accuracy of some of the numbers that were put on the table. I would like to understand what conversations the Government has had with the Electoral Commission in that

regard and what you see as a potential way forward to tackle some of those challenges.

George Adam: Ironically, I had a meeting with the Electoral Commission yesterday about that. Obviously, you can see our figures compared with those of the other devolved nations. Our accuracy was 81 per cent.

I discuss with officials the fact that we cannot keep doing the same thing over and over again as we go forward, because it is clear that we are not getting the accuracy that we need. It is probably a case of looking at other ways and other ideas, looking at best practice and what is happening in other nations across the world, and seeing whether there is another way in which we can do things.

Many people will say that it is a case of educating the voters and letting them know, but I do not think that it is as simple as that. I think that there is something that we really need to look at. However, I do not have one idea that I think will to make a difference overnight at this stage. I have asked officials to come up with ideas and to look at different ways of bringing things forward. I do not have any details on that at the moment but, as always, I am quite happy to keep the committee updated on that.

Ivan McKee: We looked at that issue, and we had correspondence back from the Electoral Commission afterwards. There seemed to be at least two major issues: people not registering at all and what seemed to be at least as big a cohort—possibly bigger—of people being registered at the wrong address. That seemed to add up to the big number that the Electoral Commission has been talking about. Those things will probably require different approaches.

George Adam: As you and I know, there is also an issue with regard to certain cohorts in certain parts of constituencies—in your constituency, my constituency and probably every constituency in Scotland. There are certain people who do not register or who have fallen off the register.

A two-pronged approach can be taken. It is up to us, as politicians, to engage with the public and ensure that they want to get involved in the democratic process, but there also needs to be a process that ensures that those people are registered.

Is there anything else that Iain Hockenhull wants to add at this point?

Iain Hockenhull (Scottish Government): It is probably best to highlight the Electoral Reform consultation, which ran over the winter. In that, we asked for views specifically on how to improve registration. One of the top suggestions that we got concerned involuntary registration—or rather,

automatic registration; I am getting the term wrong—whereby electoral registration officers proactively consult other sources of information and write to people to say, “We think that this is your correct address, and we are going to put you on the register unless you object.” The Welsh Government is quite interested in that and is taking forward some possible measures that might be implemented in its legislation. That is slightly ahead of our legislative plan, so it is quite interesting to see what Wales is doing.

It is also quite interesting that the Scottish Assessors Association, which is the representative body for electoral registration officers, has written to the Welsh Parliament during that process to highlight some concerns about the automatic registration proposal. It sounds like quite an attractive proposal, but one of the concerns that the SAA raised was that officers might end up adding out-of-date information and thereby make the inaccuracies worse. The SAA is a bit concerned about that—it is not saying, “You can’t do it,” but that illustrates the complexity that is involved and the risk of getting it wrong or making the situation worse instead of better.

We have a meeting with the SAA, the Electoral Management Board for Scotland and the Electoral Commission in December to look at further ideas and explore possible options, and we hope that that will feed into the forthcoming bill process.

George Adam: I am extremely interested in what is happening with the Welsh Government’s plans in that regard. When I talk to my equivalent down in Wales, I will question them on how they are doing and how things are going. As I keep saying, there is no point in us just doing the same stuff as we have been doing, because it ain’t working.

Ivan McKee: Aye. I have two further brief points.

First, Iain Hockenhull is right to highlight that there may be a lot of unintended consequences once we start doing these things. We have heard that people may not want to be on the electoral register because they worry that it may trigger other issues in relation to which they would rather not be visible, for reasons good or bad.

Taking the data and putting it on the electoral register, and then having people confirm it, may be a route forward. It will be interesting to see where that goes. It will be good to get a sense of timescales and when you can come back with something.

Secondly, is the Government looking to do some other work to help with understanding the macro numbers a bit better? Comparing census data with registration data and looking at the historical data may give us a clearer perspective

on what the gap actually is, because there seemed to be a lot of dubiety around what the missing numbers were.

George Adam: On your first point, I am happy to come back to you with details and timescales when we get to that stage. With regard to the detail, Iain Hockenhull is probably better placed to give you more information on that.

Iain Hockenhull: We are interested in working with the Electoral Commission on that as well. We, too, were a little confused about some of the figures, so that is something that we are taking forward.

The Convener: I will dig into that a bit more. There seems to have been a historical view, rightly or wrongly, that there were procedural challenges with registering to vote, which was the reason that people were giving. However, some of the more current research suggests that the reasons are more attitudinal, with people actively choosing not to register to vote.

Has the Scottish Government had any thoughts, or done any work, on the two different aspects? Historically—as you said, minister—there has been a responsibility on politicians in that regard: go out and find those people, urge them to register to vote and then hopefully persuade them to vote for you. That seems to address very much the procedural side, and it is an argument that we have been having for decades.

However, to echo what you and Ivan McKee have said, the figures show more than that. The attitudinal question is this. Is there a group of people who do not want to put their heads over the parapet on that public document, or are you aware of any other attitudinal reasons that may positively lead people to not want to register?

George Adam: You bring up a valid point. On the whole, there is a cynicism about the political process in general, worldwide. People have more access to data than they have ever had in their life, not all of it accurate, so we end up with various attitudes and people thinking that the whole political process is a disappointment and is not working. That is where we, as politicians, have to take on the responsibility and act with maturity, in a leadership role, to ensure that we push things forward.

I do not have anything right here, right now that enables me to say that we know for sure that people are intentionally keeping themselves off the register, other than the anecdotal information that we all have.

The Convener: That seems to be one of the challenges—we all have subjective evidence, but there is very little objective evidence out there.

George Adam: We are aware that, when the voters have something that they want to vote for, they will go through the registration process and come out to vote. There have been a number of experiences in my time in the Parliament where that has happened. That is why I always revert to the fact that, regardless of our political persuasion, it is down to us to make sure that the public engage and want to vote. We are part but not all of the solution.

The Convener: Certainly, when the total numbers go up, we seem to have a particular problem in Scotland, which appears to be historical, with the inaccuracy of the registration. When we were looking into it—and, similarly, in discussions with the Electoral Commission—we had some responses, but they are still not satisfactory.

Stephen Kerr (Central Scotland) (Con): Minister, I am interested in hearing a little bit more about why you think that we have that situation in Scotland—as you pointed out—whereby we are not faring as well in the completeness of registrations compared with other parts of the United Kingdom. According to the Electoral Commission, 600,000 to 1 million Scots have not registered. Can you elucidate a bit more about why that is the case? In your discussions with the Electoral Commission yesterday, did you get down to any deep whys?

George Adam: If the Electoral Commission and I had come to a conclusion on that at the end of yesterday's meeting, we would have already enacted something to sort it. As we have already said in this conversation, there are a lot more variables in the scenario to consider. We need to get to the stage of making sure that we know that the data is correct. I have already spoken, as have colleagues here today, about anecdotal reasons why people will not register and about the inaccuracies in the data. All that I can do is assure you that my officials and I are working towards getting that information further forward.

Stephen Kerr: Do you think that the Electoral Commission should do a bit more research on that? At the minute, we all seem to be wringing our hands—rightly so, because the number of people in Scotland who do not voluntarily register to vote means that there is a huge democratic deficit—but none of us seems to know definitively why that is the case. You said that there are many variables. In your opinion, is it important that the Electoral Commission does the research and presents those variables to us, so that we can have an informed, structured discussion about that?

George Adam: I am happy to work with the Electoral Commission, because all of us—politicians and the Electoral Commission—have responsibility for the issue. I am quite happy to

work with the commission to find a way to get the detail and data that we need, so that we can break that down further and I can sit here in front of you and say, “This is the issue, and here is my solution.”

Stephen Kerr: Yes—that would help us all.

George Adam: I hope that, over the years that we have worked together, Mr Kerr is aware that I tend to try to find a solution. Believe it or not, Mr Kerr and I do not pick a fight with each other all the time—we do sit down and discuss how we can find solutions to many of the challenges that we face.

It is down to us. I want to be able to sit here, in front of you, and say, “Here’s the issue—I think that I can address it this way. What do you think? I don’t believe that I have a monopoly on all good ideas, so what do you think and how can we deal with this?”

Stephen Kerr: I agree with you about our working relationship, and I am happy to put it on the official record that I like the minister personally.

George Adam: He has said that on numerous occasions as well. [*Laughter.*]

Stephen Kerr: I think that it is important that we have that stated very firmly.

The Rutherglen and Hamilton West by-election was the first time that voter identification had been part of our voters’ electoral experience, and it went really well. The reports that have come from the returning officer for the by-election are very encouraging. We have exchanged views in the past about voter ID. Are you becoming more reassured that our voters in Scotland prize their vote and understand that showing a little bit of ID is fine?

George Adam: Ironically, for the past half hour, we have been discussing barriers to people being able to vote, and now we are talking about another barrier. I am still not convinced that the way forward is to use voter ID. Anecdotally, as an activist in the election, I was aware of a level of confusion among many voters as to how they were going to exercise their right to vote. However, I will bring in Iain Hockenhull to give you the details from the officials’ point of view.

09:15

Iain Hockenhull: In the meeting that we had with the Electoral Commission yesterday, it highlighted some of the work that was done at the Rutherglen by-election, including handing out complaint cards, or feedback cards, at polling stations, in order to defuse the tension if someone potentially had a problem with ID. That was quite an interesting idea. The Electoral Commission

mentioned that, at one of the recent by-elections in England—I think that it was the Nadine Dorries replacement by-election—

Stephen Kerr: That was Mid Bedfordshire.

Iain Hockenhull: Yes. Apparently, there was a bit of hostility in some of the polling places, where people did not have their ID, and that led to abuse of polling staff and so on. There was an interesting comparison between the two cases that the Electoral Commission highlighted.

Stephen Kerr: Overall, however, in Rutherglen, the returning officer’s report was encouraging, was it not?

Iain Hockenhull: Yes. It is perhaps worth noting that the turnout was quite low, and so the real test would come in a national general election.

George Adam: That will be interesting, because, as we all know, in a national election, people will turn up at various polling stations wanting to vote, and on some occasions they might not be on the voters roll.

Interestingly, during the Rutherglen by-election, I canvassed at a door where the individual was on the voters roll but was convinced that he was not—unfortunately, he was a Scottish National Party voter, which was concerning. That goes back to my argument that we need to ensure that we engage with people so that they know that they have that right and can access it.

Stephen Kerr: I have one more question about democratic engagement, which is on candidates. One thing that we talked to the Electoral Commission about, which will no doubt be part of our future discussions and debates on the electoral reform bill, was getting people to stand for election at any level of democratic representation. One concern that we discussed with the commission was the level of abuse, intimidation and threat experienced, particularly by women candidates.

Has the Government thought any more about that? I will say publicly that I was disappointed that the Electoral Commission did not really have much in the way of advanced thought on how to counteract that issue. I am deeply worried—I know that you will share this concern, minister—that some really good people who have so much to give in public service just will not do so in the current environment. They do not feel that they can put themselves forward, and we are losing so much talent from the democratic process.

Do you have, or does the Government have, any further thoughts on what we can do to take positive action to encourage people to stand and how we can take the necessary action to reduce the level of intimidation and threat?

George Adam: That was one of the issues that came up during our consultation on the election reform that we are considering. You brought up that point in the debate early on when we were talking about the consultation. Interestingly, one of the issues that we also discussed—you have not mentioned this, but it is one of the ideas in the consultation—was about having 16 and 17-year-old candidates, which you clearly did not think was a good idea.

When we spoke to young people during the consultation, they came up with a very similar point to the one that you have just raised. I spoke to one woman, in particular, who said that she was politically motivated and had written a national newspaper article about her political beliefs but was attacked on various social media platforms by middle-aged men who told her that they knew better than her. Her request to me was that we need to get politics sorted before she would consider standing, and she is politically motivated.

It is a valid point that there is a level of abuse. I know many female colleagues who have left and gone on to other careers because of the way we do our politics and what has happened online. Again, it comes down to how we interact with one another in the chamber. That is reflected in society as well, and it is where some of the issues might come from in certain cases.

Social media does not help—it is like football, where one crowd supports one team and the other crowd supports the other team, and there is nothing in the middle. As we all know, in order to get anything done in the political world, we need to meet at one point and agree on something.

You have highlighted many of the concerns. We have been looking at the issues arising from the consultation, and we are now going through the detail. I will engage with you and some of your colleagues as we go through the process for the new electoral reform bill.

Stephen Kerr: There is no doubt about the levels of toxicity—perhaps less so in Parliament but certainly on social media. Some of the comments that people post are more than just mildly threatening or disconcerting. I think that that is true for women candidates in particular, because of the nature of the threats that are made against them.

George Adam: As members will know, my wife and I are a package in the political world of Paisley. My wife has had abuse just for being my partner. There has been talk about her disability and the fact that she is a wheelchair user. Unfortunately, that is the world that many of these keyboard warriors inhabit, but it is not the real world. We need to show leadership and say, “This is how we actually do politics.”

Stephen Kerr: I am concerned about that happening where the husband and wife are not a package, which is probably the case for the majority of politicians in this Parliament and in other Parliaments. I have a colleague whose wife, because of votes that have been held recently in this Parliament, has been openly threatened because of the way in which he chose to vote on a particular issue.

I wonder whether we should be reviewing the criminal law in relation to protecting candidates, so that people feel that there is at least some deterrent barrier in place that might—I stress “might”—make people think twice about what they say or write. Would you have any sympathy with that line of thinking?

George Adam: I would need to see more detail and to discuss it further to see how we would go forward with that.

The Convener: That moves us on nicely to the elections bill, which may well take up much of the committee’s time. I know that the minister will not mind my saying that yesterday, at the Conveners Group, where he gave evidence, genuine concern was expressed about the work levels of certain committees, particularly with regard to legislative instruments, along with other things.

As we approach the midway point in the current session of Parliament, and having heard your answers in respect of the Electoral Commission and the work that still needs to be done there, when can we expect the elections bill? Let us start with that one. Will it be tomorrow? [*Laughter.*]

George Adam: Not tomorrow, but imminently.

As I have said—and I state again on the public record—I want that bill to be seen as the Parliament’s bill. It is a Scottish Government bill, but we are talking about the very heart and soul of our democracy and it has to be seen to be the Parliament’s bill.

I will want to speak to you, convener, and probably to Mr Kerr in his role in that regard in the Conservative Party, and to other political parties, about what I am planning on bringing forward, when we get to that stage, as it is important that you buy into the bill at an early stage. In addition, if I suggest something, you can point out if you think that I may have gone down a rabbit hole on one or two items. I want to get to the point at which, when we discuss the bill as introduced, it will literally be about the detail and, when we get to stage 2, it will be about the detail of how we make the bill better, should that be required.

The Convener: I will delve into that, because that gets to the point. Good practice suggests that electoral legislation should be in place at least six months before it is first tried and tested in an

election. We are aware of the period that is required in order to get a bill of any size through the Parliament, and we are getting very close to the point at which those two dates will become incompatible—

George Adam: We had that discussion with the Electoral Commission yesterday.

The Convener: I want to push you on that, because it is hugely important. There is pressure from both within and outwith this place with regard to an elections bill, but history shows us that rushed elections bills cause absolute chaos on the day.

George Adam: As I said, we discussed that with the Electoral Commission yesterday. We will be within that period of six months, which is what the Electoral Management Board wants, too.

I invite Iain Hockenhull to add to that and to give you some further detail.

Iain Hockenhull: According to our current timetable and projections, we would expect and hope, if the Parliament is willing, that the bill will be passed before the end of next year. That would allow a substantial period for any related secondary legislation. We would also be making secondary legislation under a different process anyway in relation to tweaks, changes and corrections. We will be taking forward that work in parallel during next year.

I go back to the previous discussion on intimidation. We would hope that a provision will be included in relation to candidates in local government elections who are their own agent. There is a wee loophole, as their addresses must be made public. We are hoping to close that loophole through secondary legislation rather than through the bill. That would be contained in one of the tandem items.

George Adam: Ironically, when we had the discussion with the Electoral Commission yesterday, I had my Minister for Parliamentary Business hat on and I was saying that it would be a case of stage 1, stage 2, stage 3, royal assent and—boom!—job done. The person I was speaking to said, “Yes, but the secondary legislation, minister,” to which I responded, “Oh, yes.”

We have worked it through and we are in a safe place to have the proposed legislation set out to the right timescales.

The Convener: I am glad that there is a level of confidence about that, given the importance of any amendment to electoral law. However, does the timetable take into account the registration of electors issue that we have discussed this morning? Does it take into account concerns that we have had over the role of artificial intelligence?

Do you view the forthcoming elections bill as quite a tight bill, as is hinted at in some of the responses to the consultation? You have already mentioned provisions on 16 and 17-year-olds, and there are some strong arguments from that group and others about that.

Has your view of the extent of the bill changed, and is that so that we can get it in, hopefully, by the end of next year? I will not quote you on that—aside from the fact that this is in public. Do you still see the bill achieving what you hoped it would achieve when we first talked about the proposals, some 18 months ago?

George Adam: I still believe that it will achieve what I hoped it would achieve. At the same time, some interesting things came from the consultation—and I have hinted at the point about 16 and 17-year-olds, which was a shock to me.

On the whole, we should be okay in relation to the timescales. The proposed bill is workable, which we should all be happy with. As I have said right from the beginning, members here will be the first to know and I will be in touch with you. As I am sure you know, there will be “no surprises” for you—to quote the Bute house agreement.

The Convener: I am not sure that I would quote from that.

I would first express the view that you and the Scottish Government have echoed today, about it being a parliamentary bill, in essence, using Scottish Government time. That is very useful. I know about the work that is going on so that we can reach agreement where reaching agreement is the correct thing to do. In the process, we can then engage with others outside, who will have a view. Thank you for that.

I will now turn to freedom of information and to the Scottish Information Commissioner’s progress report, which is varied in its comments. Where are you with regard to the various recommendations? I do not know whether you want to talk about them holistically or individually.

George Adam: Probably in general. We had a very good working relationship with the previous commissioner. Special measures have been in place during all the time that I have been in post. That happened before I was minister, though. I should add for the record that we have had a 60 per cent increase in the level of requests that we are getting and that, since June, we have a response rate of 97 per cent.

On the relationship with the previous commissioner, he had a job to do and we were not doing as well as we should have been doing. We took that on board. We had got to the stage where there had to be a change of culture within the Scottish Government as an organisation to view

dealing with FOI as part of the day job, not just something that we do in addition to our work.

As you will understand, it is not easy to get that kind of culture change in any organisation. However, we have managed to turn that around. I had a meeting with the new information commissioner a number of weeks ago, and he explained that he was quite impressed with how the Government has turned things around on FOI.

09:30

To be brutally honest with the committee, when I came in as minister, two and a half years ago, I was concerned about the issue because it was probably one of the weaker aspects of where we were at that fell into my portfolio. In the modern world, FOI is one of the most important things. Open government is part of my remit, and there is nothing more open than access to information through FOI.

On the whole, we have got to a place where we, as an organisation, are dealing with the issue a lot better, and I see us continuing down that route. As we move forward, I would like to get to a place where we consider proactive publication of some things so that, if someone submits an FOI request and something is available, I can say, "Look at page 35 of this document on the website and you will find your answer there—we published it in June last year," or something like that. The concern with that is that I might be accused of data dumping, because there is too much. I am trying to find a balance, but that is the place where we would like to be.

I will bring in Jill McPherson, in case she wants to add anything.

Jill McPherson (Scottish Government): The improvement plan, which follows the commissioner's report, is in development and will be published before the end of the year, which was our deadline. It will pick up key points from the report. We have been in an on-going improvement environment, and the minister has referred to our response rate for FOI and EIR—Environmental Information (Scotland) Regulations 2004—requests, which is sitting at an average of about 97 per cent and has been for the past few months.

Over this year, we have made some key changes. Leadership has been really important, and Mr Adam has been very strong on that. Our permanent secretary has also been very strong in reinforcing with civil servants that FOI is not an added extra but part of the civil service craft.

The Convener: That is powerful and good to hear. FOI discussions around the world all point to proactive publication, for the very good reason

that, if the information is out there, whoever is seeking an answer can, hopefully, get it without making a request.

One of the recommendations—this has been hinted at in other discussions in the chamber—is on records management. The report is, if not scathing, very critical of where you have got to on that issue. As you said, we are two and a half years down the road. Will we see an improvement on that, or have we hit a hardware problem, a process problem or an attitudinal problem with case management?

George Adam: It is more of a software problem with the case management system that we use. I know that there is on-going work to address that and to deal with it. I will bring in Jill McPherson to add more detail on that.

Jill McPherson: As the minister says, we are actively looking at evolving the case management system that we use for FOIs.

More generally on records management, although that is not my key area, I know that a lot of work has been going on behind the scenes. I do not have any key statistics, but we might be able to get back to you to fill you in on that. I know that, generally, we are definitely making progress towards getting our data into platforms and places where it can be easily searched and structured in a more accessible fashion. There is a sense of records management—

The Convener: It is interesting—

Jill McPherson: —progressing.

The Convener: Sorry, I did not mean to cut across you. That was very rude.

The minister's answer referred to a software problem. One area that the commissioner picked up was in respect of recording advice from special advisers. Doing that is simply about saying, "From now on it will be recorded," rather than dealing with a hardware problem in recording it. If that is the case, when will we see that?

Jill McPherson: We already train case handlers to save certain documentation in the case file, which is kept in our electronic records and document management system—our corporate records system. We do some audits on that, and that is part of the general training that we all get as civil servants about what we should save.

The Convener: Does that include recording the special adviser's advice and which special adviser gave it?

Jill McPherson: What we get would be perhaps a confirmation email with their comments, and that email should be saved in the case file. There is a checklist to follow to do that.

The Convener: However, it is right to say that the report highlights a lack of that actually happening, so—

Jill McPherson: I think that it is improving—

The Convener: —what I am saying is—

Jill McPherson: —and we are working with the special advisers team on the nature of how some of those communications are worded.

George Adam: If I may be brutally honest, I have had conversations with special advisers in particular because the fact that special advisers are part of the problem with making progress has been noted in numerous reports. However, to be fair to them—you do not often hear people say that with regard to special advisers—there was a point when a lot of FOIs were coming in and there was no leadership in Government dealing with it. A request would float about the organisation for a while until it appeared on someone's desk with 24 hours to go. That has changed, because we have case handlers who are constantly following up matters. It is as simple as saying, "That is your FOI for your directorate; you need to get that done." We have managed to keep moving on that as well.

Special advisers probably do not get anywhere near as many FOIs as they did previously, because of some of the things that have been brought up in the report and because they are dealt with at Government level within the directorates and portfolios themselves. Things have moved on and we have taken on board many bits of advice. It comes back to me again. My conversations with the commissioner are to discuss when we come out of special measures and move forward, because we have created a system that is getting better as time goes on. As I mentioned, the commissioner said at a recent meeting that he thought that the Government was an example of an organisation that had struggled with FOIs but had turned that around.

The Convener: Therefore, before the end of this year, we will see the publication of your response, in essence, to the report—

George Adam: Yes.

The Convener: —which will be most welcome. That will obviously contain specific responses to the recommendations. Therefore, is it fair for the committee to expect a date after which that improvement will happen? I ask that because it seems to be an individual training process point about recording those decisions rather than there being the need for additional hardware or something else that would have to be approved for purchase.

George Adam: That becomes a wee bit more problematic, so I will probably have to get back to you on that question, too.

The Convener: Maybe we will return after the publication of your response.

Stephen Kerr: I have a short follow-up question, because the word "culture" was mentioned and I have always been interested in organisational culture. Some kind of culture change seems to be happening among the ministers and the spads as well as within the civil service. Is that a fair comment?

George Adam: That is a fair comment.

Stephen Kerr: It is interesting that, in the Scottish Information Commissioner's report, the commissioner basically says that it is a game of two halves. Up to spring this year, there was not a very good record at all. In fact, I think that you used the word "abysmal". There was a change of Government leadership in spring, and I note with interest that Fiona Hyslop said to the Public Audit Committee—it was widely reported—that official record keeping, by which I assume she means on the part of ministers, spads and others, has improved compared with when she was last in Government, which was under the previous First Minister. What exactly has changed?

George Adam: Well, I do not like to say that it is all about me—

Stephen Kerr: It could be, though. *[Laughter.]* You should not shy away from taking the credit if that is the case.

George Adam: No. The change of leadership is irrelevant to the situation. There has been an on-going programme of improvement and moving things forward. As Jill McPherson has already said, there was a conversation between the political and civil service leadership, which was between me and JP himself. Earlier this year, I told him that I was not happy with the way that things were, that it was a problem, that we could not continue like that and that things had to change—

Stephen Kerr: Basically, there was a conversation between you and John-Paul Marks, the permanent secretary.

George Adam: Yes.

Stephen Kerr: Right.

George Adam: We had that conversation and, to his credit, the permanent secretary took that on board, led by example from a very senior level in Government, and encouraged everyone in every department to say that FOI is part of their role and that is how to move forward.

That is more an example of simply cutting through all the nonsense and getting things working. As you and I know, in order to get such cultural change in any organisation, people need to get away from the fluff around the edges and deal with the issue that is in front of them.

I am not blowing my own trumpet, but I think that the change happening was more a result of the direct approach that I took.

Stephen Kerr: I completely agree with you, convener, and I agree with the minister. Cultural change happens because of leadership—it takes leadership. I think that the new permanent secretary has been in place from around the time when the improvements began to become apparent. However, there is a long way to go. We acknowledge that there has been some improvement, but there is a long way to go on perhaps more strictly conforming adherence to the need for proper records to be kept in Government.

My concern about freedom of information, which I ask the minister to comment on, is that, when record keeping becomes a core function of the civil service and ministers see that appropriate records are kept—that is a very topical issue, and we will not engage with any of those topical issues; I have just been reminded not to engage with any of them—there is a danger that some information that ought to be recorded in documented records will no longer be recorded because it will be presented in a different way and not captured by the civil service requirement to record the information. I do not know whether the minister shares that concern. Does that make sense? That was very convoluted. I am simply concerned that some things will no longer be there because FOI and enhanced record keeping will mean that some of those conversations will simply disappear into the ether.

I did not mention deleted WhatsApp messages there.

George Adam: I know that. Some of the things that have been said over the past couple of weeks about that seem strange to me because, in my time in Government, basically every decision has gone through the Government's SCOTS information technology system on my Government laptop. If I have a meeting with Jill McPherson and I say, "You've given me three options. I'm taking option B," she will send me an email that will say, "Minister, at our meeting, we had this discussion and you decided to go for option B. Is that still your thought?" That is a simplistic way of saying—Mr McKee, as a former Government minister, will back me up on this—that it ain't going to happen if it's no in the SCOTS system. Nothing will get done unless it is done in that way.

Stephen Kerr: The issue is about the advice that is being given. I think that the convener was going in this direction, too. Spads were specifically mentioned. The general discussion about how the three options are arrived at should be a matter of ministerial record, too.

George Adam: Yes—and that tends to be in the process as well. Obviously, in the old days, we referred to a ministerial box. The minister used to go about with a box full of papers, but there is now an inbox. In effect, all that information will be captured digitally in the system. As I have said, it will go down to the meetings that we have had, the decisions that were made and the discussion. Those will be captured in the system.

Stephen Kerr: So, we are on a journey and it is getting better.

George Adam: It is getting better. As I always say, if something is broken, I want to fix it.

Stephen Kerr: And your homework will be marked later by the Scottish Information Commissioner and others.

George Adam: Indeed.

The Convener: For the purposes of clarity, I was merely echoing recommendation 3 in the report, which requires both the name of the adviser and the rationale behind the decision to be recorded.

Stephen Kerr: I acknowledge that.

Ivan McKee: I was going to pick up on some other—

The Convener: I was going to talk about the Freedom of Information (Scotland) Act 2002 first.

Ivan McKee: On you go.

The Convener: Section 5 of the Freedom of Information (Scotland) Act 2002 gives the power to add bodies for the purposes of freedom of information. A report is produced. This year's report clearly stated that there had been no new designations. However, during the time that it covered, ScotRail and the Caledonian Sleeper service were brought under the act for the purposes of freedom of information. Why did you not avail yourself of the ability under the act to announce that they were part of the system?

09:45

George Adam: I have said, convener, that I am looking at the section 5 powers to enable us to consider other organisations that we can bring into the fold. It is a work in progress. As soon as I have further detail, I will get back to you and the committee. There are a number of issues, and we are talking to a number of organisations.

The Convener: I will push the point. The Regulation of Legal Services (Scotland) Bill is on its passage through the Parliament. Is it still your intention to use that as the vehicle for that work?

George Adam: Well, with section 5, we do not need to do any primary legislation.

The Convener: No—I am asking whether your considerations will be under that bill or somewhere else.

George Adam: Possibly somewhere else, I would think.

The Convener: That is helpful. Before I unleash Stephen Kerr again—I point him to the time—I bring in Ivan McKee.

Ivan McKee: In your response to the information commissioner's report, you said that you accepted the recommendations "in principle". I do not want to get too geeky on the semantics, but I want to explore what that means. When you send the response back, will there be details about any parts of the recommendations that you are not accepting?

George Adam: To say that we agree in principle is to say that we want to move forward, that we accept that there are issues that we need to sort out and fix and that I am willing to do that. With the greatest respect, Mr McKee, I think you are reading too much into the language.

Ivan McKee: Thank you for that clarification.

The Convener: I will defend my committee member. *[Laughter.]* We will see the extent of it when the report is published before the end of this year.

George Adam: Indeed.

Ivan McKee: The clarification from the minister is welcome.

I will ask a bit about the costs of FOI. I cannot recall the number of requests, but we have had a briefing on it and it runs to, I think, many, many tens of thousands across the public sector annually. I think that it is increasing, which clearly carries a cost with it. Do you have any sense of how much of the Scottish Government's total cost, which is somewhere in excess of £700 million per year, is a consequence of compliance with FOI legislation and what that looks like across the broader public sector? Is there any work on or any view or assessment of what those numbers might look like?

George Adam: Obviously, when you are in financial times such as those that we are in at the moment, every penny is a prisoner and everybody is looking for everything.

I had a similar conversation with Jackson Carlaw's Citizen Participation and Public Petitions Committee when Fergus Ewing, I think, brought up the idea of a purge of commissioners. I said that it would hardly be for me to say that that should happen, because if I went along and said, "Well, do we really need the information commissioner?" that committee would rightly tell me to go and get knotted.

There is always a balance to be struck. FOI is an important part of our democratic process. When we start to talk about the costs and the facts and figures with regard to it, we put ourselves in a difficult place. However, as you are aware, if an FOI request is too costly, there is a cut-off point. Sometimes, we do not explain that as well as we should. We could explain it a wee bit better when we respond to people's FOI requests.

It is not for me to say whether FOI is the right or wrong thing or whether the costs are too much. My role is to defend parliamentary business, freedom of information and any forms of open government.

I will bring in Jill McPherson, if she has anything to add on that.

Jill McPherson: Some years ago, we had a calculation that attempted to give a cost to the Scottish Government for FOI activity. We stopped using it because it was complicated enough but it was still quite simplistic. It is very hard to quantify.

In reality, we gather information from a number of people—there is input from all over. It would have to be quite a detailed calculation in order to provide that figure. As the minister says, it also reflects on the wider rights of the citizen to ask the question and get the information.

Ivan McKee: I do not know whether you are reading too much into it. It would be ironic if, in a process to do with transparency, we took a decision not to have transparency on the costs. I understand what you are saying, but understanding an approximate assessment of the number does not necessarily lead to saying that it is too high. It could lead to saying that we need to have more efficient processes, whether through proactive or automated data release.

George Adam: I take that on board. We will have a look and see what we can come back with.

Ivan McKee: That is great. Thank you very much.

Stephen Kerr: Minister, you know that I have a passion for reform and improvements to the way in which our Parliament works, in order to benefit the people of Scotland.

Recently, we have had the gender sensitive audit, and some recommendations flowed from that. I am interested to hear about your response

to that report. More broadly—as the minister who is speaking for the Government—it would be good to hear what your appetite is for us to look at how we make Parliament more effective in its functions.

George Adam: It is funny, because one of the disagreements that you and I have had—for two and a half years—is about how we make Parliament—

Stephen Kerr: That is because I recognise how big a part the SNP must play in making that reform happen, because the reform cannot be partisan.

George Adam: I get that. We need to embrace the gender sensitive audit and go forward with it as a whole Parliament. This committee's convener pulls me up from time to time when we change a committee's structure. For example, if I remember correctly, the Citizen Participation and Public Petitions Committee, which Jackson Carlaw convenes, is all male.

The Convener: Yes—it is an all-male committee now.

George Adam: It is an on-going challenge. I make the point at the Parliamentary Bureau and with the Presiding Officer that, although my group has a majority of women, that does not necessarily mean that all the women want to join specific committees. They might have interests and other things that they want to do. To put them in a committee just because they are female would take them away from what they actually want to do. I am also aware that I have a responsibility for the Parliament and its committees to reflect Scotland. It is one of those matters that we will have to move on with.

We created a mechanism within the SNP to ensure that we ended up with a majority of female MSPs, so my argument to other political parties—including yours—is that they need to look at doing that as well, if we are serious about the Parliament being reflective. It is not just a question of balancing male and female representation; it is also about looking at disability and race. We need to look at other ways of making sure that we are reflective of the people of Scotland and that we move away from having only pale, middle-aged men like Mr Kerr and me involved.

Stephen Kerr: I am grateful that you still think of me as middle-aged. [*Laughter.*]

I do not think that anyone will disagree with what you have just said. I completely agree that all the political parties in Scotland that are serious about engaging with the people of Scotland—and their priorities—have to look like the people of Scotland. The Scottish Conservatives have certainly taken some positive decisions in that direction, and I know that other parties have done so as well.

I also agree with your comments about not shoeorning people—on the basis of their sex—into specific committees. There is a natural dimension to that. People have passions and interests that they want to pursue, and, although they will curtail those in order to be part of the team, it is important that they also have opportunities to express themselves. That is why they came into public life.

On the issue of parliamentary reform in general, we have lots of discussions about how we could make very small adjustments to how we do things in the Parliament that would create all kinds of additional freedoms for members, including through expression in the chamber and opportunities to engage further with ministers through scrutiny—I know that you are a big advocate of ministerial scrutiny. What is your appetite in that regard, and what is the appetite of the Government for coming together with members across all parties so that we can agree that some of the proposed adjustments can be implemented?

George Adam: As always, it is for the Parliament to decide how the Parliament goes forward. As a major player within that Parliament and the Government, I am happy, as always, to listen to ideas that others have to find a sensible way forward to deal with the challenges before us. I might not necessarily agree with every idea that everyone comes up with but, on the whole, we will have a good chat and we will kick it down the road a bit to see how we can get things sorted.

Stephen Kerr: I recognise that you are representing a significant block of MSPs, but would you personally be interested in ideas that would enhance our debate and allow for a little bit more topicality in how portfolio questions are conducted, for example? You would be interested in seeing how that could be done, would you?

George Adam: The Parliament has always evolved in the time that I have been here. Topical questions did not exist when I was first elected, in 2011, and we now have more portfolio questions than we had when I was first elected. The Parliament now sits on Tuesdays, Wednesdays and Thursdays; when I first came here, it just sat on Wednesdays and Thursdays. The Parliament has constantly evolved during that period, and I think that that is to be encouraged.

Stephen Kerr: I welcome that comment, given my particular interest in this area.

Do you have ideas about how we might establish more channels between our parties outside the existing parliamentary processes, which can be a bit laborious at times in terms of how long things take, in order to progress this

discussion so that we can find the common ground that definitely exists?

George Adam: As always, it is a case of personalities and individuals talking to one another and having a conversation as a starting point. You and I have done that on numerous occasions, and the convener and I have, too. Ivan McKee approached me about something not long ago, too. I am generally someone people can talk to or approach, and I am happy to encourage that as a starting point, so that we can then develop some ideas. You and I may find out that we disagree on some points, but we will find common ground, as always.

Stephen Kerr: I think that there is an amazing amount of common ground between members of the Parliament on how small changes could bring about dramatic improvements in how we operate.

The Convener: As can succinct contributions.

Stephen Kerr: If I may make one last point—

George Adam: I will just caveat that point—it is up to the Parliament, as always, to make the decisions. We are a major part of it, but we all need to talk to one another.

The Convener: I am conscious of the time, but one example that I think is worth putting on the record is that of the Minister for Veterans, who regularly holds meetings with any members so that they can raise matters, as there are sometimes challenges for that item in making it into the chamber. That does not mean that the work is not happening, however, and there are ways round it.

As I have said, I am conscious of the time, but there are two things that I want to mention, so I will exercise a certain level of leniency for a few more seconds.

Stephen Kerr: I will take those seconds to mention one particular idea that is perhaps more major than some of the other ideas that I have been alluding to: that of having committee conveners elected by Parliament. We have raised that point before. Do you have any current thoughts on that? Everyone is talking about how we can enhance the power of committees, how we can make them even more independent and how we can achieve a certain level of scrutiny and inquiry that we all know that Scotland's Parliament needs. What are your thoughts on that?

George Adam: Stephen, you have just won officials bingo: elected conveners is one of the topics that we said might have an outside chance of coming up this morning.

It is for the Parliament to decide on that issue, too. If the Parliament decides to go down that route, the Government will engage, as one of the

major players. It is for Parliament to make that decision, however.

Stephen Kerr: So, the SNP does not have a particular position on that—it is entirely up to members.

George Adam: I do not think that there is any policy within the SNP as to how we go forward on that issue.

10:00

The Convener: I point out that the minister is here for the Scottish Government.

George Adam: There are processes before things get to a free vote. The chief whip would probably never forgive a former chief whip for making a suggestion like that.

The Convener: It is very helpful to have heard from the Minister for Parliamentary Business and the Scottish Government that they are happy to discuss such matters, rather than talking about other roles.

Again, I am conscious of the time. I was going to discuss the reconsideration of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill, which I know is coming forward, but I think it would be more appropriate to leave that until after the event, which will, we hope, be before the end of this year. We may then be able to return to the matter and analyse the processes that the bill went through and the challenges that arose.

George Adam: On that point, if you will indulge me, convener—

The Convener: Please go ahead.

George Adam: This is the first time that we have done a reconsideration of a bill. I can honestly say that it has not been as satisfying for everyone as the process has progressed. We genuinely need to have the conversation that you have discussed afterwards, as there are things that we could probably consider.

The Convener: That is very helpful. It is both fortunate and unfortunate that the first experience that the Parliament has had of reconsideration is in respect of a bill that affects our younger generations. Indeed, I think that they have borne the brunt of the recent period of time, and I welcome the offer to reconsider, review and look into the matter. We will certainly take the minister up on that.

I thank the minister and his officials for attending today.

I have now received apologies from Annie Wells, which I put on the record—she has been

unable to attend today, for reasons that I
absolutely accept.

10:01

Meeting continued in private until 10:28.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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