



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

SPCB Supported Bodies Landscape Review Committee

Thursday 15 May 2025

Session 6



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SPCB SUPPORTED BODIES LANDSCAPE REVIEW COMMITTEE
12th Meeting 2025, Session 6

CONVENER

*Ben Macpherson (Edinburgh Northern and Leith) (SNP)

COMMITTEE MEMBERS

*Murdo Fraser (Mid Scotland and Fife) (Con)

*Richard Leonard (Central Scotland) (Lab)

*Ash Regan (Edinburgh Eastern) (Alba)

*Lorna Slater (Lothian) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Allan Campbell (Scottish Parliament)

Jackson Carlaw MSP (Scottish Parliamentary Corporate Body)

Maggie Chapman MSP (Scottish Parliamentary Corporate Body)

CLERK TO THE COMMITTEE

David Millett

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

SPCB Supported Bodies Landscape Review Committee

Thursday 15 May 2025

[The Convener opened the meeting at 09:30]

SPCB Supported Bodies Landscape Review

The Convener (Ben Macpherson): Welcome, everyone, to the 12th meeting in 2025 of the SPCB Supported Bodies Landscape Review Committee. I have received no apologies for today's meeting, but Ash Regan will join us later, as she is giving evidence to another parliamentary committee this morning.

I am very pleased and grateful to welcome members of the Scottish Parliamentary Corporate Body and supporting officials to the committee. Today, we have with us our colleague Maggie Chapman, who has responsibility for business support and office-holders, and Jackson Carlaw, who has responsibility for finance and organisation governance. Supporting them is Allan Campbell, head of operations of the chief executive group of the SPCB. I see that everyone is happy to proceed, so we will move directly to questions, the first of which will be from me.

Our witnesses might be anticipating this question, as we have consistently put it to witnesses to start off our evidence sessions, but it gets to the heart of why the committee is undertaking this work. What do you believe to be the purpose of an SPCB-supported body and how does it differ from a Scottish Government-supported body, from Scottish ministers or, indeed, from MSPs?

When you answer, it might be helpful if you could touch on the following. We have heard evidence that SPCB-supported bodies are often created when independence from Government is required for the body to fulfil its functions—in other words, when it is important for the body to be perceived as independent. However, we have also taken evidence from the Scottish Government-funded bodies, many of whom are seen to be independent of the Government—in fact, you could argue that all of them are—and are not funded by the SPCB, but by the Scottish Government. In addition, then, do you believe that the SPCB accountability model offers greater independence than Government-funded bodies?

Those are the questions that we have been wrestling with and I would be interested in hearing

your thoughts on them. I do not know who wants to go first. Will it be you, Maggie Chapman?

Maggie Chapman MSP (Scottish Parliamentary Corporate Body): Good morning and thank you very much for inviting us to participate in your work and for the work that you have done on this issue so far. We are pleased to be part of the committee's inquiry into the SPCB-supported bodies landscape.

As you will be aware, the corporate body currently supports seven office-holders and funds the devolved Scottish activities of the Electoral Commission. From April next year, we will also support the Patient Safety Commissioner for Scotland and the Electoral Management Board. The growing number of office-holders and proposals for new ones has been a concern of ours for some years now, so we are grateful to be part of the work that you are doing and have undertaken.

That leads me to answer your initial question, convener, which was on the purpose of SPCB-supported bodies. Primarily, it is about the independence from Government—whatever colour the Government of the day might be—of the function of corporate body office-holders. As a whole, being accountable to Parliament is seen as a strength by some office-holders and others, as is perhaps reflected in the suggestions that are coming forward for new office-holders. People, campaigners and advocacy organisations see that as a route to hold Government, and possibly even Parliament, to account. That independence and that accountability relationship are important for many people.

I should also say something about the different kinds of office-holders that we have. There are advocacy office-holders—that is, office-holders broadly working in the human rights sphere—who support organisations or hold Government and Parliament to account when the policy landscape does not meet the required levels of service provision and when there are issues around service provision and/or access to those services. There are discussions to be had about the best model for accountability, for scrutiny and for that two-way process in which office-holders undertake their required functions and the Government and the Parliament are involved either in setting the policy landscape or scrutinising the office-holders' work. Some office-holders, such as the Commissioner for Ethical Standards in Public Life in Scotland and the Standards Commission for Scotland, are seen as separate, and having those roles supported by the corporate body has worked well.

The role of the corporate body has, for a long time now, been one of oversight and of supporting governance and the functions of office-holders

across the piece. I think that we have fulfilled those roles reasonably well. There are good relationships between the corporate body and office-holders, as well as good opportunities for challenge and for dialogue—and that runs both ways. Is it the only model that exists? Absolutely not. Is it one that bears this kind of questioning? Absolutely. However, I think that we, and the corporate body, have, over the course of the parliamentary session, fulfilled those roles.

The Convener: Thank you. Colleagues will have further questions, but I would just say that, as we have looked into this more deeply, the challenge for us has been that, although we see really rational reasons for the Ethical Standards Commissioner, for example, to be funded by the SPCB rather than the Government, the reasons are less clear in the case of, say, the Patient Safety Commissioner for Scotland and the proposed victims and witnesses commissioner for Scotland. In recent weeks, the Scottish Fiscal Commission has given evidence to the committee; it is very much seen by the Parliament and in the public domain as being independent from Government, but it is nevertheless funded by the Government. It has been an interesting and important discussion for our work, and I thank you for the points that you have made.

Jackson Carlaw, did you want to come in?

Jackson Carlaw MSP (Scottish Parliamentary Corporate Body): You have asked a fundamental question, which is: what are the office-holders for? It is a question that we ask ourselves, but it is not our job to define it. It is the Parliament that has defined and created our new suite of office-holders.

How has that come about? I recall that, a generation ago, when issues of substance needed attention, MSPs would demand that we convene a national summit, at which the issue would be thoroughly reviewed. Then summits went out of fashion, and the idea came about that, instead, we could have commissioners to take those issues forward.

As we deal with the governance issues around the commissioners that are being created, what is clear to us is that there is no common template, framework or level of responsibility attached. Therefore, in the public mind, there is a sense that the commissioner roles are a kind of level playing field in which people have the same level of responsibility and authority.

I understand why that has happened. My own theory is that, in a Parliament where there are fewer minorities and more of a majority, MSPs have found that raising awareness of their own profile as well as that of a particular issue can be delivered by pursuing a campaign to create a

commissioner. When I look at some of the other commissioners in prospect, I think that the same might apply. However, from our perspective, our duty is simply to exercise the responsibility given to us by the Parliament, which is to implement the legislative will that has been expressed through the creation of the commissioner.

Meanwhile, as the SPCB spokesman for finance, I know that I will have to go before the Finance and Public Administration Committee annually with our budget, which shows the cost of the commissioner landscape growing. When I started being responsible for finance for the corporate body, the cost was about 8 per cent of the Parliament's overall budget. It has grown to 15.7 per cent, and that is before the Patient Safety Commissioner and any other commissioners are added. The spend is becoming a big percentage of the Parliament's overall spend.

My concern—and, I think, a concern that colleagues have had a little bit—is that we have created a whole new level of government in Scotland that did not exist when this Parliament was established, that is unelected and which has, in our view, probably not been properly held to account or scrutinised. I am delighted that this committee's work has come out of the Finance and Public Administration Committee's work and the reservations that have been expressed. It is very difficult to see why, beyond the current session of Parliament, we would not end up with another 10 commissioners for subjects that people used to want to have summits about, as the basis for denying such proposals would become more difficult, given the commissioners that have already been approved. In some respects, that would further dilute the Parliament's responsibilities with regard to those issues.

The fact is that we inherited a requirement to manage this very complicated landscape, not expecting that responsibility to become as overwhelming as it has.

The Convener: That was really helpful, and it leads on to next area of questioning.

Murdo Fraser (Mid Scotland and Fife) (Con): Good morning. The committee is interested in trying to understand the purpose of commissioners and the added value that they bring. Indeed, Mr Carlaw, you alluded to that in what you have just said. It is clear from the Finance and Public Administration Committee's report and the evidence that we have taken that Scotland is not an undergoverned country; after all, we have 129 MSPs, 57 MPs and nearly 30 ministers and law officers.

Last week, I asked the Minister for Public Finance what would concern the Scottish Government the most—a critical report from a

commissioner, a critical report from a cross-party parliamentary committee, or Opposition MSPs, or indeed MSPs from its own party, standing up and criticising it? I appreciate that the corporate body might not have a particular view on that question, but I am interested in knowing whether either of you has any personal reflections on the matter. If you were in government, would a commissioner's recommendations be more impactful than those of a parliamentary committee?

Maggie Chapman: That is an interesting question. I do not think that the corporate body would necessarily take a view on it, given the constraints of our role. However, having said that we would not take a view, I will now give you a view—

Murdo Fraser: I am happy to get your personal view.

Maggie Chapman: There are questions of perception and who is doing the perceiving. To the general public, a critical report from a commissioner might seem much harder hitting than the party-political back and forth that will happen in Parliament anyway. That is possibly why we see a desire for new commissioners to cover different areas of concern among the public, campaign groups and individuals—they see them as the route to challenge. People might think that, in the political landscape, their constituency or regional MSP does not have the same clout to hold the Government to account and to challenge and change behaviour. That relates to the convener's question about independence and whether that is central to the commissioner role.

It is probably also the case that commissioners are seen as having more civil society engagement and greater connections and networks that are not party political, so they are seen as having a different kind of power and nuance from an Opposition party or a committee taking up a cause, even though committees work well on a cross-party basis.

09:45

Jackson Carlaw: My concern is not with the Scottish Information Commissioner, the Scottish Biometrics Commissioner, the Scottish Public Services Ombudsman or the Ethical Standards Commissioner. If those commissioners speak directly on an issue, that has a very powerful impact on the life of the Parliament and the Government. However, when it comes to the rights commissioners—particularly the potential plethora of additional rights commissioners that could be established, as I mentioned earlier—and you look at the responsibilities and powers that they will have, you will see that it is not a level landscape.

With regard to the most recently established commissioner—the Patient Safety Commissioner—when the legislation was going through the Parliament, there was some contention over what authority and ability to intervene and direct the commissioner would have. Speaking personally, I suspect that it is attractive to the Government, when challenged on a matter by the Parliament, to be able to say, “Oh, you're quite right. I will refer that to the commissioner”, and then, when challenged further, to say, “Well, Mr Fraser, you raised this issue with me and I have given it to the commissioner, so you will need to wait for the commissioner to rule on it.”

Does it dilute the authority of the Parliament if, when established, the commissioners do not have executive authority to act? Even if they do have that authority, is that the right way round, or is that what the committees of the Parliament were set up to do in the first place? In other words, are MSPs devolving their responsibilities in these areas of life to, for example, a disability commissioner for Scotland; an older people's commissioner; a wellbeing and sustainable development commissioner; a future generations commissioner; or a learning, disability, autism and neurodiversity commissioner? Might there be an animal rights commissioner, for example? The process could go on in perpetuity, and it is difficult to see how you would argue against them.

So, going back to your very question, I would say no, the authority of the Parliament should be the thing that the Government is most challenged by when it comes to advocacy.

Murdo Fraser: Thank you.

The Convener: That was very helpful. Thank you.

Lorna Slater (Lothian) (Green): I have a cheeky supplementary question to Murdo Fraser's question. Mr Carlaw, we have been speaking about effectiveness. Some of the evidence that the committee has taken about commissioners such as the Scottish Biometrics Commissioner shows that they do a great deal of wonderful work but that nobody ever reads it—it does not get fed into Government mechanisms. In addition to the challenges that you have outlined with the advocacy commissioners, which my colleagues have asked you about, I am interested in your thoughts on that aspect. In other words, when commissioners, the SPCB or the wider public sector are doing excellent work, how effectively is that work fed into Government mechanisms?

Jackson Carlaw: I agree about the Scottish Biometrics Commissioner. In fact, that is a perfect example. It is probably the smallest of the commissioner offices. Over the time that I have

been an SPCB member, no commission body has asked me to reduce its budget; it always wants to grow. However, the Biometrics Commissioner has a small and very effective commissioner office that is reactive rather than proactive, in the sense that the commissioner does not produce national adverts saying, "Please come to me." Rather, he very much seeks to identify important issues that require to be addressed. That is a perfect example of the corporate body's biannual engagement with the commissioners, when we hear what the Biometrics Commissioner is doing and uncovering. However, similar to the situation with the Scottish Information Commissioner, when the Biometrics Commissioner identifies an issue that requires to be addressed or a forthcoming issue that will require to be addressed, that is taken seriously and responded to.

Maggie Chapman: This really comes down to who has the scrutiny role for the different office-holder bodies. This committee and the Finance and Public Administration Committee have discussed how we, as a Parliament, can better support committees to tease out issues. One would hope that, on the back of the work that an office-holder has done, we could direct other work to happen. For a range of reasons, that might happen very well in certain situations and not so well in others.

Jackson Carlaw highlighted the distinction between intentional proactive duties and reactive responsive work. Under the legislation that set out the different commissioners, those powers vary vastly across the landscape, as you are well aware, which might create a situation in which commissioners do a piece of work but there is not necessarily an avenue for it, because of the way that the body was set up and the way that accountability and scrutiny mechanisms have been established. There is an opportunity for this committee to consider, thinking about the landscape as a whole, which bodies are the most appropriate to be challenged or to be specifically tasked and given a duty to follow up on those reports and the work that has been done. Some explicit duties read across some of the commissioners but certainly not all the office-holders. Therefore, there is an expectation that all the good work will find its way into the system somehow, but there are not actually mechanisms for that to happen.

Lorna Slater: That is brilliant. I will now ask the question that I am supposed to ask, which is about following up on recommendations that were made to the SPCB previously. The committee looked at the possibility of creating a central portal or location where members of the public could find more information. The Ethical Standards Commissioner wrote to the SPCB to ask whether the Parliament's website could be updated to

provide more information about the office-holders and how to contact them. Is that work in progress? Are you able to give us an update on that?

Maggie Chapman: I will hand over to Allan Campbell to answer that, if that is okay.

Allan Campbell (Scottish Parliament): We received a letter from the Ethical Standards Commissioner on behalf of the other commissioners. I think that it was also copied to this committee. The chief executive and I discussed it, and we have asked the Parliament's communications office to kick off work on that—I think that I have received a draft in the past couple of days. We are actively looking at how to improve that information on our website, and we will work with the commissioners and office-holders on that.

Lorna Slater: That is superb. There were three recommendations from FPAC. I am going to ask for an update on those, because they relate to matters that this committee is also considering and I do not want to duplicate effort. Can you give us an update on the work of the SPCB to identify opportunities for sharing services and premises and achieving other back-office efficiencies?

Allan Campbell: The main update on that is in our letter to the finance committee, which I am sure that we can share. I can give an additional update on the most recent development on the accommodation audit, which was mentioned. That audit has now been commissioned and is being taken forward by our internal audit function. I do not have a precise date for that. The most that I can say at the moment is that I think that it will be done in the summer. The audit will look at the entire office-holder estate. That is probably the most recent development since the update that we gave to FPAC in February.

Lorna Slater: This committee will need to consider whether it makes recommendations on that topic if that work is already under way.

Another recommendation that the finance committee made to the SPCB was to

"explore ways in which it will seek to bring greater transparency to its governance and oversight arrangements ... This should include considering whether any material from internal assessments could appropriately be published for use by committees and others."

Is that work under way?

Maggie Chapman: The corporate body extracts of minutes are always available. We are looking at ways to ensure transparency, although we might not provide detail, because the corporate body is not a committee of the Parliament. It does not function in the same way as committees of the Parliament. For example, our meetings are held in private, and that is a really important space for that work.

When it comes to corporate body minutes and the notes of our conversations with office-holders—and, indeed, with office-holder services in the Parliament—we are looking at how we can make public not the full details of those but maybe a thematic outline, so that people have an understanding of the kinds of issues that we have explored and that have been raised, as well as, if appropriate, potential recommendations.

The corporate body has a duty to support the office-holders in their work and not to make public any information that could undermine not only their integrity as office-holders but their functions in carrying out their roles. Our agreed practice is to meet in private, and a significant change to that would fundamentally change our relationship—as people with oversight for governance and accountability—with the office-holders.

I would be interested in the committee's views on whether a thematic outline of discussion is what you are looking for, or whether we could do more. However, I maintain that it is important that such discussions remain private.

Jackson Carlaw: When you talked about accommodation, did you mean physical location?

Lorna Slater: Yes.

Jackson Carlaw: In the previous parliamentary session, I was on the corporate body when we reviewed all those matters and decided to explore the possibilities at Bridgeside house—which, I gather, the committee has visited. We now expect that the savings that we will achieve as a result of that move will exceed those that were anticipated when the decision was taken.

I think that the corporate body would have been content had we been able to locate even more of the commissioners in that location. However, some commissioners were held to the terms of leases and other such things that had been entered into a very long time ago, for reasons that you can explore at your leisure. That was perhaps not ideal, because it has become apparent that all commissioners can benefit from shared services.

Having said that, I regularly conjure up a slight nightmare, which is why I am glad that this committee is undertaking its review. Whatever your views on the European Union, one of my nightmares of Brussels was of standing in front of a monstrous, great big building that said “The Commission”. I have always harboured the anxiety that, if we just keep adding commissioners, we might at one point stand before some enormous building in Edinburgh called “The Commission”, where all the shared services would be, and the argument would be, “Well, it's not going to be very much more to have another commissioner because, look, they are all in this building with all the shared services, so it's not a big issue.”

What we have done at Bridgeside house has been terrific. From talking to the commissioners at the most recent governance meetings, I think that their willingness to explore—without direction—how they can pull even further together to accommodate shared services has been terrific.

Maggie Chapman: It is important to remember that the co-location of services does not have to mean geography. A range of services can happen in the background, especially in the new post-Covid world of doing many more things online electronically.

One tension relating to geographical co-location has been the drive some years ago to spread out from the central belt and not be so focused on it. A few years ago, the Parliament's intention was not only to get jobs elsewhere but to provide a sense that it was not just that great behemoth in Edinburgh that did all the work. Those tensions exist, but there are novel and creative ways of ensuring that we can do things in a geographically disparate way while retaining shared services.

The Convener: I will come in here, if that is all right.

Lorna Slater: Yes. I have one more thing to follow up on but will do so after you.

10:00

The Convener: I will come back to you in a minute.

I appreciate the point about wanting different aspects of the public sector to be in different parts of Scotland—that applies to the executive in particular—but I can also appreciate why a lot of the commissioners would want to be geographically located within easy access of the Parliament.

Our visit to Bridgeside house was interesting and helpful, and I welcome the fact that many of the commissioners are located in my constituency. We asked a question during our visit on Tuesday that I have heard being asked previously. I appreciate Jackson Carlaw's points about the savings that have already been made, but that is a commercially leased building. Are there any public sector buildings that could be utilised to make further savings so long as the perception of independence could be preserved? Has the SPCB asked itself that question, or might it do so when considering the next break in the lease for Bridgeside house?

Jackson Carlaw: My recollection of when Bridgeside house became an option is that we were keen to identify suitable accommodation and that it was quite an exercise to find somewhere appropriate, so we considered ourselves quite fortunate to get Bridgeside house. At that point, a

number of individual commissioners were in the process of renegotiating and might all have ended up in separate locations. Things probably happened quite quickly.

Bridgeside house has proved to be quite adaptable, because we have been able to acquire additional space there. We did not anticipate that at the time, because we did not anticipate during the previous session of Parliament that there would be more commissioners. It has been a characteristic of this session that we have moved into the arena with slightly more enthusiasm.

The corporate body will always be open to seeking to identify ways to reduce costs while maintaining effectiveness. One or two of the other commissioners are elsewhere, and I do not know whether they ended up where they did for the geographical convenience of those involved. I say with some regret that Janice Crerar, whom, I assume, you have heard from and who has been absolutely superb and fundamental to the success of bringing all that together, is set to retire. She will be a significant loss, because she has done a terrific job in pulling everything together and ensuring that Bridgeside house turned out to be the success that it has been.

The Convener: Operationally, and in many other ways, Bridgeside house seemed to be working effectively when we visited. I hope that I gave that impression.

Jackson Carlaw: No one has raised that issue.

The Convener: My question was about the public sector estate.

Jackson Carlaw: No one has raised the issue of there being any perception that having the commissioners in a commercial property at Bridgeside house has, in any way, mitigated their independence.

The Convener: I am sorry—that is not what I meant to suggest. I know that Bridgeside house is funded by the Scottish Parliament, but if, at some future point, there was co-location in a building that was owned by the Scottish Parliament, the Scottish Government or another public body and did not require a commercial lease, could savings be made? Has that been considered?

Jackson Carlaw: I cannot see our ruling that out arbitrarily. I am sure that we would look at that, but I refer you to my earlier concern that, if we had a big building that was not yet full, someone might think that we should fill it, so we might end up with floors full of commissioners. I have that anxiety.

The Convener: Perhaps they could use space in an existing building.

Jackson Carlaw: We had that debate at one point, and the idea was floated with the corporate

body. We wondered whether the commissioners could have been located in the Parliament, but we thought that that would not be the right thing to do.

The Convener: The Scottish Fiscal Commission is in a Scottish Government-owned building next to St Andrew's house but is still very much seen as being independent. That is an alternative example.

Jackson Carlaw: I can only say that the corporate body has never chosen to rule out such a suggestion. As much as anything else, our slight anxiety was that the current rate of growth in the number of commissioners might mean that Bridgeside house might no longer be able to accommodate them.

The Convener: That is helpful. I will hand back to Lorna Slater.

Lorna Slater: I would like to get an update on the final recommendation from the Finance and Public Administration Committee, which was for the SPCB to

"review, alongside the Conveners Group, the operation of the Written Agreement between the SPCB and Conveners Group and make any improvements, in light of the evidence and conclusions"

reached by FPAC.

Maggie Chapman: We have had initial discussions, but I will pass over to Allan Campbell for more detail.

Allan Campbell: That is right. SPCB officials and Conveners Group officials have had discussions a few times, but that was introduced only in 2022. Since this committee has been established, we thought that it would be better to wait for your recommendations before making any substantial changes. We thought that, if the committee reported in June this year, there would be no point in our recommending changes late last year or early this year, and the changes would not come into force in time. We thought that we would wait for the committee's recommendations. No changes have been made, and we are waiting for the committee.

Lorna Slater: Brilliant.

Maggie Chapman: I will make one additional point. Given where we are in the parliamentary session, some strong recommendations on structures, relationships and so on in legacy reports will be going into the next session, whatever the results of your committee's work. There are opportunities to strengthen the relationship between office-holders and the Conveners Group, but it is important to wait for the direction of travel from your committee before we go off and do something that might not match.

Richard Leonard (Central Scotland) (Lab):

Good morning. I would like to ask you some questions on the subject of capacity, and in particular your capacity. I read the evidence that you gave to the Finance and Public Administration Committee and the speeches that you made in Parliament when there was a debate on the report that the Finance and Public Administration Committee produced, and I note your concerns about whether you had the capacity to cope with the existing number of bodies for which you have responsibility, let alone new bodies that might be added to the SPCB's responsibilities. We now know that there will be a patient safety commissioner, and I think that the bill that would establish a victims and witnesses commissioner is at stage 3 in the parliamentary process. I am not a betting person but, if I were, I think that I would put money on the Victims, Witnesses, and Justice Reform (Scotland) Bill going through.

What is your perspective on capacity, in the light of the existing situation and the imminent growth in the commissioner landscape? Do you have the capacity to have effective oversight, governance and scrutiny of those bodies?

Maggie Chapman: I will take that question in at least two parts. First, there is the capacity of the corporate body itself. The office-holder role sits within the corporate body. As things currently stand, the four of us each have oversight roles for specific things. Mine is office-holder responsibility and some other elements of parliamentary business. There are obviously limits on my time as a corporate body member, and one of our challenges concerns the balance of how much time any one of us on the corporate body could devote to this issue specifically, given that it is just a small part of the whole remit of the corporate body. That is a concern and a question that we have.

If the number of commissioners continues to grow, we need to consider how roles on the corporate body are viewed in the full scope of the roles that we take on as parliamentarians. That is a conversation that any of us in the role that I currently hold would want to have with our respective groups.

It is a question. Is it insurmountable? Absolutely not. Of course, we could adapt the roles and arrange things differently, although that would change the nature of what it means to be a corporate body member, and in particular the one with the responsibility for office-holders. That would change the nature of that role. Could we do that? Of course we could. We could find a way to make it work.

The second area relates more to overall capacity. Jackson Carlaw has already alluded to the excellent support that office-holders have had

through office-holder services and Janice Crerar. That team is very small; in fact, at the moment, it is just Janice, who is provided with support as and when it is needed. There is something that we as a corporate body should consider very carefully: if the landscape changes dramatically, so that our role changes, not necessarily in scope but in volume, we will need to look at how the chief executive's group can support that. There will be budgetary consequences.

One of my concerns, which follows on from what Jackson has alluded to, is that, because the office-holder services team is very small and for many years has been very stable, the loss of any one member would take away a lot of institutional memory and those sorts of intangibles—things that you know that you do not know but that that person knows, and when they are not there, no one knows. We are already thinking about how to plan for the remainder of this parliamentary session, never mind beyond that, given the changes in that team that have already taken place and that will take place.

There are those two different issues of capacity. On the parliamentary side, different conversations might have to be had, but I think that that side will be easier to manage. Will we need additional support from the office-holder services team? I would argue that it is very clear that we will.

Allan Campbell: I echo that. It is a very lean team in the chief executive's office. We do our very best to support all the different functions of the chief executive, but this absolutely is a growing area. The chief executive is on record as saying that if there is any area of the parliamentary service where we might look to increase resources, it is probably this one. We will come back to that as part of the budgetary discussions. Maggie is absolutely right about that.

Jackson Carlaw: Mr Leonard asked whether we have the capacity to discharge our functions in this regard. I assure him that we have the intellectual capacity—I am sure that that was not what he was alluding to—but whether we have the physical capacity is a reasonable question. We have changed the agenda rotation of the corporate body's meetings in order to facilitate a more regular and slightly more extended interface with the various commissioners, which had not been happening, in the same way that I am not altogether clear that committees of Parliament, some of which are responsible for several commissioners, have been able to properly hold them to account.

Because we were mindful of the growth of commissioners, one of the options that we looked at at the start of this session was setting up a separate advisory committee to the corporate

body on the management of the office-holder landscape. We have fleshed out the whole apparatus that would be able to support that. However, we are governed by statute, and the advice that we received is that, as a corporate body, we cannot devolve our responsibility in law to another committee of Parliament. It is established that that is the corporate body's responsibility. If at some stage in all of this it was felt that there would be merit in exploring a route of that character, I think that that would require—was it primary or secondary legislation, Allan?

Allan Campbell: It would definitely require legislative change.

Jackson Carlaw: Legislation would definitely be required to allow that to take place. We worked out in quite some detail what that committee would be like, what its responsibilities would be and how it would exercise those functions. In the absence of being able to set up such a committee, we have restructured our own agenda and the way in which we interface with commissioners. Is that as comprehensive as the alternative might have been? Possibly not.

Richard Leonard: Obviously, as a committee, we can make recommendations in the medium and longer term about changes to the legislative framework that might get us into that terrain. I do not know the status of that work or whether you are able to share that with us. If you are, it would be useful for us to have sight of it, because we are interested in whether you have considered alternative governance arrangements and what they would look like.

We understand that it may be beyond your power to establish such alternative arrangements unilaterally, but we would be interested to know what led you to conclude that that might be a better way of providing oversight.

Allan Campbell: We will share as much as we possibly can—we commit to taking that away.

10:15

Richard Leonard: I have a couple of other questions. As I understand it, there are quarterly meetings between the officer-holder services team and the commissioners and related bodies, and Mr Carlaw said that the corporate body now has biannual meetings with each of those post holders. Previously, I think that it might have been an annual session. For the record, could you confirm that that is how the process works at the moment? Is that the frequency of that interaction?

Jackson Carlaw: I thought that it was more than once a year.

Maggie Chapman: Off the back of the recommendations from the Finance and Public

Administration Committee, the corporate body is in the process of getting biannual meetings in place. Yes, there are formal quarterly meetings with officer-holder services, but that does not mean that those are the only meetings that take place; other conversations happen throughout the year.

If particular pieces of work need to be done or particular issues need to be addressed in relation to any office-holder, there can be additional meetings. For instance, I have gone to additional meetings with office-holders and officer-holder services beyond the formal quarterly meetings and the full corporate body meetings that take place. The corporate body has just started biannual conversations; they were previously annual.

Richard Leonard: A short answer to my next question would be helpful, because I do not want us to go down a rabbit hole.

It is often said that we learn more from failure than we do from success. One of the triggers for the agreement with the Conveners Group was the failure of the Ethical Standards Commissioner, which led to Audit Scotland producing a section 22 report. The Public Audit Committee was of the view that it should not have taken that to resolve some of the issues that had clearly been developing inside that organisation. Have you learned lessons from that about how better to provide oversight, scrutiny and accountability?

Maggie Chapman: Yes. You wanted a short answer.

Jackson Carlaw: I will give a short-plus answer. Again, I recall that some of that stretched over more than one session of Parliament.

Yes, we have learned some lessons, but that situation also clarified some of the obstacles that exist to our ability to act and operate, which I hope were understood and realised in the discussions that took place later.

Have we learned in the sense that nothing like that could happen again? We have learned why it happened, how it happened and what we could do, but, in relation to whether it could happen again, I am not entirely convinced that circumstances could not arise in which something like that might happen again.

Maggie Chapman: That is partly because we would require a change in our powers, and we cannot decide that for ourselves.

One thing that has developed from that is closer conversations with the Conveners Group and a better understanding of the scrutiny role. I know that that is not the specific issue that you were referring to when you mentioned the section 22 report, but I get the sense that, although it may not always follow through to action, there is a better understanding of the different responsibilities that

committees and the corporate body have and of how we can support one another to undertake our scrutiny functions.

Richard Leonard: Earlier in the meeting, you said that the corporate body had oversight over governance and accountability, which is quite a clear responsibility that lies firmly in the corporate body's corner.

I have one final question in this area, convener, if I may.

The Convener: Before we move on, to follow up on what has been said, it would be good if the witnesses could say a little more about how the SPCB shares information with committees to support the governance and scrutiny of office-holders, whether through the Conveners Group or otherwise. Do you have any thoughts on how that could be improved, for instance in cases in which there are concerns about performance, how the body is run or its effectiveness?

Maggie Chapman: In the annual or biannual meetings that we have with office-holders, if there are questions relating to the scrutiny role that it would be more appropriate for committees to have, we will take a note of those and pass them on to specific committee conveners or to the Conveners Group as a whole. That is not something that corporate body members do directly; it goes through the corporate body office support team and the office-holders support team.

Allan Campbell: I do not want to say too much, but there is a lot of interaction behind the scenes between office-holder services and committee clerks on relevant issues. You can be assured that that happens, based on those meetings and the other discussions that we have.

Richard Leonard: An idea that has been paraded before us as an interesting possibility—it is no more than an early-stage idea—is that one option might be for the commissioners and other bodies to have a committee of the Parliament that would meet in public and take evidence from the commissioners. That would not preclude subject committees from receiving reports, in the same way that the Auditor General for Scotland plugs directly into the Public Audit Committee but also gives evidence to the Economy and Fair Work Committee, the Education, Children and Young People Committee and so on when reports are produced on those particular areas.

Do you have any thoughts on that model and whether it might work as a way of addressing some of the gaps that might currently exist? Might that be a better way of holding the commissioners to account on their work?

It is important to recognise and to stress that Audit Scotland has 340 full-time equivalent staff,

so it generates an awful lot of work. The commissioners that we are speaking about have much smaller establishments of staff, so the dimensions are different; we accept that. We wondered whether you had any initial views or whether, on reflection, you could get back to us with a view on whether that model is worthy of further examination.

Maggie Chapman: It is an interesting question. I know that the committee has heard about the New Zealand approach. We welcome the conversation about that, although I am not sure that the corporate body has a firm view on it yet. There are questions about capacity, time and expertise.

There would be questions—not for the corporate body but in relation to the overall piece—about the development of expertise in the subject areas of some of the office-holders, which would be the most appropriate body to scrutinise that work and whether it would lead to duplication of another kind. A stand-alone committee might stray into the scrutiny of some of the office-holders' functions, but subject committees also scrutinise their functions. I think that that could be done, but where those splits would be would need careful consideration.

On the point about functional accountability, although that would obviously have resource implications for the corporate body, there are clearly conversations and thoughts to be had about that. It is not something that we would be automatically opposed to on principle.

Jackson, do you want to say anything more?

Jackson Carlaw: It is a variation of the idea of having a sub-committee of the corporate body. If it were a committee of the Parliament, that would lead to quite a lot of legislative change, because the acts establishing all the individual commissioners specifically identify responsibilities to the corporate body. It might be a more complicated legislative route than the alternative.

In terms of governance, as opposed to accountability for the commissioners' functions and responsibilities, the fact that some of those conversations are held with the corporate body in a private environment is also of value to the office-holders and to the corporate body.

I know that individual office-holders value the fact that we are now able to and will engage on these issues, because, as you have identified, some of them are relatively small organisations. As well as being able to talk things through and to discuss themes with other commissioners, they can do that with us in the corporate body. In some instances, issues are explored and not pursued, and sometimes they are pursued, but, because of the nature of the umbrella of the corporate body,

some of those conversations are candid and relatively private. I would want to find a way of safeguarding that.

On accountability, it is tricky for committees of the Parliament that are charged with holding commissioners to account—sometimes several of them are charged with that responsibility—to accommodate that within a potentially heavy legislative workload that they also have to consider. That responsibility is not evenly spread.

I can see why the idea of a committee that was more widely responsible for looking at the accountability of the commissioners might be attractive from the point of view of the level of scrutiny and the continuity of scrutiny. My experience of being on a committee that had a responsibility for a commissioner is that the clerks would say, “By the way, you have responsibility for this thing, too. We’re going to have to have so-and-so in to discuss it,” and everyone would say, “Oh, what do we say?”

The continuity of scrutiny of a permanent committee that would look at the accountability of the commissioners would be of value. It would probably also release the individual subject committees slightly, because, as I said, they have a very heavy workload. Some committees could initiate legislation, but the days when they had time to do that have more or less evaporated. Therefore, I can see why that idea might be attractive.

The Convener: Mr Campbell talked about clerks speaking to one another regularly. In my experience—I envisage that this is other members’ experience, too—although correspondence is necessary, appreciated and beneficial, it is only when information is put on the record through, for example, a letter to a committee, that it can be scrutinised by the Parliament in the fullest sense. That is something for all of us to bear in mind.

We will now have a brief suspension. We will reconvene at half past 10.

10:27

Meeting suspended.

10:30

On resuming—

The Convener: We turn to questions from Murdo Fraser.

Murdo Fraser: I want to ask about the framework for establishing new public bodies. There is a draft ministerial control framework, which the Scottish Government has been using for the past two years, that sets out criteria to be applied should a new public body be created. Part

of the framework specifies engagement with the SPCB at an early stage to discuss any proposed SPCB-supported bodies and potential impacts on the SPCB budget.

I have two questions, which I will ask together to save time. Have you had any interactions with the Scottish Government on proposed new bodies? To what extent are you able to feed in views on the SPCB’s capacity to provide effective governance?

Allan Campbell: I can answer in the first instance. Yes—following that guidance, the Government gets in touch, official to official, to seek our views at an early stage.

Murdo Fraser: Is that a helpful exchange?

Allan Campbell: Yes—absolutely.

Murdo Fraser: That is fine.

The Convener: Do you want to ask your next question?

Murdo Fraser: Sorry—I missed that one.

We have taken evidence on the existing criteria for creating new SPCB-supported bodies. The Finance and Public Administration Committee recommends that the criteria be strengthened and formalised. Do you have any views on how that might be done? Who in the Parliament should be responsible for assessing new proposals against the criteria?

Maggie Chapman: A range of criteria, from remit to accountability, would need to be considered. In some ways, for each of the proposals that are in the mix, those criteria form the discussions for the committees that scrutinise the proposals and, then, for the Parliament as a whole.

This might be a refrain from an earlier conversation, but we are concerned about how we ensure that the purpose and function of an office-holder is clear, not only to those of us in the Parliament but to members of the public who might or might not seek to benefit from their existence.

There is something for the Parliament to be aware of in determining the criteria, which are not for the corporate body to determine, given that these are commissioners for the Parliament and not for the corporate body, given our clear governance and accountability mechanisms.

Jackson Carlaw: At the moment, a new commissioner can be proposed by the Government or through a members’ bill. We have realised that, even if we were to say that there should be a moratorium on the creation of new commissioners, there is absolutely nothing in the statutory arrangements of the Parliament that

would preclude a member from initiating a bill to create a commissioner thereafter.

Therefore, something else has to be in place so that the process can be evaluated. Only since we have discussed it as the corporate body have we got to the point at which we think that something needs to be in place, but we are looking to this committee to identify how that might be regulated in the parliamentary framework, because it is difficult to see what the obstacle would be. I understand that there could be informal obstacles that would preclude the progression of a members' bill, but that is not ideal. It would be better if there were some way in which the process could be properly considered and evaluated.

Murdo Fraser: That was interesting. We are all conscious that the Parliament unanimously agreed to a motion from the Finance and Public Administration Committee last year that there should be a moratorium on new SPCB-supported bodies, pending the work that that committee is doing. Notwithstanding that, members' bills are progressing.

Jackson Carlaw: Exactly. When the corporate body discussed that, the advice that we were given and the conclusion that we reached was that, at the moment, there is no competent mechanism to stop it.

Lorna Slater: As we have sought to understand the many and complex issues that we are talking about, some potential solutions have floated to the surface. I want to float three of them past you, just to understand whether there is an appetite for them and to give you the feeling of them.

If the problem is that the SPCB is overloaded, Bridgeside house is too full and there is a capacity problem in the Parliament, the first potential solution—I think it was the convener who highlighted it earlier, or maybe it was Murdo Fraser—would be to redefine some of the SPCB-supported public bodies and put them into the more general public body space, so that they are directly funded by the Scottish Government.

It seems that the creation of new commissioners is, in many ways, about trying to fix the gaps in a system when there have been scandals. People might see a need for a patient safety commissioner because they are reacting to a scandal, for example. The second potential solution might therefore be to give more proactive powers to existing bodies—the ombudsman could have wider investigatory powers, for example—with the intention of trying to prevent such scandals, rather than people feeling like they need a commissioner as a redress.

The third potential option that we have floated around, and I am aware that some other Parliaments have done this, is some sort of

consolidation act of Parliament, whereby, for instance, the Scottish Human Rights Commission would have its remit substantially redrawn in legislation so as to incorporate powers and effectiveness.

The Children and Young People's Commissioner Scotland has been held up to us as the gold standard of what a commissioner can and should be, but not all advocacy commissioners are defined in the same way. For example, the Scottish Human Rights Commissioner seems to have quite significant limitations on its legislative remit.

I am interested in your thoughts on those three options. Are there reasons why we should not be considering any of those, and do any appeal more? Are they the solutions to our problems?

Maggie Chapman: I am interested in your articulation of those as three different proposals. The corporate body has not discussed redefining and absolving ourselves of those responsibilities, partly because we respond to what the Parliament asks us to do. If the Parliament passes legislation that creates a commissioner and that creates responsibilities for us, we take those on. We should probably consider redefinition, but it is not something for us to have a view on, given our role.

I am not sure about the second and third options. It might be a personal view rather than a corporate body one, but I am not sure that I necessarily see them as being distinct. There are opportunities to change how the different types of commissioner function. We have regulatory, investigatory and advocacy or rights-based commissioners and there might be an argument for consolidation in those areas. We have discussed that. Indeed, the Parliament discussed it 16 or 17 years ago, but there was a lot of lobbying from external groups, and some internal ones, and the consolidation did not happen.

That is a political argument, but there are opportunities to have specific conversations. I wear two hats. I am a member of the Equalities, Human Rights and Civil Justice Committee and we were preparing for substantial conversations about what the proposed human rights legislation would do to the role, remit and powers of the Scottish Human Rights Commission. We were looking at what the opportunities would be for some of the other proposed commissioners and were considering changing the structure, powers and remit of that body so that it could incorporate not stand-alone commissioners but focused periods of work.

The corporate body has had conversations about the gap-filling problem that you identified. The challenge with most of the commissioners that have been proposed to fix a problem or fill a gap is

that there is no real sense of what they would do once they have fixed the problem—if they do, which is a big presumption. If we ask whether a dedicated piece of work should be done in the next five years by a body within the Scottish Human Rights Commission, that essentially creates a sunset clause.

Any changes to the nature of existing bodies would require legislation and the Equalities, Human Rights and Civil Justice Committee thought that there would be an opportunity to do that in the forthcoming human rights legislation. In the absence of that legislation, the corporate body is looking to this committee to show us where to go. The gap-fixing and consolidation options that you describe might work well together, but they are not without challenges, primarily because substantial legislative change would be required.

The Convener: That dovetails nicely with Richard Leonard's next question.

Jackson Carlaw: Can I add something quickly? I was on the committee that looked at the consolidation of the existing commissioners 17 years ago—I think that Annabel Goldie thought it would keep me out of the way. At that point, the Parliament's appetite was for achieving exactly that and we came forward with recommendations, but the members who had an appetite to do that and were enthusiastic about it felt less so when they received public lobbying in favour of commissioners who were going to be merged, so we achieved less consolidation than we had imagined.

A point was made earlier about the route map. In our discussions with the various commissioners, the ombudsmen and others, there was a certain dismay that new commissioners were being proposed as part of the solution to certain problems and that no one seemed to go back to the existing structures to ask whether they could accommodate the responsibilities within their existing portfolios. That mechanism does not exist. When there is a member's bill to create a new commissioner, it goes through the Parliament and a new commissioner is created. To refer back to the question from a moment ago, perhaps a process could be put in place to manage those things differently and to find out if there is a willingness from others to say, "We could have done that."

The Convener: That was very helpful.

Lorna Slater: I asked all Richard Leonard's questions.

The Convener: I was going to say that.

Lorna Slater: That was my fault.

The Convener: Earlier, Richard Leonard asked whether additional functions might improve effectiveness. All three of you have covered a lot of that ground. Do you want to ask anything further, Richard?

Richard Leonard: No, that is fine.

10:45

The Convener: Okay, thanks very much. I move on to the financial accountability of office-holders. The Scottish Information Commissioner described himself as being "financially hamstrung" and frustrated by the current funding model, whereby there is no scope for carrying forward funding and any underspends are lost. Does the SPCB recognise the challenges that he has referred to? What might be done to address that situation? Have any other bodies made similar points about the funding model or expressed such frustrations?

Allan Campbell: I will give an initial answer. I cannot remember, but I think that it was perhaps the Scottish Biometrics Commissioner who described things that way. He described how public sector budgets—and, indeed, our budget—work in general. In those budgets, funding cannot be carried over to next year. Parliamentary officials would also recognise that as an issue, so I am not sure that it is unique to the office-holders, unless there is another angle to the matter.

The Convener: I appreciate that it is a wider challenge in the fiscal framework and generally for Government, too. You can understand why it would be operationally frustrating. Can any improvement be considered?

Jackson Carlaw: We present a budget to the Parliament on behalf of the office-holders that accommodates the budget representations that the office-holders have made to the corporate body. The corporate body's responsibility is to scrutinise and challenge those representations; it is not our responsibility to just say yes to everything.

From time to time, there has been a frustration on our part when, after approving the individual office-holders' budgets and making the presentation of the budget to Parliament, we have surprisingly gotten a significant request for a strategic re-evaluation of the commissioner's needs in-year, which is very difficult to accommodate. We have a contingency, naturally, because all manner of things can materialise in small teams—maternity leave and issues of that character—where we have to provide additional resourcing in order to ensure that the commissioner is able to function.

I go back to what Allan Campbell has said. We are working in that environment and we do our best to encourage the widest possible scrutiny in advance of the budgetary request. Obviously, the corporate body can go to the Parliament and the Finance and Public Administration Committee with the budget that we think is most appropriate. If we have been persuaded of the case, that will be accommodated in the budget that we present.

The Convener: That is very helpful.

Murdo Fraser: When we spoke to the Scottish Biometrics Commissioner, he suggested increasing the frequency of his budget meetings with the SPCB and aligning them with the budget bid cycle. Do you have any views on that? How would that impact on capacity?

Maggie Chapman: We are trying to establish a move to twice-yearly meetings and the focus of one of those meetings would be on budgets. I see no reason why we would not align that timing to be the most appropriate for budget cycles. It is something that we are trying to do; we just have not got there yet with everyone.

Allan Campbell: It might be difficult because of the peak time in September and October, when the corporate body is considering the wider budget. I have a slight concern about that tight period of capacity, but it is definitely something that we are looking at.

Richard Leonard: I turn to the question of auditing. David Hamilton, the commissioner who told us that he felt that he was “financially hamstrung”, was the author of the view that the audit process, both internal and external, is disproportionate and overburdensome. You might have seen that evidence from a few weeks ago. As members of the corporate body, have you taken a view of that perspective?

Allan Campbell: I can go first. Yes, we have watched all the sessions with interest. Audits have come up quite a bit. It is probably worth referring back to an idea that the corporate body had about 15 years ago, I think, that would have brought all the office-holder accounts into one place. That would have simplified things a lot. Agreement was reached with Audit Scotland on that, but some of the office-holders were not in favour of it at the time.

From the evidence, it looks as though they would now be in favour of some streamlining of those accounts. I do not want to say that it is something that we can definitely do immediately—we would need careful consultation with the Auditor General, Audit Scotland, the office-holders, and the SPCB—but we can certainly take it away and look at it. We will definitely look at what the committee recommends in this area.

Richard Leonard: Maggie Chapman mentioned that she has two hats. I have the hat of the convener of the Public Audit Committee. The evidence that we took from the Auditor General was rather contrary to what you have said. He felt—and, as it happens, it is a view that I share—that there is some value in getting the assurance of a stand-alone audit. Last week, we explored that in relation to His Majesty’s Inspectorate of Constabulary in Scotland, which is audited as part of the Scottish Government’s consolidated accounts audit, unlike the Scottish Fiscal Commission, which has its own independent internal audit and is externally audited by Audit Scotland. Have you taken a view on whether there would be merit in combining the audit process for all those public bodies?

Allan Campbell: We have not gone to that extent yet. The corporate body has taken the view that it would be something to discuss with the appropriate people, including the Auditor General. We have not taken a view on the merits of doing that.

Richard Leonard: Again, I do not wish to go down the rabbit hole on the topic of the Ethical Standards Commissioner, but an argument could be made that the issue might not have been picked up in the way that it was through the audit by Audit Scotland if that body had been part of a more collective audit process. It is not inconceivable that it would have been picked up in such a situation—it could have been—but, nonetheless, without that focused attention, the audit might not have led to the remedies that were required to deal with the situation.

Jackson Carlaw: Perhaps, although I would pay tribute to the Parliament’s independent adviser, who liaises with the individual commissioners. I think that some of the issues emerged through those conversations and were subsequently—more publicly—identified by the auditor.

Richard Leonard: Okay.

The Convener: We will now move to questions on reporting and outcomes—

Lorna Slater: Convener, if it is helpful, I would be happy to summarise the final page into just two questions.

The Convener: Yes; I have got that feedback. I am just going to suspend the meeting briefly.

10:52

Meeting suspended.

10:54

On resuming—

The Convener: Welcome back, everyone. Our colleague Ash Regan has now joined us. We move to the last set of questions, on reporting and outcomes—an area that we have discussed previously throughout the process of taking evidence. I will hand over to Ash Regan.

Ash Regan (Edinburgh Eastern) (Alba): A number of witnesses have raised the issue of how the Parliament measures the outcomes that are produced by the supported bodies. The committee has received some evidence, albeit in private session, that suggests that there are serious challenges in some areas—possibly more for advocacy-based supported bodies. Do you have any views on how that could be improved?

Maggie Chapman: One of the challenges for us in answering that question concerns the limits of our responsibilities. If we are talking specifically about some of the advocacy office-holders, their functions in that regard are rightly scrutinised by other committees of Parliament, not by the corporate body.

We receive the annual reports and have conversations with office-holders—and sometimes with their staff, too—about how they are meeting their outcomes and designing their services in order to facilitate those outcomes, but it is not our role to see whether they have met all their key performance indicators. Our role is around the governance and accountability elements.

Jackson Carlaw: The corporate body's agenda sometimes reminds me a bit of the royal court. We know what we are going to be discussing as we progress through the year, because we are on a circular route according to which we have to schedule and accommodate our business. We can, therefore, schedule with confidence the governance aspects of our responsibility for office-holders, but I imagine that that must be quite a challenge for committees. In any given year in any given session of Parliament, depending on the Government's programme and the legislative spread of work that is suddenly presented to a committee, if new commissioners are created and it looks like they are all heading in the direction of one committee, that must be very difficult for that committee.

I return to the suggestion that we discussed earlier on whether a different model, with a committee that looks at the execution of the commissioners' functions, would be more effective. I do not think that there is a lack of willingness; I suspect that it is just that some commissioners are the responsibility of a committee that cannot quite plan its workload.

That could be because it did not anticipate a very major, absorbing piece of work—either work that it was given or work that it felt, in all conscience, that it had to initiate itself.

Ash Regan: I want to focus slightly more on that, to get your opinion on it.

If a commissioner that is funded by the corporate body is potentially not fulfilling its remit as set out in its enabling legislation, and if Parliament is perhaps not doing its job effectively with regard to scrutiny, would that be a concern? Would you seek to suggest that the Parliament step up in some way?

Jackson Carlaw: I would be nervous about that, as our responsibility as a corporate body is quite defined. We are there to manage the governance, not to express any executive comment on the way in which the committees discharge their functions—nor, as a corporate body, are we monitoring that. Our role is to exercise our responsibilities in statute with regard to governance.

Maggie Chapman: In addition, across the range of existing office-holders, how their remits are defined in legislation varies a lot, and the detail and specificity that those remits provide is very broad. There is not necessarily a one-size-fits-all way of monitoring that. That might tie in with the earlier questions and discussion around criteria—what should the criteria for an office-holder be in terms of remit, function and timescale in order to achieve certain outcomes?

Having said that, I think that the corporate body would clearly take the view that we would welcome it if committees were to enhance their scrutiny function, and we would want to support that in any way that we could. However, that might be limited, for the reasons that we have discussed in relation to not only our capacity but overall scheduling of parliamentary business.

The Convener: In that space, the SPCB sets the form and content of annual reports. Has there been much thought about whether those reports can be enhanced or changed in order to support more effective scrutiny?

Maggie Chapman: There have been discussions about not only the content of reports but the level of detail that they provide. Some of that has been discussed with individual office-holders over the past few years in the one-to-one conversations that office-holder services have.

11:00

If the corporate body has questions, and we say that we want more information on something beyond the framework of the overall annual report, that information is usually provided. Nevertheless,

we can take that point away and consider whether there are ways in which we can make more specific some of our requirements for those reports.

Allan Campbell: I echo what Maggie Chapman said: we can definitely take that away.

The Convener: Sorry, Ash—back to you.

Ash Regan: The committee has taken evidence that suggests that office-holders should be scrutinised by a parliamentary committee at least once a year. Do you have any views on that, and do you think that the timing is appropriate?

Maggie Chapman: As we have discussed this morning, there may well be good reasons for additional scrutiny, especially if there are particular issues in society in general. However, it is up to committees to determine that scrutiny function.

Our relationship as the corporate body and office-holder services with the Conveners Group is an iterative process. Perhaps, through that relationship, we can say that there needs to be a little bit more time and effort given to a particular issue. However, that depends on a committee's workload and work programme, which we have no role in and no scope to influence.

Ash Regan: I come to my final question. There are other bodies that are funded directly by the Scottish Government and their oversight, scrutiny and governance arrangements are, in some cases, quite different from those that apply to bodies that the corporate body would fund. I do not know how far you are aware of those arrangements. Do you think that anything could be learned from the way in which the Government carries out scrutiny of the other bodies that it funds?

Maggie Chapman: We are having an on-going discussion with regard to what the scrutiny functions are. As Jackson Carlaw alluded to, the corporate body's role is quite clearly defined, and any changes to that would require legislative change. That does not mean to say that we are against that—it is just not in our power to change that role of our own volition; a broader parliamentary conversation would be required.

The Convener: As colleagues have no other questions in this area, I will ask one final question. It goes back to our discussion a few moments ago before the suspension, when Richard Leonard and Lorna Slater were asking questions about the powers and functions that the bodies have.

Do you have a view on whether the SPSO or the SHRC are currently set up to take on any additional powers, such as incorporating rights-based commissioners? I am interested in hearing your views on that.

Maggie Chapman: It is clear from our conversations with the chair and commissioners of the Scottish Human Rights Commissioner that that body is not opposed to having additional powers, even within the constrained thematic remits that it has. The challenge for the SHRC is capacity and resource.

To go back to my earlier comment about the opportunities that might have been open to us for discussion as a Parliament on potential human rights legislation, if the legislation that had been brought forward had sought to give additional powers and duties to the SHRC in particular, conversations about additional resourcing would have been needed.

It is a slightly different case for other commissioners, but, for the SHRC in particular, there would need to be a conversation about resourcing and prioritising work. The sense that I bring to that, from the perspective of the Equalities, Human Rights and Civil Justice Committee, is that the SHRC wants to do a whole load of other work, but it just does not have the resources to do it.

Jackson Carlaw: The question is what that actually means, because, in the conversations that we have had, there was a certain amount of disquiet about the fact that that option had not been explored. A moment ago, we discussed the fact that the mechanisms do not provide for that to happen. My one reservation relates to the idea that, for example, instead of having a couple of new commissioners, those areas would become departments of the existing commissioner. Having moved from wanting a summit to wanting a commissioner, would the mood then be that people would want to create a new department in the existing commissioner's portfolio of responsibilities? In that case, we would not have tackled the basic problem; we would just be identifying a new way for that capacity to be expanded. Yes, it would be a resource issue, but you could end up with a huge, huge thing with lots of different departments and lots of different people.

The question really goes back to the issue of where we think that that all fits into the democratic structure that we established when we created the Scottish Parliament and what our fundamental responsibilities should be in that regard. Speaking personally, many of these things are things that I thought that we were elected to do in respect of our responsibility to hold the Government to account.

The Convener: That is so important. This is about the realisation of rights and the delivery of public services. Is there anything else that you want to say that you have not had the chance to say, to inform the committee as we now move to

coming up with recommendations on the appetite for good delivery of public services, the realisation of rights and where all this fits in?

Jackson Carlaw: No, convener. We wait to be inspired. [*Laughter.*]

The Convener: We accept the challenge. Maggie Chapman, do you want to add anything?

Maggie Chapman: I just want to say thank you for this evidence session. We want the commissioner landscape to work. As the corporate body, we want it to be as effective as it can be and for it to work alongside the other functions of the Parliament, whether those are the scrutiny functions that we have as parliamentarians or the functions of our committee structures.

We hope that the conversation will allow the Parliament to come to a decision so that we can create models or structures that will mean that we are not in the position, as a corporate body or as a committee, of needing to have these discussions again in the next three or four years.

My final comment comes not so much from a corporate body perspective, but it is related to these issues. For me, it comes back to the question of what it is that has gone wrong that these commissioners are seen to be the answer or solution to. I have some concern that the growth in commissioners is seen as a sort of never-ending solution to the problem, without tackling the root cause. Jackson alluded to that issue. Do we need the functions that these commissioners have? Yes, absolutely. Do we need those functions in the structures that we currently have? Possibly not.

The Convener: Thank you for your time, help and input to our task. This has been a really helpful discussion. That concludes the public part of today's meeting and, as previously agreed, we will now move into private session.

11:09

Meeting continued in private until 11:30.

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