OFFICIAL REPORT
AITHISG OIFIGEIL

Standards, Procedures and Public Appointments Committee

Thursday 12 June 2025

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Thursday 12 June 2025

CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
SCOTTISH PARLIAMENT (RECALL AND REMOVAL OF MEMBERS) BILL: STAGE 1	2
DUAL MANDATES	25
SUBORDINATE LEGISLATION	35
Scottish Parliament (Constituencies and Regions) Order 2025 [Draft]	35

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

10th Meeting 2025, Session 6

CONVENER

*Martin Whitfield (South Scotland) (Lab)

DEPUTY CONVENER

Ruth Maguire (Cunninghame South) (SNP)

COMMITTEE MEMBERS

*Emma Roddick (Highlands and Islands) (SNP)
*Sue Webber (Lothian) (Con)
Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Professor Ailsa Henderson (Boundaries Scotland)
Jamie Hepburn (Minister for Parliamentary Business)
Rona Mackay (Strathkelvin and Bearsden) (SNP) (Committee Substitute)
Kirsty Mavor (Boundaries Scotland)
Graham Simpson (Central Scotland) (Con)

CLERK TO THE COMMITTEE

Catherine Fergusson

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 12 June 2025

[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 10th meeting in 2025 of the Standards, Procedures and Public Appointments Committee. I have received apologies from Ruth Maguire, and I welcome Rona Mackay who is attending as her substitute. I have also received apologies from Annie Wells.

Our first item of business is a decision on whether to take in private agenda items 4 and 6, which will be discussions of the evidence that we will hear today. Are we agreed?

Members *indicated agreement.*

Scottish Parliament (Recall and Removal of Members) Bill: Stage 1

09:00

The Convener: Under agenda item 2, the committee will continue its stage 1 consideration of the Scottish Parliament (Recall and Removal of Members) Bill. I welcome the Minister for Parliamentary Business, Jamie Hepburn, and his supporting officials, Leila Brosnan, shadow bill team leader; Ailsa Kemp, Parliament and legislation unit team leader; and Jordan McGrory, a solicitor from the legal directorate. I also welcome Graham Simpson, the member in charge of the bill. Minister, I invite you to make some opening comments.

The Minister for Parliamentary Business (Jamie Hepburn): Thank you for inviting me to give evidence. I also thank Graham Simpson, who is with us today—very eager and keen—for the open and constructive discussions that we have had about the bill as he developed his proposals and since the bill's introduction. The Scottish Government supports the broad intention behind the bill, which is to uphold standards and improve the democratic accountability of members of this Parliament.

The people of Scotland need to have confidence that their elected representatives are held to the highest standards of behaviour and that there are robust systems in place to deal with any MSP who does not uphold those standards. I recognise that it is for the Parliament, not the Government, to determine the standards regime for its members. Similarly, it is not for the Government but the Parliament to decide whether to sanction its members using recall and removal procedures.

We are all aware, and I am very pleased, that the Scottish Parliamentary Corporate Body is initiating an independent review of the complaints process, which might bring about changes to the consideration and delivery of sanctions to deal with any concerns, or perceived concerns, about the independence and impartiality of the process in the future.

Although these matters are, ultimately, for the Parliament, there are a number of principles upon which we can all agree. I believe that we are all committed to ensuring that any procedures that are introduced are fair, transparent, efficient and effective for MSPs, those operating the system, and, above all and most important, for the public—those who we are elected to represent and to serve.

If the bill becomes an act, I hope that the procedures that it sets out will stand as an additional incentive to current and future MSPs to maintain the highest standards. It should go without saying—I will say it anyway—that we all hope that these procedures would be used rarely, if ever. However, we need to ensure that the processes work smoothly and are sufficiently clear to command public confidence, should they need to be used.

The electoral system for the Parliament is different from that of any other United Kingdom legislature, which means that we must have a recall system that works for Scotland and its Parliament. We are not the Westminster Parliament or the Welsh Senedd, although we can learn from both of those institutions, one of which already has a recall system, and one of which is—as we are—considering its own recall legislation. If we are going to take forward these proposals, we should take this opportunity to develop a system that works for Scotland, for this Parliament and for the people who elect our MSPs.

I am happy to hear from the committee, and, along with Leila Brosnan, Ailsa Kemp and Jordan McGrory, I am happy to answer your questions.

The Convener: I am grateful for those remarks, minister, and I sincerely hope that all elected individuals will echo a great deal of what you said about the importance of transparency and being held properly to account. Therefore, we will hold you to account—I hand over to Emma Roddick, who has the first set of questions.

Emma Roddick (Highlands and Islands) (SNP): Minister, you said that the Scottish Government supports the principle of a recall mechanism. Can you expand on exactly why that is?

Jamie Hepburn: First, that support is for the principle, and for the reasons that I have laid out, which is to enhance confidence in the process to ensure that members are held to the highest standards of behaviour and where that is felt not to be the case, the ultimate arbiter is the public. That principle is worth while, and you will recall that, on 29 May 2024, the Parliament had a vote, in which ministers voted in favour of the principle of a recall system. Of course, the devil is in the detail, so we are now moving from the principle to the practical considerations with regard to what that system would look like. We support the principle, and along with the Parliament, we now have to consider the specific details.

Emma Roddick: Therefore, would you say that the primary aims are about improving the accountability of elected representatives to the people whom we serve and the ability to hold individuals to account for their conduct?

Jamie Hepburn: Yes, that is right. The arbiter in the current system is the Parliament. By and large, that process has served us for a long time and, more often than not, it has served us well. Given that we are accountable to the public, in the sense of being elected here in the first place, if we are going to introduce a system of further deliberation on the standards of members of the Parliament, the same principle should apply that, ultimately, that should be in the hands of the public.

Emma Roddick: Yes, absolutely—I agree. There are other principles at play that might conflict with what we are trying to do in relation to a recall mechanism, one example being proportionality in the system that we have set up for electing the Scottish Parliament. The committee has heard from witnesses that, in addition to the accountability aspect, some wish for other aims to be pursued through the legislation. Is it worth exploring those other issues, such as rerunning the election in a particular seat or region to reflect the voters' feelings at that time, not just towards the individual with the conduct issues but the parties as a whole, or should we protect those principles and focus mainly on conduct and accountability?

Jamie Hepburn: Ultimately, the whole process is triggered by issues around conduct, so that must be the starting premise. As an aside, on proportionality, there are two issues. The first is whether a system of recall is proportionate to the trigger mechanism. Mr Simpson has set out what that might be and it is for the Parliament to consider whether that is proportionate. However, if I have picked you up correctly, that is not the issue of proportionality that you are referring to. Secondly, there is the question of whether the process could have the effect of altering proportionality, as determined at a general election. The answer is yes, it could. To an extent, our system already has that built in through the by-election process. We have just been through a by-election. I will not linger too long on the outcome of that, but it changed the nature of the numbers, by comparison with the general election that happened in 2021. Therefore, that is already part of our system. I accept that the bill would add—"complication" came to mind, but it is not the right word—another layer to the issues that might affect proportionality. However, as I said, that is already a facet of our electoral system.

The Convener: I will pursue that point a little further. The recent by-election, which had to take place for a sad reason, happened on the basis of the first-past-the-post system that we have in Scotland. Although the effect of proportionality on the regional list would be the same percentage wise—we are talking about one member being replaced—what is the Scottish Government's view

about the inherent risk of instability because of that?

Some witnesses have given evidence that suggests that the process of replacing the member might become more of a comment on the Government, parties and other events, rather than on what the Scottish Government says, which is that it should be focused on the conduct occasioned by the individual member. Does the Scottish Government have any concerns about the question shifting from an individual MSP? It depends on how the public votes, which is relatively straightforward in a constituency because it is the individual who is elected, but in the regional list, where it is a party vote, is the Government concerned about that affecting proportionality?

Jamie Hepburn: We would be naive to suggest that politics will not come into the process; that is the nature of the process in which we participate. It could ultimately only be put to the test if we institute such a system.

Otherwise, unfortunately, we would have to go through the process of a recall, which we all would hope not to happen. However, if we consider those recalls that have taken place—we have only one experience of that in respect of the Westminster system in Scotland, and my experience of that recall was that people were focused on the conduct of the individual member. I am struggling to think why that would be any different if the process related to a regional member rather than to a constituency representative. Ultimately, we would only know that if we had to go through the experience.

Sue Webber (Lothian) (Con): Good morning. The Scottish Government's policy memorandum mentions that the legislation might need to be "future proofed". Could you say a little bit more about your thought process as to what that might mean?

Jamie Hepburn: We said that with particular reference to one area, and it is largely predicated on the experience that we are going through right now, in which the Parliament has instructed the Scottish Parliamentary Corporate Body to go away and consider the process that we have for sanctioning an individual MSP. It alludes to the fact that we need to be careful that we do not prescribe a specific process in the bill.

Through that memorandum, we were offering prompts for the committee to consider. The committee and the Parliament have to consider whether the bill should be overly prescriptive about that process, or whether we should recognise that, right now, for instance, the corporate body is considering a potential change to the process and might make recommendations on that, so we might want to have the ability to reflect those in any process of recall that is instituted.

I only proffered the example of the corporate body process because we are going through that right now, but, inevitably, standing orders and processes change, develop and adapt all the time. That is the only thing that the memorandum was referencing.

Sue Webber: That is fair, because the pace of change in the world is galloping ahead in so many different ways, so we need to be able to shift the dial.

You have already mentioned that politics will come into the process. We have heard that the parliamentary sanctions and the grounds for recall have the potential to be politicised. Will you speak a little bit more about that?

We have heard that it might come down to the fact that a political party might take the view that if a candidate is not—I will use this phrase—towing the line or the party line, it would be beneficial for the party to try to encourage something to happen to that particular MSP. I am being a bit cynical, but I am sure that you understand where I am going with this line of questioning. How can we protect from that but at the same time make sure that the process allows the recall to commence in a stable, sensible manner, rather than in a knee-jerk political way?

09:15

Jamie Hepburn: I am an optimist rather than a cynic—as I am sure that everyone would agree from their experience of interacting with me. I genuinely struggle to see how those circumstances would happen. However, you are right, Ms Webber, to caution and suggest that there is potential for a political party to encourage the disbarment and removal of one of its members for wider reasons of perception. You never know—I suppose that it is a possibility.

The wider point is how we can ensure that there is minimal politicisation at the appropriate part of the process. That speaks to the mechanism that would trigger the recall mechanism.

Sue Webber: How do you minimise that politicisation?

Jamie Hepburn: I go back to the point that I just made. The Parliament has asked the SPCB to undertake a piece of work to make recommendations. I think that that was largely what the question was predicated on. We await to see what it recommends. There is that element of it, but when it gets to the process of a recall petition, it becomes much harder to do that, and we should be realistic enough to recognise that.

Sue Webber: Organisations that we have spoken to feel that having lay members involved in the consideration of complaints against MSPs could be beneficial. Do you think that there is a place for lay members in considering complaints against MSPs and possible sanctions?

Jamie Hepburn: The Government does not have a specific perspective on that, but I certainly think that it is an intriguing proposition. If the committee is inclined—it is not for me to tell the committee what to do—to explore it further, I certainly think that it would be interesting to have a wider discussion on that issue. The Government does not have a perspective on it beyond my observation that it is certainly worthy of consideration.

Emma Roddick: On the point about who deals with complaints and how wide a group that is, given that we may be considering some very personal issues, does the Government have concerns about the protection of personal information, including, potentially, politically sensitive information about individuals? What comparison do you see with complaints that the Presiding Officer deals with?

Jamie Hepburn: We have been talking about the recall mechanism, but that might come into play more in relation to the other part of the bill and the attendance requirement. That is probably where the issue will need to considered further.

Ultimately, the way that I read Mr Simpson's bill—no doubt he will explain his rationale when he comes to give evidence to you—is that an MSP would be able to give reasons why they were unable to attend. They may be legitimate reasons, but questions could arise about them. The person might feel that they were private matters—despite being elected and in the public eye, we are still entitled to a level of privacy in our personal lives—but people would inevitably speculate about what the reasons might be.

On the recall process, it is an interesting question, but I struggle to see circumstances in which the personal matters would outweigh the reason for the recall process being triggered in the first place. It might be possible to build that into the system, but the committee would have to consider that.

Emma Roddick: If we consider situations that have occurred in the Parliament in relation to which a recall could be triggered under the proposals in the bill, there have been some particularly sensitive issues. I guess that, as soon as something gets out there into a wider debate, it becomes very difficult to be reasonable.

Jamie Hepburn: I appreciate that. I will avoid commenting on specific cases because of the territory that that would take us into. That point will inform our considerations—we should not be naive and pretend that it will not—but we must consider the proposition without reference to specific cases. I suppose that it is possible. I struggle to see how the process could take account of that, but there might be a means. We will see whether one can be devised.

The Convener: I want to look into what should and should not be in the legislation and the suggestion that it should be iterative. The Government is content for the process to sit in primary legislation. The suggestion in the Government's memorandum is that there should be provision to extend the occasions when it may be triggered and that we should leave an opportunity open for that to appear, presumably through secondary legislation. Is that correct?

Jamie Hepburn: If I picked up the question correctly, the point about whether it should be done by secondary legislation or whether there should be a reference to standing orders, the development of which is an iterative process, takes us back to the point about future proofing. We should not second guess what the corporate body will recommend. Its process is under way, which is welcome. I suppose that it is theoretically possible that a recommendation will come forth that there is no need for change. However, the process that we have means that we would need to consider a change to our standing orders.

I say again that the Government does not have a specific perspective on the issue, so I am only proffering these ideas as suggestions to be explored. I think that the committee needs to grapple with whether the bill should include a reference to our standing orders or whether these things could be done through secondary legislation. Both approaches are possible.

The Convener: Absolutely. The Scottish Government is suggesting things rather than saying, "This is our view," but are you content for a bill to, in essence, try to hypothesise on unknown unknowns in the future?

Jamie Hepburn: That is an unknown unknown. [*Laughter.*]

The Convener: I move on to a challenge that we have heard a lot about, which concerns the parity between the routes of being elected regionally and being elected as a constituency MSP. Graham Simpson has said from the outset that, under his bill, there should be parity between all MSPs, because there is parity when we come into this place and take our seats in the chamber, irrespective of how we arrived there. What is the Scottish Government's view on that? MSPs are all the same when we are sitting in the chamber, but does parity also relate to the journey that we took to get here, via the regional list or the constituency

list? Can we say that there absolutely is parity in the chamber but that there is no parity for the purposes of how we travel here—which there is not?

Jamie Hepburn: That is a good question, and it might be the most difficult one that we have to grapple with as we consider the bill. It reflects the point that I made at the outset. The electoral system for this place is unique in these islands, as no one else uses the additional member system or the d'Hondt formula for the allocation of regional members.

Our starting premise must be the principle that we have parity once people have been elected. How they were elected should not make any difference to the rights and privileges that they have or the esteem in which they are held. However, it is possible that the process could recognise that members are elected through different processes. That is a matter of fact, as you set out. It is about getting the right balance. For the system to be viewed as being as fair as we can make it, there should be parity. However, that is balanced against the reality that we are elected in different ways.

The Convener: It would go further than that, in the sense that there would be parity up to the trigger of the event that would lead to a recall petition. Parity commences when a member takes the oath. There would be parity up to the point at which a member is shown—if proved through the process and after appeals—to be unfit to hold the office. Is the Scottish Government comfortable with the idea that that is the edge of parity and that the recall process could reflect the different ways in which people come here before taking the oath?

Jamie Hepburn: We have not taken a specific view on that. The fundamental issue that we are grappling with is that, if a person who was elected to represent a constituency was recalled, I do not think that we could do anything other than enable them to stand in any subsequent by-election, but there is no by-election process in place for regions. Mr Simpson has proffered a solution earnestly and in good faith, I believe, and the question is whether that should be reflected in the system. That is something for the Parliament to grapple with; the Government does not have a view on it.

The Convener: Does the Scottish Government not having a view also extend—we are getting to the unknown unknowns—to views or opinions in our stage 1 report if we suggest changes? Is the Government in any way concerned that there might be different journeys for different MSPs after a recall has been triggered?

Jamie Hepburn: At this stage, no, but we will reflect on your report.

The Convener: And the unknown unknowns.

Jamie Hepburn: I am sure that it will be informed by the evidence that you gather, convener.

The Convener: Absolutely.

Emma Roddick: Minister, you said that a constituency member who was recalled would have to be allowed to stand in the subsequent by-election. Why is that? If they were not allowed to do that, it would create parity with regional members.

Jamie Hepburn: I am not a legal expert, but European convention on human rights issues would probably come into play. The question might be whether that would also have to be a factor in determining the element that relates to the regions. What I am doing today is offering areas that I think the committee might have to consider, and that would be one. Even if I am incorrect and a member who was recalled would not have to be given that opportunity, the bill would provide them with it, if I have read it correctly.

Emma Roddick: Another issue that witnesses have raised is that the current set-up for the lists allows parties to skip names. In a situation where a conduct issue has resulted in a recall, the party might be quite tempted to skip the name, but the bill might not allow that if the regional member won the ballot to return. Does the Government have any views on that?

Jamie Hepburn: No.

The Convener: What is the Government's view on the fact that, if someone walks through the door to sign the petition, everyone will know what their position is? Does the Government have any concern that there would be no anonymity in that decision, whereas there is anonymity when someone steps into a polling booth?

09:30

Jamie Hepburn: That is a good question. Secrecy is generally something that we tend to try to avoid, but the principle of the secret ballot—a person's right to go and cast their vote without anyone else knowing how they have voted—is an important part of our electoral system. Clearly, secrecy is not enabled by the recall process at Westminster and it would not be enabled under the bill either, if I have read it correctly, given that people would go to sign the petition. The committee has to consider that.

I have seen some evidence proffered on that point. For example, the Electoral Commission has made recommendations in the context of the Westminster system on whether people should be

able to go and sign a petition to say that they do not believe that the member should be recalled. That would raise other questions about how we would factor that in. Would it mean that there would have to be a balance between those who said that the member should be recalled and those who said that they should not? The approach would at least have the virtue of allowing people to go and take part without others knowing how they have responded. However, I caveat that answer by saying that the Government has not taken a specific view on the matter.

The Convener: Does the Scottish Government have a view on the percentages that would occasion a recall? For a constituency MSP, the proposed threshold is 10 per cent. For a regional MSP, it is 10 per cent overall and 10 per cent in three constituencies in the region.

Jamie Hepburn: We do not have an opinion on that per se, but we flag up in our memorandum that it would be useful to explore and understand why those thresholds are proposed in the bill. We understand that they could be justified on the basis of the manner in which regional MSPs are elected, which is calculated and predicated on the number of constituency seats that their party has—if they are standing as a party candidate. We have had independent members elected through the regional system, but I put that to one side for a moment. Most of us are elected to this place on a party ticket, and in that situation the constituencies come into play.

We have observed that there are also subdivisions of constituencies. I am a representative of a constituency that has multiple polling districts. I guess that the question is why a threshold should not have to be reached in a certain number of polling districts as well as the overall threshold being reached. However, we do not have a view on that. We only suggest it as a question that the committee might like to explore.

The Convener: Although the Scottish Government does not have a view on that, it has raised questions about polling districts within constituencies. There is clearly concern that, under the bill, there would be a disparity between the levels that would need to be achieved in relation to recalling MSPs. Is that a fair representation of the Government's position?

Jamie Hepburn: We only posit the question as something that you might like to explore. I have gone into the specifics of it, but that is the fundamental question. We have talked about parity. Why would there be a subdivision requirement in relation to regional MSPs but no such requirement in relation to constituency MSPs?

The Convener: However, the Government does not have any overt concerns, other than the unknown unknowns. Perhaps it will depend on where the committee lands in its stage 1 report or what happens further down the line.

Jamie Hepburn: We will need to reflect on what is recommended. It is merely an observation. On the fundamental question, as I set out, parity of esteem for those who are elected here is an important principle, but parity of process—as much as we can achieve it—is important as well.

The Convener: To clarify, am I right that there is no concern that there would be different journeys for the two groups of MSPs, depending on how they came here, in relation to how they would leave? Does the Government have no concern that there would be that difference?

Jamie Hepburn: We have no opinion on that at this stage.

The Convener: Touché.

My next question is on the petition process. In essence, the individual's name would appear on the petition, which would then be agreed to or not depending on who signs it. In reality, the individual would be hoping that support for the petition among their electorate would not reach the 10 per cent threshold, and they may well campaign in relation to that. No party political campaign could take place, but the flipside is that there could be campaigning by a group of invisible, unknown people on social media, with letters being sent to constituents anonymously. The Government will have to take a decision on the financial instruments and so on. Does it have any concerns about unknown campaigns spending millions of pounds to oust an MSP?

Jamie Hepburn: That would be an area of concern. I go back to the fundamental point that there should be transparency in campaign finances. The Scottish Elections (Representations and Reform) Act 2025, some of which we will discuss under the next agenda item, touches on areas of campaign finance. At the time when the bill that became that act was being considered, I was clear that transparency is the fundamental issue in that regard, but there are also issues about limits on expenditure. It becomes a question of fairness. Although we do not have a view on the specifics, I can safely say that the matter is an area of general concern.

The Convener: In a petition situation, what do we do about unidentified groups that do not register and may potentially be subject to legislation if they can be identified and fall foul of something? There are legitimate examples—I am thinking back to Jersey, where there is a "none of the above" option when there is only one candidate. In the last election there, there was an

orchestrated, anonymous campaign to ensure that "none of the above" won. You could not identify who was funding it or where the correspondence and the social media posts were coming from, but, clearly, the campaign was successful in the first round—then there were changes because there was a re-election at that point. Are there concerns about that, and has work been done and thought been given to how we would deal with that matter here?

Jamie Hepburn: We would need to look at it in relation to the bill as it advances, and consider how we might deal with it. I can safely say that the Government would be concerned about those areas. We should have a line of transparency about how much is being spent, who is spending it and where that money and expenditure is being derived from. These are important parts of our democratic system and we recognise that it is important when people are elected to the Parliament or in other parts of our democratic system. We should also recognise that it is important in relation to any recall process too.

The Convener: Do you see the bill as the vehicle to do that?

Jamie Hepburn: It might be. It is one of the challenges that we face; it is probably less of an issue here, although we would need to explore it further. A recall mechanism is a fairly clear and distinct process, but it is something that we would need to consider. If there were an election here and a general election for the United Kingdom Parliament in the same regulated period, expenditure in both those elections would start to interact, so the question is what would happen if there was a recall petition in that period.

The Convener: Absolutely—what if there is one sitting on top of that? That is why I ask the question of the Government.

Jamie Hepburn: Those are things that we would need to consider.

The Convener: I will leave it at this: will that consideration, even if it is just at the top level, be relatively soon—simply because of the six-month limit? There are questions about the various recommendations if we have an election next year. I am glad that the Government agrees that such a consideration rests with it. Although the petition might be an electoral event, it is not an election, and there are particular questions about how that is dealt with.

Jamie Hepburn: It does not entirely rest with us, of course, because we do not control the law around the regulatory period for UK elections. That is where it becomes difficult. The expenditure on elections here then interacts with that part, which we do not control; throwing petitions into the mix would mean that we would have to consider things further.

The Convener: The expenditure on a petition might or might not be an election expense, irrespective of when it happens. If it falls within certain periods and it is such an expense, it will cause problems. I am inviting the Scottish Government to consider the issue in a bit more detail, because it potentially ties into whether a petition—if it becomes an uncontrollable event—is the right vehicle to do that first part.

Jamie Hepburn: We will of course have to consider that. However, the point that I really make to the committee is that, in considering the issue, there will still be limits to what we might be able to do at the other end.

The Convener: I appreciate that you are not the only body with which that issue sits.

My final question is about voter education. As we have already heard, our election process for the Scottish Parliament is different from that anywhere else in the UK and separate from any other electoral event that happens in Scotland. We are talking about adding another event to that, so the electorate will need to understand what they are being asked and how they are being asked it. Does the Scottish Government accept that, and how far is it responsible? I recognise that the Electoral Commission and others will have a teaching role in the process, but there will be a cost to that. What is the Scottish Government's view on the matter?

Jamie Hepburn: There will be a cost to all that. The Presiding Officer has already indicated that a financial memorandum would be required if this were to proceed into law so, yes, there will be costs throughout. If there is to be an education campaign—for want of a better term—that is a cost, and we will have to consider it.

You made the point that the additional member system is a facet of our electoral system here. In 1999, that was new, but people are largely used to it now and understand that they have two ballots to cast at the Scottish Parliament election. In 2007, we introduced the single transferable vote for elections to local authorities; I think that people are becoming used to that and understand the process of ranking candidates. What I am speaking to is that people are well used to becoming acquainted with developments in our electoral system.

I absolutely concede that, when this is introduced and if and when a specific petition comes in—although we all hope that it will not be required—part of the process must be about ensuring that people understand how it works precisely. By and large—and rightly—that work must be done through an external agency in the

guise of the Electoral Commission rather than put in the hands of Government or Parliament, which might be perceived as being less independent.

The Convener: I hope that such an event will never happen, but if it does, rather than its sitting in a cycle that people have got used to—which has happened because we have seen some challenges with all the voting systems in Scotland at some stage—does the Government recognise that there would need to be an education element to the process for the voters to understand what they were doing?

Jamie Hepburn: Yes.

The Convener: That is fine.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Good morning. I want to ask you some questions on something that we touched on briefly with a previous question from Emma Roddick. What is the Government's view on the physical attendance requirement in the bill and what would be a valid reason for a member to be absent for 180 days or more? Should there be a definitive list of criteria for that? Some witnesses have suggested that the provision could have a negative impact on diversity for people who are not able to attend the Parliament in person. What your views are on that?

09:45

Jamie Hepburn: There are a few issues at play. The first thing that I would set out, as a general perspective, is that, where it is possible, people should be in the Parliament. Whether there is a need to be prescriptive and to make it a matter that might lead to someone's disbarment is a wider question. However, as a general principle, I think that we all recognise and understand that, if people do not have a good reason not to be here, they should be here on a fairly regular basis, accepting that Mr Simpson's proposition is that, if people have a good reason, they will not fall foul of the requirement. That is a general observation, rather than a comment on whether that requirement should become part of the process by which someone could be disbarred.

It might be helpful to have a list of acceptable reasons for a person being allowed not to be here. The challenge, which could be accounted for by saying that it is a non-exhaustive list, is that things could arise that we consider to be legitimate reasons but which we had not foreseen and prescribed as legitimate reasons. We could deal with that by different means: the list could be updated or, as I said, we could say that the list was non-exhaustive.

I concede that it is inevitable that the requirement could have an impact on specific cohorts. It is not for me to speak to Mr Simpson's bill, but, to be fair to him, that is why he has suggested that, if someone has a good reason not to be here, they would not be disbarred.

However, there are some fundamental questions, because the requirement is predicated specifically on physical attendance. Putting aside my personal perspective, which is that people should be here when they can be, we have embedded in our system the ability to participate remotely by digital means—I think that that has been a good thing—and we do not draw a distinction in that regard in relation to a person's ability to participate in proceedings. If we do not draw a distinction in that regard, a reasonable question might be why we are now saying that, in any six-month period, a member must have been here in person. That question needs to be considered. Again, the Government does not have a perspective on that, so I am merely suggesting that these are questions that need to be considered.

The other fundamental thing that needs to be considered is who the gatekeeper is who will determine whether a reason is legitimate. In effect, for proxy votes, that is the Presiding Officer, but who it should be in this instance is another question.

Rona Mackay: The fundamental question is what a good reason would be. The other thing is that local authorities impose restrictions or a penalty in relation to the number of times that a member does not attend. I am not sure whether that includes remote attendance. [*Interruption*.] You are telling me that it does, so local authorities are taking that into account.

Jamie Hepburn: My understanding is that that does include remote attendance, although I think that it can differ from one local authority to the next, because it is not prescribed in law. Therefore, a lot of these things come down to each authority's standing orders, but that is a whole other debate.

Rona Mackay: It comes down to the question of what you deem to be a good reason. My personal thought is that there should be a non-exhaustive list in the bill that would identify things such as physical or mental illness. Anything outwith that could be dealt with separately.

That brings me to the privacy of MSPs' information at that point. Is there enough in the bill to protect a member's privacy and confidentiality in relation to the information that is made publicly available, given that that could be very personal information about somebody who is in public life?

Jamie Hepburn: I will answer that question, but, first, I will pick up on your perspective that the bill should contain a non-exhaustive list of

legitimate reasons for not physically attending the Parliament. That is a legitimate suggestion. I suppose that my slight caution in relation to that is that any legislation must be interpreted by the courts, and you start to get into the area of why some things were prescribed and other things were not. Again, that is just a question that needs to be considered.

Privacy is an area of concern, and I am not sure that there is any way around that. If a person is not here and it becomes recognised that they are not here and that they have permission to not be here—because they will not then fall foul of the requirement—people will inevitably speculate or ask questions about why that might be. If we are going to embed this requirement as part of the process, I do not know whether there is any way around that.

Rona Mackay: The bill could stipulate that there would be no comment to the media about why a member is not attending the Parliament. It could stipulate that that information is not for public consumption.

Jamie Hepburn: I am sorry, yes—let me be clearer: I suppose that it is perfectly possible to do that within the law, but practical experience tells us that it is inevitable that people will speculate.

Rona Mackay: There should be an element of sensitivity in the bill, if you like, to stipulate confidentiality. I imagine that the bill could include that.

Jamie Hepburn: That is a question for the Parliament. That goes back to my perspective, which I think most of us would agree with, that members are still entitled to a degree of privacy in their personal lives, provided that the matter concerned does not relate to their public conduct and their work in the Parliament. The fact that we are publicly elected representatives does not completely do away with that right.

Rona Mackay: In your policy memorandum, which you sent to the committee, you raised a concern about the timing aspect of the appeals process, which should be completed before making an MSP subject to recall on the criminal offence ground, which is different from instances in which an MSP would be removed because of a custodial sentence of six months or more but less than a year. Can you expand on your thoughts on that?

Jamie Hepburn: I draw members' attention to paragraphs 26 to 28 of the memorandum that we sent to the committee. The process in this regard becomes a little complicated. There might be a way to deal with that. However, in effect, as drafted, the criminal offence ground for a recall petition, which is set out in section 3, is triggered when an MSP receives any sentence of imprisonment or detention for not less than six months, including suspended sentences where the MSP is not imprisoned immediately, which, of course, might mean that they are not imprisoned at all. By contrast, if someone is sentenced for a shorter period than six months, they are then open to the process of recall, so there seems to be inconsistency.

Rona Mackay: Would that include remand? That is another matter.

Jamie Hepburn: I think that we would need to come back to you on that.

Rona Mackay: I do not think that it is referred to, but someone could be on remand for a good number of months.

Jamie Hepburn: My only observation is that, if you are on remand, you have not yet been convicted.

Rona Mackay: Okay.

Jamie Hepburn: Again, it is a question that the committee needs to consider. It is for the committee to determine what it wants to consider, but there is inconsistency on that matter. Whether that is an inconsistency that we say that we will live with or one that has to be thought through and dealt with is for the Parliament to consider.

Rona Mackay: I guess that it is also a matter for the member in charge of the bill and the committee.

Emma Roddick: I would like to jump back to the issue of not physically attending the Parliament for 180 days. That is quite a long time, and I am struggling to imagine why an able-bodied mentally well person without caring needs or responsibilities would struggle to do that as a gesture—to just come along one day and swipe their pass at the door. Is there not concern that the requirement is likely to catch only those who have a genuine reason not to be here and perhaps puts an unnecessary light on that?

Jamie Hepburn: That is a perfectly legitimate question. I am not convinced that it is one for me to answer. Again, it would be for the bill's proponent—Mr Simpson—to articulate his rationale. However, I would just observe that that is the provision for councillors. I presume that that is the rationale for the threshold in the bill, but I do not want to second-guess Mr Simpson, and I am sure that he will soon give the committee evidence to explain why he has determined that to be the threshold. My only other observation is that we are aware that, although it does not happen often, some councillors have fallen foul of that requirement, so it seems possible, although unlikely, and your question is fair. That takes us into the realm of casting light on the situation of the only people who are likely not to be here for

that length of time—those who have a good reason not to be. I offer no perspective or Government position on that, but the Parliament needs to consider these questions.

Emma Roddick: I suppose that, in your role as the Minister for Parliamentary Business, you will have some involvement in managing difficult situations and absences among colleagues. Do you have any suggestions for how other measures could be considered that might catch those who genuinely are not showing up but not those who have a genuine need not to attend physically?

Jamie Hepburn: You might see a wry smile on my face. Our chief whip happens to sit on this committee—

Emma Roddick: I know.

Jamie Hepburn: —and I would offer the observation, which she might or might not agree with, that I tend to let her get on with that type of issue, although that is a supercilious answer. We need to consider these issues, and, yes, that experience would certainly inform our thinking on these matters, which must be handled sensitively.

The Convener: Thankfully, it is not the committee members who are giving evidence today.

Jamie Hepburn: Yes, indeed, although that is an interesting concept.

The Convener: Has the Scottish Government thought about whether, were Scottish Government responsibilities to occasion it—although that seems unlikely—an absence of that length should be noted as reasonable? As ministers and cabinet secretaries, you are, first and foremost, MSPs.

Jamie Hepburn: I struggle to see the circumstances in which any Government responsibility would require a 180-day absence from the Parliament. It is a good question—

The Convener: Let me say “situation” rather than “responsibility”.

Jamie Hepburn: It is a good question, but it is not one that I have given any thought to.

The Convener: I will leave that there.

I turn to the Scottish Government’s point of view on another piece of evidence. The situation for councillors relates to the failure to attend a specific event that tends to be held monthly, but the bill talks about a period of time. Is the Scottish Government concerned that there is a fundamental difference between the requirement of a councillor to attend full council meetings and the requirement in the bill, which is just to attend physically?

You have expressed a view about physical attendance, and we have heard views in the committee and in evidence that it is actually really easy just to come and swipe in. However, we do not have a registration rule in the Parliament. People who have voted can be identified, and I understand that there are often freedom of information requests about who was in the chamber—we can always look at the television. However, is the Government concerned that identifying attendance in the Parliament is very different to identifying whether councillors have attended a specific meeting that falls at various times, with times in between?

Jamie Hepburn: I like the idea that we would rely on people watching the television and us putting out our beach towels to ensure that we were in the optimal line of sight of the camera.

Your question again takes us into area of parity of esteem and, again, it is for Mr Simpson, rather than me, to answer on what the rationale is. At the time, when we talked about the Scottish Elections (Representation and Reform) Bill, I observed that, by and large, there should be parity of esteem for all the different layers of government, so that could be a motivating factor. You steer us in the direction of the practical challenges, convener, and those would have to be considered if the requirement was to become a prescribed part of our processes.

10:00

I will go back to a point that I made earlier about the fact that requirements for councillors’ attendance might differ from one local authority area to the next. I have never been a councillor, but my understanding is that, in my local authority area, the requirement is not to attend the full council meeting; if councillors attend a committee meeting within a six-month period, that fulfils the criteria. Those meetings come round with greater regularity than the monthly full council meetings. Again, those are all issues that the committee might want to consider.

Sue Webber: We have a lot to consider, as you keep saying. The committee also needs to consider some of the costs that might be involved, so I will move to questions on the financial memorandum. The Scottish Government has said that some of the costs are underestimated, so can you expand on that?

Jamie Hepburn: Yes, certainly. It comes down to a different assessment of the costs to those that Mr Simpson has suggested in his financial memorandum.

Sue Webber: Where is your thinking going on that?

Jamie Hepburn: For example, we are considering whether increased costs in the future have been factored in. There is a process of casting forward to consider what the costs might be in a specific period. You will need to forgive me, because I do not have that information in front of me, but we know that costs will increase in the future, and we are not sure that that has been adequately reflected in the financial memorandum—

Sue Webber: That is the same with every piece legislation—if you are talking about costs.

Jamie Hepburn: That is right, and I am pretty sure that questions about whether we have thought about increased costs in the future are put to the Government on a regular basis. Primarily, it is issues around future costs that drive our perspective on the financial memorandum.

Sue Webber: In one of your responses earlier, you mentioned parity of process, "as much as we can achieve it". There have been a lot of questions and concerns about the costs, specifically for the regional recall and poll, and the fact that those could be in excess of £2.5 million. Given the concerns about costs that you just outlined, would that be good value for the public purse, and what might the perception be of that cost?

Jamie Hepburn: That is a good question. By and large, the public expect public resource to be spent primarily on public services. Equally, however, if there is a public perception that recall should become part of our process, the fact that it comes with costs needs to be recognised. It is a case of getting the balance right.

Questions of parity of process drive certain costs, particularly in the instance of a mechanism that is—how can I best put it?—a two-stage mechanism for regions. That drives increased costs. Whether that should become a factor in determining the process is, ultimately, for the Parliament to consider. The only observation that I can offer right now is that a two-stage process will, of course, cost more than a one-stage process.

The Convener: In previous evidence sessions, we have discussed the matter of it falling to a local authority to fund a by-election. Is your view that it should be the same for this process? Arguably, funding for a constituency by-election could fall to a local authority, but a regional one is a much bigger problem. Has the Government thought about who would take on financial responsibility for any additional costs that may occur?

Jamie Hepburn: I do not want to fall foul of misleading the committee—the committee would not like me to do that—but I think that the Government bears the cost of by-elections, even for constituencies. I am looking to my officials and Ailsa Kemp is nodding, so I have remembered that correctly.

The Convener: So, effectively, no additional costs would fall on local authorities in respect of either a regional by-election or a constituency one.

Jamie Hepburn: It would not fall on the local authority, but it would still fall on the public purse. It would mean that resource would have to be diverted from elsewhere.

The Convener: Absolutely.

The strong advice is that we should have an agreed battlefield at least six months before an election. That takes us back to delegated legislation. We have talked about the financial issues that need to be considered. One issue that has been picked up is the potential necessity for criminal consequences if things are mishandled in respect of petitions or subsequent events. At the minute, because the bill has not been passed, the legislation is silent on that.

Your memorandum suggests that that situation can be dealt with as these things normally are, in secondary legislation or other ways. Is the Government confident that you can cross those thresholds in time for May next year? I am talking about identifying criminal responsibility. We have heard about the finance, so I am happy to put that to one side, but is the Government confident that it can address the other, more practical—should criminal things ever be practical?—aspects that need to be covered in secondary legislation?

Jamie Hepburn: That takes us into a wider question around the timescale, because the bill prescribes that everything should be in place within six months of royal assent.

Candidly, no, I am not confident. If the bill had become legislation two years ago, I would probably have said that we could implement it within six months. I should caveat that with the reassurance that I see nothing in the parliamentary timetable that means we cannot pass the bill before the end of the session, but if we are required to implement all the provisions within six months, that will be pretty challenging.

We go into dissolution in March, and it can take about a month after the election before committees are up and running. I would be surprised if the relevant committee of the Parliament—most likely, the successor to this committee—did not want to take evidence from the Government on what it is planning to do, just as we are about to do in relation to another act of the Parliament.

There is a wider question about the timescale for implementation. Right now, it would be very difficult to do it, and to do it justice, in the timescale prescribed.

The Convener: The minister has raised the question of the commencement date. What is the Scottish Government's proposal with regard to that? We are now looking at not having legislation in place by the Holyrood election next May, which means that we will have an unknown unknown field, albeit—let us be honest—in relation to a very small element of the electoral system that, I hope, will not be tested for a long time. What is the Government's view on the time that it would need to facilitate secondary legislation?

Jamie Hepburn: I cannot give a specific answer to that. There is often cynicism about this approach, but the preference is not to have a prescribed period after royal assent for a bill to be implemented, to take account of eventualities. Once the Parliament has legislated for something, the expectation is we get on with it and implement it as soon as possible, so that would be Government's commitment to the Parliament.

The Convener: I am loth to push you further than that.

Graham Simpson, our time is ever so slightly tight, but it is there anything that you would like to pick up with the minister before I conclude this part of the evidence session?

Graham Simpson (Central Scotland) (Con): I thank the committee, as I always have done, for the breadth and detail of members' questions. It has been an excellent session. I thank the minister for the way that he has worked with me so far, and I think that that will continue.

I press the minister on the recall question, because questions have been raised with the committee about the two-stage process that I am suggesting. Some people have suggested that there should be a one-stage process. Does the minister have a view on that?

Jamie Hepburn: First, I reassure Mr Simpson that we will absolutely continue to engage with him on the bill. He knows that we had very good engagement on the Scottish Elections (Representation and Reform) Act 2025 and I assure him that I am committed to continuing that.

We do not have a view on the recall question. I have the memorandum in front of me, and I am not going to make the committee wait while I read it in detail, but my recollection is that I do not think that we posed a question beyond the cost implication. It is an open question for the committee and the Parliament to grapple with. We do not have a specific view on the merits, or otherwise, of whether there it should be a one-stage process or a two-stage process.

Graham Simpson: Generally, are there any red flags in the bill?

Jamie Hepburn: I am loth to describe it as a red flag, but I go back to the point that I have just made about a realistic timescale for implementation.

Graham Simpson: I put on record that we have discussed that, and I agree with the point that you have made. Let me pose it as a question, so that I am not making a point: do you agree that the issue could be explored at stage 2, should the bill reach that point?

Jamie Hepburn: Yes, we would have to do that. As much as I am saying that it is an issue for the Parliament, if no one else lodged an amendment on the issue, I would probably seek to do so at stage 2. Obviously, I would work with Mr Simpson on that.

Graham Simpson: Finally—and I am not getting ahead of myself—I put it on record that I have been in constant discussion with the Electoral Commission, which has already suggested a number of amendments. I will pose it as a question again: if the bill progresses, do you see it as an opportunity to have the best system of recall in the UK, and for us to improve on what exists elsewhere?

Jamie Hepburn: I think that that is what we should aim for. We should not seek, by necessity, to replicate what is in place at Westminster. We should create a system that we think is proportionate and that works for us as an institution and, fundamentally, for the public in Scotland.

The Convener: On that positive comment, I thank the witnesses, and particularly the minister, for their evidence. I understand that the minister is staying with us for another exciting session. I suspend the meeting to allow a change in officials.

10:13

Meeting suspended.

10:17

On resuming—

Dual Mandates

The Convener: Welcome back. Agenda item 3 is to take evidence from the Minister for Parliamentary Business and officials on dual mandates, although the session may turn out to be more of a discussion than one that follows a traditional evidence-taking format—we will see.

Members have been provided with information about the consultation that the Scottish Government undertook, for which I thank the minister. I note the expectation that subordinate legislation on dual mandates will be referred to the committee in the future. Today's discussions will not pre-empt our scrutiny—formal and otherwise—of future regulations.

I welcome again the minister and his supporting Scottish Government officials: Iain Hockenhull, elections bill team leader; Ailsa Kemp, Parliament and legislation unit team leader; and Jordan McGrory, solicitor. Minister, would you like to make opening remarks and take us through your consultation?

Jamie Hepburn: Certainly, convener. I feel very welcome, so that is nice.

I will not say too much by way of opening remarks, and I hope that the session will be more of a discussion. Of course, I will answer any questions that are posed, but I am interested in hearing what the committee thinks about what the regulations might look like.

I remind members that the Scottish Elections (Representation and Reform) Act 2025 requires the Government to make regulations to prohibit dual mandates for MPs and peers. It did not prescribe a timescale, but I made a commitment to introduce the regulations in time for the Parliament to consider them before the 2026 election. I restate that commitment, and we will be able to meet that requirement.

The act enables us to make regulations in relation to dual mandates for councillors, but it does not require us to do so, so we are considering that. Not only am I committed to bringing forward regulations in time for Parliament to consider them, but I am committed to doing that in line with the Gould principle. On that basis, I envisage laying regulations in September to ensure that Parliament has the opportunity to approve them by November, but that is in Parliament's hands and is for Parliament to consider.

To give some background, I expressed my broad concerns about provisions on dual mandates being part of the then Scottish Elections (Representation and Reform) Bill, because I was concerned that we had not had an opportunity to consult properly on those matters. I was grateful to have worked with Mr Simpson, who I see has remained with us, to come up with the solution that we would do things by regulation, which enabled us to consult. We have had a nine-week public consultation, which started on 20 January and got 77 responses.

Subsequent to that consultation, I have held two round-table meetings. The first was with representatives of four of the six parties that are represented in Parliament—all six were invited and four accepted the invitation—and the second was with a range of other stakeholders with an interest. Those meetings were useful and instructive in informing my thinking thus far. That thinking is not completely finalised, but it would be disingenuous to say that it has not advanced beyond where it was at the outset of the process. I will be happy to explore that further with the committee and I am keen to hear what committee members think.

The Convener: I again welcome Graham Simpson, given his interest in the matter, and I will be more than happy to bring him in at the appropriate time, if he has questions.

I will kick off. Minister, you said that you had 77 responses. I will not go into the split between individual and group responses, because I do not think that the responses have been published yet, so we have only headline figures. Were you satisfied with the level of response?

Jamie Hepburn: It would always be nice to have more.

The Convener: Let me put my question differently. Are you satisfied with the range of responses? Will they allow you to take your thinking forward with confidence about the view that is out there?

Jamie Hepburn: I think so. My first observation is that we are required to make regulations in relation to MPs and peers, but the responses have been useful. The discussion that I had with the political parties was helpful, and the second round-table discussion was especially useful—it included a clerk from the House of Lords, along with the Electoral Management Board for Scotland, the UK Electoral Commission and a representative from the Independent Parliamentary Standards Authority, which manages the allowances system for the House of Commons. That meeting was very useful in informing my thinking about practicalities. The process has been helpful.

The Convener: On the top-level question about whether it should be possible to hold a dual mandate, a substantial number of respondents said no to MPs and councillors holding such a mandate. The top-level responses about members of the House of Lords were interesting. The suggestion was that, instead of having a grace period, there could be the opportunity to take a leave of absence. What is your view on the fact that 21 respondents said that a dual mandate could be held with a leave of absence, while 48 said that it could not?

Jamie Hepburn: I can only conclude that those who have an opinion largely took the position that a leave of absence does not fulfil the requirement of ending a dual mandate. We have drafted the regulations to enable provisions on such a threshold, but they do not require that to be the threshold. I am grappling with that now and would be more than happy to hear the committee's perspective.

The Convener: As you grapple with the issue, do you want to tell us what you are inclining towards? Are you following the view from the consultation responses?

Jamie Hepburn: I was just about to talk about that. It is no secret that my party and I have a particular perspective on the House of Lords, but I am conscious that there is a range of views in this Parliament. I am also conscious that we have had the experience of MSPs who have served in the House of Lords. We have one such member now, who operated a self-denying ordinance and took a leave of absence. That demonstrates that that is possible, but I do not know whether that meets the requirement from public expectation.

I completely concede that the 77 responses were helpful in informing our perspective, but there was not a huge upsurge of people responding to the consultation. The responses that were received suggest that respondents did not think that a leave of absence fulfils the requirement.

I am still considering the matter, and I would be happy to hear about it from the committee. Notwithstanding the point that you will scrutinise the regulations—I understand why you gave that qualification—the committee's perspective would be helpful.

The Convener: I am content, because I know that the specifics have not yet been published. Once we see responses that extend beyond the commentary, will the committee get more insight that might help us to understand why the responses have come out in the way they have?

Jamie Hepburn: I think so, but that could be in the eye of the beholder.

The Convener: Absolutely. I invite you to speak about one of the most challenging elements, which is grace periods, as you have mentioned. People come with different views that depend on their experience, oversight and knowledge of the subject. Is the Scottish Government developing a view on what the appropriate grace period should be? Maybe the periods would differ, depending on who had the dual mandate.

Jamie Hepburn: I am happy to speak to where my thinking on that broadly is. This is not necessarily finalised, and I am happy to hear what people think. There absolutely does not have to be a grace period. I am also happy to speak to where we might end up on regulations for councillors.

I do not think that the grace period should be the same for each cohort. When he made the proposals, Mr Simpson proffered a period of eight days for MPs and peers. Having spoken with IPSA, I think that we could work with such a system, but I am beginning to think that it would be preferable to have a slightly longer period for MPs, which might be tied to the period between the election and the summer recess, largely for the practical matter of an MP winding up their office in an orderly fashion, although IPSA informed me that that is built into the system already.

We have absolutely no ability to legislate for what IPSA might put in place or what the rules might be for the House of Commons, so the system could change. To go back to a point that I made earlier about future proofing systems, it would be sensible for us to have a short grace period that is probably a little longer than eight days.

The Convener: Is the Scottish Government's settled view that a grace period would be after, rather than before, the Scottish election? In that case, an MP would not be required to step down prior to the election; they would do so as a consequence of being elected as an MSP.

Jamie Hepburn: Even if we had that perspective, our regulations are devised in a way that does not compel anyone to stand down, so we can only deal with—

The Convener: You can prevent people from being returned.

Jamie Hepburn: We can deal with the situation only after a person is elected, so that is where our regulations—

The Convener: I am sorry—I did not mean to talk across you.

10:30

Jamie Hepburn: Not at all. That is where our thinking is for MPs.

For peers, I do not think that the period is required to be that long. That could lead us to a much quicker process, which might be more in line with the eight-day period that I mentioned, because peers do not have publicly funded offices in the same fashion as MPs do.

That is balanced against the question whether it would be more straightforward for the public to understand that there is equivalence for peers and MPs. We do not have an absolutely fixed view on that. However, I do not think that the period for peers would need to be long, so I certainly would not suggest anything longer than we had for MPs. If anything, we could do something shorter, but we might conclude that the most straightforward thing to do is to have the same period for a person to consider their position as an MP or a peer.

For councillors, I am increasingly drawn to the idea that, although we are not required to, we will lay regulations, because Parliament should have the ability to consider the issue. I was struck by a comment that one participant in the second round-table discussion made; it speaks to wider issues of parity of esteem, which we have touched on today and which we discussed in relation to the bill. If we are suggesting that an MP or a peer should not have a dual mandate, the same should be true of councillors under parity of esteem. That is a fairly persuasive argument—at least, it is enough for me to bring forward regulations for Parliament to consider.

That said, there are practical issues. In our experience, the most significant cohort of people who have been elected with a dual mandate have been not MPs or peers of the realm but councillors. A practical issue is whether we want to force a raft of by-elections in a fairly short period between one fixed election and another.

Similar legislation that was enacted in Wales prescribed a period of 372 days—if I remember correctly—to account for the fact that local authority elections were scheduled not long after a Senedd election. Although Wales has now moved away from that approach—I am not quite sure of its rationale for doing so—I am probably drawn towards that being sensible, with the exception that we should have the ability to vary the period, contingent on when a person is elected. If someone was elected at a by-election, it would not be sensible to say that the period should be a year, so maybe we could tie it to the period that there is for an MP or—potentially, depending on where we land—that for a peer.

The Convener: Is your thinking about grace periods for all those situations predominantly around the Holyrood election and council elections? Are you confident that the timings that you arrive at will also work in a by-election situation? Someone could end up with a dual mandate because of a parliamentary by-election.

Jamie Hepburn: Yes—I suppose that that was the point that I was making. If we were to bring forward regulations for councillors—as I am giving a fair indication to the committee that we are likely to—we would have different trigger points.

If someone was elected at the general election and we knew that council elections were coming up within a year, we would not require them to stand down until the next series of ordinary council elections. However, if someone was elected outwith that period, I do not think that we would have a year's grace period; we would have something shorter. For consistency's sake, that would probably be akin to the period for MPs.

The Convener: That is helpful.

Sue, do you want to come in?

Sue Webber: I am not sure whether I do. I am struggling. When I say that I am struggling—

The Convener: Explore it. This is a different sort of evidence session—

Sue Webber: All the evidence that the committee has taken has stated that there would be a grace period when a councillor is elected as an MSP, to allow them to carry on in the former role for a period of a year, give or take. I would support that, and I want to clarify that that is where your head is going, too.

Jamie Hepburn: Oh, I do not know whether I would like to tell you where my head is going on a regular basis, but, in this instance, I am happy to say that that is where my head is going, except for the point that I would make—

Sue Webber: That is what I am trying to explore—where is your exception?

Jamie Hepburn: My exception would relate to the situation where, for example someone is elected as a councillor—

Sue Webber: And then becomes an MP—

Jamie Hepburn: —and becomes an MSP. Subsequent to the next round of ordinary council elections, I do not think that it would be sensible to say that they would have to wait a year—

Sue Webber: So you are talking about circumstances in which there is a by-election or there is some other reason why a councillor becomes an MSP.

Jamie Hepburn: Yes, that is correct.

Sue Webber: I understand, now, where you are going, and I accept that. I was confused.

Jamie Hepburn: That is no problem.

The Convener: There is nothing wrong with seeking clarification. I bring in Rona Mackay.

Rona Mackay: Salary limitations are a key element, certainly in the minds of the public—it is their money that we are spending. Most respondents to the committee have stated that, in the case of MSP-MP dual mandates, the elected representative should be allowed to receive only a single salary. Some have suggested the retention of the higher of the two salaries and some have suggested that the original salary should be ceased upon election to the Scottish Parliament. Is the Government forming an opinion on that? Should we keep it simple so that, as soon as you are elected to a different institution, the previous salary stops?

Jamie Hepburn: We cannot do that, because we cannot prescribe the rules for MP's salaries. I understand why the public response has been that someone should be entitled to draw only the MSP salary in that instance, but we cannot do that. What we could do, and what we are exploring, is whether, for that period—let us remind ourselves that that would be very short—until you have given an indication that you are standing down as an MP, you are not entitled to draw down your MSP salary. We could do that.

We could also do that in the instance of councillors. Right now, an MP is entitled to only a proportion of their MSP salary. If someone was a councillor, we could, for example, prescribe that they are entitled to only a proportion of their MSP salary, taking account of their councillor salary. We are grappling with these matters, but we need to be clear—it is important that we are clear with the public—that the only things that we can legislate for are the issues around pay and salary entitlement, privileges and rights in this place. We cannot determine them for other places.

I will give another example. Again, I understand why people made the point that there should be a limitation on the rights of peers and MPs in relation to their participation in the Lords or the Commons, but we cannot prescribe that—it is not within our gift—and we need to ensure that everyone understands that.

Rona Mackay: That is a really useful explanation. I did not realise that that was the case.

The Convener: The next natural question relates to a person's rights and privileges during the grace period. You are unable to affect what happens in institutions outside Scotland, but what is the Scottish Government's thinking on the rights and privileges of an MSP? Should we curtail those?

Jamie Hepburn: By and large, I think that the answer is no, for practical reasons. There might be exceptions in relation to certain allowances, such as for setting up an office. I have not drawn a specific conclusion on that; it could be more hassle than it is worth, although that must be balanced against the question of why, if a person decides not to quit as an MP, we would let them set up an office for a few weeks. That is something that we need to grapple with.

The more fundamental questions are around a person's ability to participate in parliamentary proceedings. I do not think that we should limit that for the very practical reason that that would impact the selection of the Parliament's nominee for First Minister and parliamentarians' ability to determine who the Presiding Officer and the Deputy Presiding Officers were and who should hold ministerial office. That takes us into real questions around the public having elected the Parliament on a specific, proportionate basis, which should be reflected. It would add a level of complication that would not be helpful.

The Convener: Is it also the case that the salary is, in essence, the reward for being an MSP, whereas the rights and privileges allow MSPs to represent the constituents who have chosen to send them here? That level of versatility allows the Parliament to develop, while urging an individual to do the right thing.

Jamie Hepburn: Precisely. That is an erudite explanation of what I was trying of say. I will remember what you said and use it next time.

Emma Roddick: I am kind of sidestepping along here, but what about the holding of ministerial positions? Is there a view that an MP should not be able to hold a ministerial office until the issue is settled?

Jamie Hepburn: We have not considered that. Again, that would add another layer of complication. Those are issues on which we would be guided by practical considerations. Realistically, although we would have a prescribed period in which a person must state their intentions, I would be surprised if a person was appointed to ministerial office if they did not give an early indication that they intended to leave the institution.

Emma Roddick: But the intention to leave is enough—they do not already need to have left.

Jamie Hepburn: I think so. Requiring them to have left would add another layer of complexity. Ultimately, they would be required to exercise that duty. If they did not, they would cease to be an MSP and could no longer be a minister. To be a minister in the Scottish Government, you have to be an MSP.

The Convener: With the exception of a law official.

Jamie Hepburn: Let us not overly complicate this.

The Convener: There is an interesting dual mandate that we could go into.

Graham Simpson, is there anything that—as an MSP—you would like to contribute or ask the minister?

Graham Simpson: Given that it is a discussion, I am reflecting on what has been said. One of the key issues is the grace period for somebody if they are elected here while being an MP. I proposed eight days because that is the limit in Wales. I thought that we should have some consistency.

The minister says that he is minded to go with not eight days but for the grace period to end after the summer recess.

Jamie Hepburn: May I?

Graham Simpson: Yes, of course. It is a discussion.

Jamie Hepburn: Just to clarify, it would not be after the summer recess. It would be up to the point of the summer recess, so we are really talking about a six-week period.

Graham Simpson: That is useful. I wonder whether it is worth saying six weeks, because there will be by-elections where the summer recess does not come into it. Is it better to just prescribe six weeks rather than eight days?

Jamie Hepburn: Forgive me if I was not clear. We would prescribe the time period. I was merely making the point that the time period would probably reflect our usual period running up to the summer recess. We would not prescribe it up until the summer recess; it would be however many weeks.

Graham Simpson: That is really useful.

The other situation that could arise—and has arisen—is when somebody is an MSP and becomes an MP, and therefore has a dual mandate. Have you considered what happens in that situation?

Jamie Hepburn: Precisely the same thing would happen.

Graham Simpson: They have to make a choice.

Jamie Hepburn: They would have to make a choice within the prescribed period.

Graham Simpson: Your regulations will set that out. If you are an MSP and become an MP, you have to choose. It is one or the other.

Jamie Hepburn: To put it in really simple terms, the regulations will prescribe a time period. It will not matter which came first.

The Convener: It is a dual mandate. We have to think about the time period rather than how it came about.

Jamie Hepburn: Correct.

Graham Simpson: The issue of the House of Lords is not an easy one. It is an easy one if you are against the House of Lords, but if you are not—if you think that the House of Lords should exist—the question is whether you should allow a leave of absence, which, as you rightly say, one current member of the Scottish Parliament enjoys at the moment. Where are you on that? Should the leave of absence exist?

10:45

Jamie Hepburn: I will be perfectly candid. I am grappling with my personal perspective and what I think the Parliament might expect. That is where I am now.

There is a complicating factor. It is not for me to say who the committee should take evidence from, but I found it useful to take evidence from the people who I have mentioned, and I am sure that the committee would, too. The clerk from the House of Lords said that their processes have changed. A leave of absence used to be from parliamentary session to parliamentary session; the process now has to do be done each and every year. That would be another complicating factor for us. Who is checking that here? That is something else that we need to consider.

As I grapple with my perspective, the other factor is that far more people who responded to the consultation said that the person should resign from the Lords than said that they should take a leave of absence.

The Convener: Which in itself can be a difficult task.

I thank the Government for sharing information and for the evidence that we have heard today. What has come through, not only in the evidence to the Government but subjectively—a lot of people think this—is that these are full-time roles and should be fulfilled as such. It is pertinent to address the dual mandate issue. Although the minutiae are not available to some people, it is useful to keep in mind the principle that an elected role is a full-time job and needs to be treated that way.

Minister, thank you for both your evidence sessions, and thank you to those who support you. We move into private and will reconvene in public, not before 1 pm.

10:47

Meeting continued in private.

13:13

On resuming—

Subordinate Legislation

Scottish Parliament (Constituencies and Regions) Order 2025 [Draft]

The Convener: We resume our meeting to consider evidence on the draft Scottish Parliament (Constituencies and Regions) Order 2025. The committee is joined by Professor Ailsa Henderson, who is the chair of Boundaries Scotland, and Kirsty Mavor, who is its secretary. I welcome you both to the committee. I invite Professor Henderson to make some brief opening remarks, after which we will move to questions from the committee.

Professor Ailsa Henderson (Boundaries Scotland): Thank you very much for the invitation to be here and thank you for allowing us to reschedule this meeting—5 June was our commission meeting. We know that we have inflicted an inconvenience on you, so thank you very much for that adjustment.

First, I will give a bit of background as to why we conducted the review. As referred to in the public paper before you, schedule 1 to the Scotland Act 1998 requires Boundaries Scotland to conduct reviews of the boundaries of Scottish Parliament constituencies and regions at intervals of every eight to 12 years. The second review was required to be submitted by 1 May 2025.

13:15

The existing constituencies and regions for the Scottish Parliament were defined following the first review of Scottish Parliament boundaries, which was completed in 2010. Those boundaries were used in the 2011, 2016 and 2021 Scottish Parliament elections.

The review rules require us to use electorate, not population, figures. Since the first review, the electorate of each constituency and region has changed, with people moving into and out of areas, as well within an area. As a result of those changes, some MSPs now represent considerably more or fewer electors than others. For example, Cumbernauld and Kilsyth has 51,210 electors while Linlithgow has 76,337.

Those variations in levels of representation are one reason why the commission is required to carry out regular reviews of Scottish Parliament boundaries, that is, in order to ensure electoral fairness so that a vote in one part of the country is worth the same as a vote in another part of Scotland. We strive to do that by following the rules that are set out in the legislation and respecting the communities that matter to people. Those rules, as set out in the Scotland Act 1998, are provided in full in paragraphs 7 and 8 of the public paper that is before you.

We are required to review the boundaries of 70 of the 73 constituencies; three protected constituencies—Orkney Islands, Shetland Islands and Na h-Eileanan an Iar—are reserved outside the scope of our review. The remaining 70 must meet a set of requirements that must, so far as is practicable, be consistent throughout the whole of Scotland.

In short, the four rules that govern our review of boundaries are as follows. Rule 1 requires us to have regard to the boundaries of local government areas. Rule 2 requires us to set boundaries so that the electorate of each constituency is as near the electoral quota as is practicable. Rule 3 allows us to take account of special geographical considerations. Rule 4 requires us to take account of "inconveniences" and local ties. Sometimes, the four constituency rules that govern our review can be seen as conflicting. They are either caveated with

"So far as"

or

"as near ... as is practicable"

or state that we are allowed to depart from them in certain circumstances. The commission must therefore exercise its discretion in deciding the appropriate weight of each rule, and we must make recommendations that work for the whole of Scotland.

Two rules govern our review of regions. Rule 1 is:

"A constituency must fall wholly within a region."

Rule 2 is:

"The regional electorate of a region must be as near the regional electorate of each of the other regions as is practicable, having regard ... to special geographical considerations."

As well as making recommendations about boundaries for the 70 constituencies and eight regions, we are also required to recommend the name by which each constituency and region should be known, and the designation—whether county or burgh—for constituencies.

We started the review in September 2022, using the electorate data that was recorded at the time. We calculated the electoral quota as 59,902 by dividing the total electorate of the 70 constituencies by the total number of constituencies under review, and we worked out the average electorate of the eight regions as 531,320.

Our review is guided by the "Code of Good Practice in Electoral Matters" of the Venice commission—that is, the European Commission for Democracy through Law—which recommends that electoral areas

"should seldom exceed 10% and never 15%, except in really exceptional circumstances".

That is the guide that previous Holyrood and local reviews have followed.

At the start of the review report, we noted:

"Changes to the population and the electorate have varied across Scotland. Some constituencies have experienced significant increases in their electorate"—

examples include Almond Valley, Linlithgow, the Edinburgh constituencies and East Lothian—whereas

"others ... have a falling number of electors."

Examples of those are Carrick, Cumnock and Doon Valley and Glasgow Maryhill and Springburn.

Appendix C of our report sets out the existing constituencies and regions as at 1 September 2022, together with the divergence from the electoral quota.

To assist with meeting rule 1 for constituencies, we developed provisional proposals for constituencies in council area groupings. We calculated a theoretical entitlement for each local authority, then grouped local authorities—aggregating them up—to get as close as possible to a whole number. We did that because we must give consideration to local authority boundaries, and it makes it easier to design constituencies within smaller groupings than to consider the whole of Scotland. The groupings were a useful tool, but were not restrictive, and we changed the groupings during the review when we felt that we could arrive at better constituency designs.

We consulted on provisional proposals for constituencies between May and June 2023. More than 3,200 comments were submitted during the consultation phase, which was followed by six local inquiries between December 2023 and January 2024 in Musselburgh, Kilmarnock, Clydebank, Johnstone and Newton Mearns, Edinburgh and Peebles. The local inquiries were held either in places where councils had objected to the proposals—four of them—or where there had been a high number of responses and the commission felt that it would benefit from gathering more information; that was two of them.

Following the initial consultation, we consulted on our proposals for constituencies a further four times: from April to May 2024, September to October 2024, January to February 2025 and, right to the wire, March to April 2025. The submission responses in each of those rounds were, as I said, just over 3,200 in the first round, then dropping in each subsequent round to 1,120, 250, 27 and then two responses. The consultation responses and the information that we gathered during the local inquiries helped us to develop our boundaries throughout the review stages.

We first consulted on the regions in September to October 2024, and then a further two times in January to February 2025 and March 2025. Consultation responses for those went from 300 to 23 to five respondents.

We held further local inquiries in Falkirk, Whitburn and Paisley in response to objections by local authorities to our proposals. Some of the local inquiries were well attended by members of the public, as well as elected officials, which helped to strengthen our understanding of local communities and ties. Overall, we held nine local inquiries and considered the assistant commissioner's reports at the relevant stage and before making our final recommendations.

On 30 April 2025, we submitted our final report, which sets out the process that we followed, the number of consultations and local inquiries, and how the rules were applied when making the final recommendations for constituency and region designs. The report provides detail of our approach to recommending names and designations.

On our final recommendations for constituencies, if we are thinking of the different rules that we have to follow, I note that they include 59 of 73 constituencies that are contained within a single council area, whereas, at the start of the review, 61 of 73 were within a single council area. Looking at rule 2, I note that we include recommended constituencies where the number of electors now ranges between 49,535 and 68,871, which is an improvement from the start of the review, when the range was from 49,000 to 76,000.

We have improved the electoral quota simply by increasing the number of constituencies that are within 5 to 10 per cent of the quota and minimising the number that vary from the quota by more than 10 per cent. Thirty-four recommended constituencies have a variation from the electoral quota of less than 5 per cent, whereas, at the start of the review, it was 26 constituencies. Twenty-eight recommended constituencies now vary from the quota by between 5 and 10 per cent, whereas, at the start of the review, it was 30 constituencies. Eight recommended constituencies have a variation from the electoral quota of more than 10 per cent, whereas, at the start of the review, that figure was 14 constituencies. We applied special geographical considerations in the constituency of Argyll and Bute and that of Skye, Lochaber and

Badenoch, because we agreed that it was important to keep local communities together in those constituencies.

Our final recommendations for regions include one region that is unchanged: Mid Scotland and Fife. There are two regions with minimal changes to their boundaries and no change to their name: Highlands and Islands and North East Scotland. Three recommended regions have larger changes to their boundaries and retain their existing names: Glasgow, South Scotland and West Scotland. Two regions have changes to their boundaries and are renamed: Central Scotland and Lothians West, and Edinburgh and Lothians East. That recommendation was made largely to recognise that the four Lothian local authorities are too large to fit in a single region. Finally, one recommended region has had special geographical considerations applied. Highlands and Islands regional electorate is 32.4 per cent below the average electorate for regions. All others vary between 500,000 and 594,000 electors.

I know that my statement is long; I am almost done. Of the 32 council areas in Scotland, 26 are contained within a single region. Argyll and Bute, East Ayrshire, Glasgow, Midlothian and Moray are divided between two regions and South Lanarkshire is divided among three regions.

Appendix F of our final report provides a summary of the approach that was taken for each individual constituency, and appendix G summarises the overall approach to regions. Links to the maps of each recommended constituency and region are also in the public paper that is before you.

On next steps, our next review is required to take place within the next 8 to 12 years and we are required to submit our report no less than 18 months before the election that follows it. Commissioners are in the process of reviewing a lessons learned paper and are prioritising actions that should be in place before the next review. As is also referred to in the public paper, there is an independent review of the process for determining electoral boundaries, which is currently being consulted on. That is an entirely separate process to the second review, and Boundaries Scotland has already met with the chair of the independent review. A formal response to that consultation will be submitted before its end date on 7 August.

The Convener: Thank you very much. I am happy to start with the questions, but I am also happy to open up to the committee if anyone has any urgent ones.

Sue Webber: I have a small question.

The Convener: Let us start with your small question and then we can come to Rona Mackay.

Sue Webber: My question is on the naming of the regions. Why have you chosen to make it less clear for the public by including “Lothians West” and “Lothians East” in the names, rather than just calling the regions, for example, “Edinburgh and East Lothian” and, similarly, “Central Scotland and West Lothian”? That would make it quite clear.

Professor Henderson: That is an interesting point, but it is connected to our naming policy. We have a policy of not including the name of a council unless the entity and the council are entirely coterminous. So, we would not name a constituency “East Lothian” unless it included all of East Lothian Council’s area.

Sue Webber: But it is Edinburgh and East Lothian.

Professor Henderson: We have not referred to Midlothian at all in that name. We have moved from a situation in which there was a Lothian region that included Edinburgh and some of the other Lothians but did not include East Lothian at all. East Lothian is a Lothian but it was not included in the Lothian region—

Sue Webber: There was a little slither of things that fell into East Lothian.

Professor Henderson: Pardon?

Sue Webber: There was a small—anyway, okay.

Professor Henderson: There was a bit that was captured in an Edinburgh constituency, but the bulk of East Lothian was in the South Scotland region and therefore did not have its name represented in its region. We feel that the new names will clarify the situation and remind people that the Lothians include Edinburgh, East Lothian, West Lothian and Midlothian, and that we should reflect the fact that they are not contained within a single region.

Sue Webber: Okay.

Rona Mackay: Good afternoon. I have some general questions, because this is not something that I have focused on much over the years. It seems from our notes that there have been a large number of objections. Is that normal when you start the process of changing boundaries, and are those objections usually from local authorities? What is the proportion of individual residents who would normally object?

Professor Henderson: That is a great question. The answer to the first part is yes, this is an entirely normal number of responses. There were about 4,300 responses submitted during this review. In the first review in 2010, 5,500 responses were submitted. Many of those were submitted by post and I understand that they all received a handwritten note in response. We have

had fewer responses to this review. One interpretation of that is that there are fewer objections, but not all submissions are objections to what we are doing; some of them say that we are doing the right thing.

There is an important point about who is responding to the consultations. There was a marked change in the engagement of members of the public across the different consultation rounds. In retrospect, we should have named them round 1, round 2, round 3 and round 4 rather than provisional, revised, further, additional and supplementary proposals—we had the thesaurus out at the end.

In the first round, 93 per cent of responses were from members of the public. That dropped to 87 per cent and then to 80 per cent by the end of the third round. When we moved to the fourth round, it dropped to only 27 respondents, of whom a third were members of the public. As we went on, it was increasingly elected representatives and local councils that were responding. Responses from members of the public were very much constrained to those first three rounds.

Rona Mackay: The local authorities that responded were presumably worried about council tax consequences and what they would bring in and win or lose because of boundary changes—

The Convener: It is not the councils—

Rona Mackay: No?

Professor Henderson: It was not an administrative review of local authority boundaries, but a review of constituency and region boundaries for elections to the Scottish Parliament. Our boundaries do not change the boundaries of local authorities, so there are no council tax objections. However, you raise an interesting point, as we had a degree of misinformation around the review—far greater than with any previous review—because of misunderstandings about what we were changing.

13:30

Sometimes, that was because extremely stretched newspapers did not accurately report what we were doing and their headlines suggested that we were changing local authority boundaries rather than electoral boundaries. That then led to Facebook campaigns, which then led to objections, which then led to local authorities getting involved. In some local authorities, the sheriff principal, acting as assistant commissioner, had to spend a considerable amount of time explaining that everyone was present to complain about a change that was not actually happening.

Rona Mackay: That is interesting. The chart that we have shows that quite a number of local authorities objected. I am wondering why, if the process does not affect them.

Professor Henderson: It varied. For example, we had two constituencies within a single local authority, which thought that we could improve where the boundary between the two constituencies lay so that communities that looked in one direction or another were included with other communities of interest.

Another example is that, if we proposed constituencies that included parts of more than one local authority, the local authorities might have felt that that did not really make sense and that they did not want to have their communities divided in that way. For example, Falkirk Council once objected because we had devised a proposal that had all of the Falkirk area split across three constituencies. There were already two, and the council objected to the creation of a third constituency covering the area. It was that kind of thing.

Rona Mackay: That is interesting—thank you.

Emma Roddick: I respect the many rules that you have to work within, but what is the balance when it comes to geographical considerations? I have played with the postcodes, and I know how hard it is to make Highland constituencies that make sense.

Professor Henderson: In one way, the rules are the rules and, whatever they are, we will work with them. We are grateful for the flexibility that they provide. I used to sit on the Boundary Commission for Scotland, so I know that, when you are doing reviews for Westminster, you are constrained to 5 per cent over or under the quota, which is an inflexible rule that does not work well in certain parts of Scotland.

We are grateful for the flexibility that the rules provide in certain circumstances, but there are challenges. Their numbering sets up in people's minds that that is the order of importance but, actually, when you read the rules, you find that they are all heavily caveated or conditional on one another. The first one says,

"So far as is practicable",

and the second one says,

"as near ... as is practicable".

There is also a statement in rule 2 that says that we can depart entirely from rule 1—on attention to local authority boundaries—if we feel that a proposal will create neighbouring constituencies with very different levels of electoral representation and with different deviations from parity.

Rules 3 and 4 basically say that we can ignore—well, not ignore, but depart from—rules 1

and 2 to take into consideration other things, whether that is special geographical considerations or inconveniences and local ties. All the rules are conditional, but the numbering sets up in people's minds a priority that does not exist.

When we do local reviews or Westminster reviews, it is clear that parity is the most important rule and everything else softens that slightly when you look into it—that is the rule that drives the others. The Holyrood review rules are not like that. There are four things that we have to simultaneously look across. I think that that is one reason why we had a longer series of back and forths in the consultation around those things.

Emma Roddick: How often do you find that the back and forth involves things such as rurality and island communities? I am aware that Orkney and Shetland are protected, but it is a totally different situation when you are trying to play around with Argyll and Bute. Are there ever points where you think that serious consideration needs to be given to that?

Professor Henderson: That is a good point. Shetland, Orkney and Na h-Eileanan an Iar are protected. There was no change at all to the Argyll and Bute constituency, which had exactly the same number of electors at the start of the review as it does now. We conducted an island communities impact assessment, looking at the impact of constituencies on those communities. Three are protected and Argyll and Bute was unchanged. The Skye, Lochaber and Badenoch constituency has stretched, which was not in our initial proposals but was done at the request of people responding to the consultation who did not want a ward to be divided and wanted community ties to be considered. The change did not happen at the island end of the constituency, but it makes that island constituency very large.

There was no change to Cunninghame South, was there?

Kirsty Mavor (Boundaries Scotland): Cunninghame North.

Professor Henderson: Yes, Cunninghame North, with Arran.

Kirsty Mavor: There was no change.

Also, Argyll and Bute still has the lowest number of electors in any constituency.

Emma Roddick: The new boundaries for Skye, Lochaber and Badenoch mean less representation, in a way, for Skye because it is a smaller percentage of an overall constituency that has been made bigger.

Professor Henderson: It has been, partly also in an attempt to resolve the issue that Scotland's population is moving largely from west to east and that the population in the Highlands and Islands is moving into Inverness. We had to move the boundaries around Inverness to solve that problem, but, as you solve one problem, another one pops up. There is a balancing act in trying to ensure that a solution that might work ideally in one setting does not inflict problems on neighbouring areas.

Emma Roddick: Your other option would have been to split Inverness in half, but I think that you would have got a few more objections to that.

Professor Henderson: We had different formulations of what to do up there and there would have been different responses.

The Convener: I have a couple of questions, the first of which is about how close the numbers in the proposed constituencies and regions are to the previous ones. Did you take as your baseline the electorate number back in September, rather than using the numbers from when the current constituencies and regions were set? It seemed to me to make sense to look at the figures that were used in the previous review and to work within 5, 10 or up to 15 per cent of those, rather than taking the baseline of the electorate and saying that, we should have a certain number of people within the constituencies at the end of the process. The change is interesting because it reflects population and demographic movement, but there is also a question about whether you are getting closer to the Venice commission's proposals for a code along with the four rules.

Professor Henderson: That question taps into what we have been trying to do, which is to address passive malapportionment in the design. We were not comparing our design to the purity of the first design; we were comparing it to what the first design now looks like, given that there has been population movement. We looked at the 1 September electoral register because that was the date on which we designed the review and it was the comparison and examination of those data that allowed us to understand how what may at first have been an ideal solution has become imperfect over time because of passive malapportionment. The movement of people means that what was equal is now no longer equal, so we have to solve the problem of unequal representation. We had a situation where a vote in one constituency was worth less than two thirds of a vote in another constituency, which is not right.

The Convener: I am not questioning the rights and wrongs; I am questioning the comparator and the change. It is the difference between saying that this is where we are at following a proposal and saying that this is where we were at the beginning of the previous review and this is how we have changed.

You have hinted at the challenge that we have had with the process, which is that the public's understanding is far removed from the reality. People are frequently confronted with questions that come to them as individuals living in a town or village or on an island and cause them to say, "Don't be ridiculous." Then there is a big learning curve to find out what the four rules are for constituencies.

I wonder whether you have looked at something else in the responses. It is almost impossible for an individual to create an inquiry. They have to belong to a group that fits under a title. A church that represents X hundreds of the registered electorate stands a far greater chance of triggering an inquiry. Local authorities can trigger inquiries and have done. However, when individuals send responses in and ask, "What do I do now?", although you think that the effect of the proposals that are being made would probably be best seen in an inquiry, you say that the individual cannot ask for one, because it has to be a pool that is looked at.

I understand why that came about, because otherwise you would be holding inquiries all over the place, all the time. However, is the balance right on what triggers an inquiry, given that local authorities can demand an inquiry but other groups—if they can show you that they have grouped themselves appropriately—also have to be considered when deciding on an inquiry?

Professor Henderson: There were about three questions in there. You raised an important point, which is that we did not compare what the review looks like now with what the first review looked like at the point of completion on day 1. Considering the passive malapportionment that happened during the period of the first review would perhaps give us a guide as to what might happen to the current review's results as we move forward. However, for that to be true, we would have to expect the same population movements, and it has been a very long time since the first review was conducted. We might see the same trends continue, we might see them reverse or we might see different trends emerge.

Therefore, the reason why we did not take that approach is in part because we were focusing on what the review looked like on the day that we began, which is when we identified the different issues.

The Convener: Might you consider looking at that in the post-review analysis?

Professor Henderson: Yes, it is a good point. Later, I will come back to lessons learned, but we are still working on those.

The trigger for local inquiries is another point of departure between the Holyrood and Westminster reviews. The Westminster reviews allow one round of local inquiries at a very specific point in the procedure; they do not allow them to continue on and on, and they allow only five to be held. It used to be the case that they were held really early in the procedure and you had to guess where the hot spots would be, act accordingly and guess where you should put them. They are now placed at a slightly different point, so you have some feedback before you identify their location, but there are only five, and it is up to the Boundary Commission for Scotland to pick where they go.

The trigger for the Holyrood reviews is entirely different, and the inquiries can appear at any point in the cycle. The trigger language is particularly oppositional, which is sometimes not particularly helpful, and it encourages a way of looking at things that is bilateral rather than multilateral. Councils are objecting to things and suggesting that other councils should be offered up as sacrificial lambs for different solutions. The process does not encourage people to come together and think about solutions for the whole of Scotland; it encourages a myopic view in which one area is considered at a time, which can cause knock-on problems elsewhere. That is what we found when we dealt with Falkirk, West Lothian and Edinburgh. Every time we offered a different solution, it resulted in a local inquiry in which other people said, "No, I don't want that. Move them over there."

Something in that structure is not quite working right. If an individual writes in with a well-argued consultation response, it appears. We make changes to maps based on a single respondent saying, "I think you've got this wrong, here's why I think you've got this wrong and here's the fix that I think better fits your rules and solves this problem that I've identified." We do not need a local inquiry to make such changes.

The Convener: I was not suggesting that you do—my apologies if you took it that way. You obviously take account of all the responses that you get. The process is slightly dark, so the public do not see how an individual response can essentially lead to small changes, but it can do, as you said.

Moving forward, one challenge is that the public are the group of people who genuinely need to have confidence in the system—we can use the population or the electorate, and an interesting discussion is to be had about that. Rightly, we are the last Parliament in Europe that still involves itself only to an extent and we step away from the process, and so there must be public confidence that, first, the process is understandable; secondly, they can see what their influence is; and, thirdly, even if the result disagrees with what

they want, they understand why it has been reached.

13:45

You commented on the adversarial nature of inquiries and how everyone shoves the problem on to somebody else, and you are the people who are actually having to do that. Edinburgh is a classic example of just moving it around the wheel, with everyone complaining. The rules for the inquiry process are here, in essence, whereas the four rules and the regional rules sit within the Scotland Act 1998, so they are much harder to change from our point of view.

However, the trigger for an inquiry sits with Boundaries Scotland, does it not? Well, not quite with you, but a more co-operative and solution-focused public inquiry could be looked at, as you say.

Professor Henderson: The trigger is statutory, but you are absolutely right that we can do more than the legislation requires us to do. One of the things that we were talking about in our lessons learned was how we create space for a more open and multilateral discussion, possibly involving the Convention of Scottish Local Authorities, for example. We often found that the point of contention was where multiple local authority boundaries converge and we had to identify constituencies over that area, so it would have been helpful to be able to bring together three or four local authorities at the same time to try to identify a mutually acceptable solution. Because it was not in the legislation, and because the inability to call a local authority at any point also means that the timing is not in our own control, it meant that we were focused on making sure that we met our deadline rather than looking at what we could layer on top of the process to improve things. We are going to look at a number of things to see whether we can identify improvements.

Another thing is that the legal advice that we got about local inquiries was that they have to be face to face, which is a massive inconvenience in this day and age, particularly if you are talking about large constituencies. It would be much more convenient for people to be able to join in online.

The Convener: Again, on the timings of the inquiries, you tended to have them in two sessions, in the daytime and in the evening, which is sensible, but again, the day of the week that they were held was inconvenient for a number of people. It is easy to find reasons why something is not working, but from looking at the way in which the inquiries are conducted and the expectations on individuals who spoke at the inquiries that I was aware of, I know that they were not professional witnesses and they were not sure what to expect. The good thing was that, at the end of it, a lot of them were amazed at how nice the experience had been and how it was not adversarial.

However, there is a perception about the word “inquiry” across Scotland that is perhaps not the most positive, and people were extremely concerned about interacting with an inquiry. Again, I wonder whether the system that you described that you would like to move to would answer the challenges that came out of some inquiries and the subsequent inquiries that had to happen before they become challenges.

Professor Henderson: Possibly. In the Westminster system, they are referred to as public hearings rather than local inquiries; that is an important distinction.

The Convener: Can I just pick up on a few points about the rules, because again, it boils down to the language and the understanding that comes out of that? As you say, all four rules should be looked at simultaneously, and you gently move between the four quadrants to try and come up with the best results. However, there are some challenges in that, because rule 1—I will just call it that—is prefixed with

“So far as is practicable”,

but it also says

“regard must be had to the boundaries of the local government areas”.

So, even before you are talking about electorate numbers, the public see that it is supposed to be the local authority area, and I think that that is probably how most people perceive all of the parliamentary stuff, even though it certainly is not true for Westminster, and it is far from true now here at Holyrood.

Then, rule 2 talks about the “strict application” of rule 1—so there is statutory evidence to say that rule 1 has to be strictly applied. However, rule 1 opens with

“So far as is practicable”.

Therefore, we now have a misunderstanding.

I have picked those two rules specifically because of the concerns that have been expressed about an individual MSP representing up to three local authorities and tension between those authorities forming a lot of concern in their work. For example, someone in a school placing situation can be in another constituency with another constituent MSP, but the high school is in the first MSP’s constituency. It makes the role very difficult

To look back as to why it began with the boundaries of local government, those were the specific reasons why that was put in. As a constituency MSP, you were representing your

constituents, who fitted into a local authority area; you could advocate for them but you could also defend against others coming in. From a practical MSP's point of view, the situation creates a tension that is really difficult to reconcile. Secondly, however, it is also a challenge for constituents.

I am not sure whether I expect a comment. Could it perhaps be meritorious for the appropriate committee to look at?

Professor Henderson: As we read them, rule 1 is caveated in its very first outing; then, paragraph 2 of rule 2 says that we can

"depart from the strict application of Rule 1"

in certain circumstances. Rule 3 begins by saying that we can

"depart from the strict application of Rules 1 and 2";

and rule 4 is that we

"need not aim at giving full effect in all circumstances to Rules 1 to 3".

To us, that does not suggest that rule 1, although stated first, is the most important.

We are absolutely not saying that we do not think that local authority boundaries are important in our design. That is why the beginning of our process is to create those council groupings, so that we are working within areas that allow us to pay attention to local authority boundaries.

We also pay attention to the internal boundaries of local authorities—ward boundaries. We try to minimise splits, and we have made improvements. There are far fewer split wards, for example, in this solution than there are in the status quo.

The Convener: There is something in that, potentially—if, instead of

"boundaries of local government areas",

it had said "ward boundaries".

Professor Henderson: Yes, I know. That is why we do not record that when we show how we meet the rules.

The Convener: My challenge to you, then, is that, in your explanation for decisions, when people raise questions about why you did something, you tend to point at one of those specific rules rather than saying, "Actually, it's an amalgam of rules, and this is the consensus that we have come to."

Professor Henderson: In the report, when we talk about why we have identified a particular constituency, we identify how it meets all the rules. We talk about the extent to which it meets rule 1 and the extent to which it meets rule 2. If we have applied special geographical considerations—as we did in two constituencies—we clarify that. If we have deviated from parity, for example, we also refer to why we have done so—for example, because of inconvenience or local ties. We do not just pick one rule and explain the constituency on the basis of that one; we address how we have met each of the four.

The Convener: I was not talking about the construction of the constituencies in the regions. I meant some of the explanations that have been given to constituents of why their proposal has not been taken up. The correspondence shows you pointing at one of the four rules, rather than the explanation that you have just given.

Professor Henderson: That could be because a correspondent mentioned one rule, so we showed them how that one could not be viewed in isolation. However, when we explain in the final document why we have done what we have done, we revert to talking about all of them.

The Convener: Absolutely. That is the document that we are looking at. I absolutely accept that.

Professor Henderson: It is also in our meeting papers.

The Convener: In opening the discussion, you talked about the Venice commission's strong suggestions that any variation from the electoral quota should be up to 15 per cent of the quota. In essence, that speaks to the weight of value of an individual vote in any area. That is why it exists—so that my vote has the same value as another's. However, much of the Scotland Act 1998 talks about moving away from that approach when the circumstances of an area speak to it. Do you have enough flexibility to reflect the intention of the Scotland Act 1998?

That speaks to what Emma Roddick said about the association of those islands outside of the protected islands, while you have spoken about the distances that exist in some constituencies, Professor Henderson. Is there sufficient flexibility for you to reflect what you have to achieve and—this is the difficult bit—reflect what the people of Scotland expect to be achieved by creating constituencies and then grouping them into regions?

Professor Henderson: Our view is that we are very grateful for the flexibility that we have compared with other rules that are in operation around the UK, such as the 5 per cent rule in Westminster and the new 10 per cent rule in Wales. The rules for people in Wales were very similar to ours, but with the new legislation they have—one might say—tied their own hands by putting a 10 per cent limit on variation. That means that there cannot really be flexibility around special geographical considerations, for example.

The Convener: You anticipated my next question. Do you welcome your level of flexibility or, as an explainer, is the 10 or 5 per cent rule much easier for people to understand, even though they may not agree with it?

Professor Henderson: It is undoubtedly easier for people to understand such a rule. It is easier to understand the letter of it and the principle of it, and it is also easier to put metrics on it. It is measurable, while it is much harder to measure whether other considerations are being met. The view of a local community or the boundaries of that local community can often be up for debate. We would have people from different parts of a proposed community suggesting that the boundary be moved in one direction or another. It would be much easier for people to understand, and much easier for us to measure our success, if we moved towards that kind of approach.

The Convener: Is it much easier to attach automaticity of boundary changes to such a rule than to what we have in Scotland—and to justify changes?

Professor Henderson: All that I would say is that the Westminster move to automaticity followed the imposition of a 5 per cent rule, and the introduction of automaticity in Wales coincided with the move to a 10 per cent parity measure, so they appear to be connected in other legislation.

The Convener: Would you welcome that? Would you like to consider that?

A consultation is going on, so, to be fair, perhaps that question is best left until after the consultation is finished.

Professor Henderson: We would be delighted to come back and talk to you about the independent review of the procedures on automaticity. We have seen a draft paper prepared by the secretariat, and we have had a first meeting with Andrew Kerr, who is leading the independent review. We will be preparing a formal commission response, so I would not want to put words in the mouths of my fellow commissioners.

The Convener: That is fine—very sensible. I am coming to the end of my questions—I hope that you will be disappointed to learn that, but I fear that you will not.

The regional rules are much more explicit than the constituency rules. They are far easier to understand, because we have to group entire constituencies into the regions. Sue Webber prompted a discussion earlier about the challenge that then comes for local authorities, where part of a local authority area is in one region and the rest of it is in another region. That adds to my previous point about one MSP representing a constituency in three different local authority areas, because we could have up to 15 other MSPs interested in an issue. From a purely administrative, common-sense point of view, that is a very big round table to bring together to discuss problems—let me put it that way.

Do you have any comments on the consequences of the choices that are made by Boundaries Scotland? The effect on local authorities is not part of your tests—you need not take account of that if you follow the four rules—but are you conscious of that effect and do you have any concerns about it?

14:00

Professor Henderson: Yes, absolutely. One way to think of the situation is that the building blocks are local authorities, but within local authority areas there are wards, which Boundaries Scotland created in the 5th reviews of local government electoral arrangements and the island reviews, for example.

When we design wards for local government elections, we are required to consider “effective and convenient local government”. No one has defined that for us, but we have done independent research to try to understand what it means. Effective and convenient for whom—electors or the population? We also keep in mind representatives: how easy is it to represent the geographical extent of the ward? As wards are the building blocks for constituencies and regions, the consideration of the level of inconvenience is already baked in. We also consider the issue as part of rule 4 for constituencies, as inconvenience is listed under rule 4.

The issue also ties in with special geographical considerations. We consider how easy it would be for a single representative to represent the area. Therefore, we responded to suggestions that, as it was very difficult to physically get from one part of a ward to another, we should change things and keep transport links in mind. That came up in the very beginning as a result of the local inquiry in Peebles, when we looked at how transport links might make an improvement in the boundaries that we identified.

The Convener: Here is a strange question that I do not know the answer to. When you are considering that, do you think only of the constituency MSP, or does the availability of list MSPs—even though they have not been identified at the point—feed into the “inconveniences” category?

Professor Henderson: No, in part because we are required to create constituency boundaries first and then create regions. Having created the constituencies, we do not open them back up when it is time to identify the regions—although,

whenever we identify a constituency, we say that that is subject to our not identifying problems elsewhere. To a certain extent, part of the issue is a function of the electoral system, which is not in our gift.

The Convener: You are presented with a jigsaw without a reference picture; I fully appreciate that.

Professor Henderson: A 15-region solution would look very different to what we have.

Emma Roddick: Should inconvenience be considered for regions? As much as I love my region, it covers more than half of Scotland's landmass. It is quite difficult, on a practical level, to represent that large an area. You mentioned transport links—to get to parts of my region from Inverness, I have to go to Glasgow.

Professor Henderson: That is a good question. If we were picking the rules to follow in a boundary review, we might have a whole host of suggestions for improvements. My one issue is that "inconveniences" are lumped in with

"local ties which may be broken",

as well as

"inconvenience that may result from changes".

We feel that the second rule for regions, which asks us to consider special geographical considerations, allows us to consider examples such as the one that you cited. However, we are stuck with a situation in which we have the number of constituencies and the number of regions that we have. We are supposed to have regard to the average regional electorate, but we have much more variation from parity around the regions than we ever do around the constituencies. We try to be as flexible as we can.

The Convener: Let us take what has happened in South Scotland as a regional example—which is a slight reflection of what has happened in the past—of satisfying the numbers and a geographical identity, which is the Lothians. If we go along the boundary of South Scotland, another area had to go down into the South Scotland region. That is all in the give and take of the process.

What was it that led you to conclude that your proposals were the right moves, given that it was a removal of an area compared with what has been the understanding for a long period of time? What was it that triggered that being the solution, rather than sticking to the status quo?

Professor Henderson: The constituencies in question are East Kilbride, and Hamilton, Larkhall and Stonehouse. In our provisional proposals, we immediately put them into the South Scotland region, but the consultation responses that we got—particularly from East Kilbride—said that that was not right and that they should be with a more urban neighbouring area. We therefore put them with Glasgow in the next solution, but we then found—and we often find this—that people were writing in to say that they could not possibly be put in the same region as Glasgow. South Lanarkshire Council wrote to us and said, "Well, this isn't ideal—we would prefer them back in South Scotland, so long as they're together."

That was the point—the council did not want East Kilbride in one place and Hamilton, Larkhall and Stonehouse in another—so we put them together and then put them in South Scotland. We were responding to suggestions from local authorities. That was partly a knock-on consequence of taking East Lothian out of South Scotland and putting it in with Edinburgh, where there had been concern about the location of the constituency boundary. Such a concern is partly resolved by having the two constituencies in the same region, which in a way softens the constituency boundary.

The Convener: So they were separate decisions rather than what people perceived, which was that, because the South Scotland numbers were low, you needed something to go in it to get the numbers up—or, indeed, the other way around.

Professor Henderson: They were completely separate decisions. It was partly so that a constituency boundary that had caused some concern did not also become a region boundary in the case of East Lothian and Edinburgh.

The Convener: Yes—I see the sense in it now.

Sue Webber: You could have had Edinburgh on its own, like you have Glasgow on its own.

Professor Henderson: That would have caused problems with parity, I think.

Sue Webber: You have already said that there are some quite small areas elsewhere. What would be the difference between Edinburgh being on its own compared to Argyll and Bute, for example, which is small in terms of numbers?

Professor Henderson: But Argyll and Bute is not a region on its own; it is a constituency on its own. It is part of a larger region.

Sue Webber: But you have got a Glasgow region, so I am saying that you could have had an Edinburgh region.

Professor Henderson: Edinburgh on its own is not big enough to be a region. It would have been too far from the average electorate numbers for a region.

Sue Webber: How far away?

Professor Henderson: I do not know—we would have to calculate that.

Sue Webber: You are thinking of an eight to 12-year plan, and Edinburgh is growing.

Professor Henderson: The problem is that Edinburgh on its own is too small, and we cannot have Edinburgh with Midlothian, East Lothian and West Lothian in a single region, because that would be utterly massive.

Kirsty Mavor: The Glasgow region also has part of South Lanarkshire in it—it is not just Glasgow constituencies.

The Convener: I will ask my final questions. You are undertaking a lessons learned exercise, which will fill a huge amount of your time. In that exercise, will you consider how to preserve the institutional memory of the challenges that have happened? To put it politely, I think that the institutional memory from the earlier boundary changes was possibly lost. I am not saying that it was a whole new learning curve—absolutely not, because I know that huge amounts of work went into the process. However, the question is how you capture and preserve the lessons learned so that, next time, the process runs even more smoothly and successfully, with a better understanding from the electorate of what is happening.

Professor Henderson: That is an important issue because of the timing of our appointment periods, which are for four years and are renewable for four, and the timing of the reviews, which are every eight to 12 years.

In my case, I was a commissioner and then became a deputy chair, so the clock restarted. Then, when I became chair, the clock restarted again, so it is entirely possible that one of our current commissioners could stay on in a different role.

When we did the 5th reviews of local government boundaries, we had a smaller commission, but the chair, two other commissioners and I all joined at exactly the same time—at the very start of the review—and there was just one solitary deputy chair who had been there previously. It is a common situation and, because of that, we always draft a lessons learned document immediately. That is why we have started on it already.

If we are thinking about our lessons learned from this time round, one is about understanding how the rules can constrain what we are able to do, one is about challenges with different interpretations of the rules, and the third is around communicating our proposals. To a certain extent, the rules are not really in our gift, so we just deal with what we have. We are required to use public display notices to communicate our proposals, but the notices were only responsible for a very small part of the traffic that ended up on our consultation portal. We tried to move into social media advertising to get a response, and Facebook was remarkably responsible for most of the traffic that we got in our consultation portal.

Separately, we pay for a mapping facility on the portal, but only 141 people used that function in the first round of more than 3,000 responses, so we have questions about the extent to which the money that allows that mapping is well spent. Are there different ways that we can reach people, particularly offline communities, to ensure that they are aware of our work? We also have the enduring issue of misunderstanding and people not knowing that what we are doing is changing electoral boundaries rather than local authority boundaries.

You will know yourselves that the social media environment has moved on quite a bit, even during the course of this review. Platforms that we might have used previously to reach people, such as Twitter, became functionally useless as the review went on. Therefore, some of the lessons learned that would be applicable now might be different in eight years' time because the media landscape might be entirely different then.

We are trying to give advice that identifies the principles—what the best thing to do is, what an effective use of our budget is and how we can reach people—so that people can then evaluate them in light of whatever political or media environment they are in in eight years' time.

The Convener: Will those lessons learned be a public document?

Professor Henderson: Yes, they always are.

The Convener: Excellent. My next question is a mischievous one: is it the map or the description that is the final arbiter of the new constituencies and regions? Which is the governing part—your maps or the written descriptions in your paper that sit with the Government?

Professor Henderson: I think that it is the written descriptions as then applied to the digitised boundaries.

Kirsty Mavor: It is my understanding that the Government took pains to ensure that the written description connects to the maps.

The Convener: So the map is driven by the written description. The map is illustrative of the consequences of the description on the ground.

Kirsty Mavor: Yes, that is our understanding.

The Convener: Perfect.

Professor Henderson: And those descriptions are then working through the digitised boundaries—

The Convener: The digitised boundaries that fit in—absolutely.

Professor Henderson: We have been making corrections on those digitised boundaries throughout to ensure that they are consistent.

The Convener: Putting automaticity to one side, would you like to see anything change before the next go around this circle, particularly with regard to the Holyrood boundaries? Given that we have eight years—who knows—what would your wish list be?

Professor Henderson: I have a wish list, and I would welcome the opportunity to come back and share that with you so that I can check that my wish list is the same as that of my fellow commissioners.

The Convener: There is an open invite to you for the right moment.

Professor Henderson: Wonderful, thank you.

The Convener: I thank you very much for coming in and giving evidence; we will now move into private to consider it. Thank you for sharing so fully the journey of the current boundary reviews, which I hope that we are coming to the end of.

14:12

Meeting continued in private until 14:25.

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.

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@parliament.scot

The Scottish Parliament
Pàrlamaid na h-Alba