



Standards, Procedures and Public Appointments Committee

Thursday 2 October 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 2 October 2025

CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
SUBORDINATE LEGISLATION.....	2
Scottish Parliament (Disqualification of Members of the House of Commons) Regulations 2025 [Draft]....	2
Scottish Parliament (Disqualification of Members of the House of Lords) Regulations 2025 [Draft]	2
Scottish Parliament (Disqualification of Councillors) Regulations 2025 [Draft]	2

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

17th 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:

Graeme Dey (Minister for Parliamentary Business and Veterans)

Jordan McGroarty (Scottish Government)

Ailsa McKeever (Scottish Government)

Edward Mountain (Highlands and Islands) (Con) (Committee Substitute)

Graham Simpson (Central Scotland) (Reform)

CLERK TO THE COMMITTEE

Catherine Fergusson

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 2 October 2025

[The Convener opened the meeting at 09:30]

Decision on Taking Business in Private

The Convener (Martin Whitfield): Good morning, and welcome to the 17th meeting in 2025 of the Standards, Procedures and Public Appointments Committee. I have received apologies from Annie Wells, and we are joined by Edward Mountain as her substitute—good morning, Edward.

Under agenda item 1, does the committee agree to take in private item 6, which is on guidance on legislative consent?

Members indicated agreement.

Subordinate Legislation

Scottish Parliament (Disqualification of Members of the House of Commons) Regulations 2025 [Draft]

Scottish Parliament (Disqualification of Members of the House of Lords) Regulations 2025 [Draft]

Scottish Parliament (Disqualification of Councillors) Regulations 2025 [Draft]

09:30

The Convener: Our second item of business is evidence on three Scottish statutory instruments that relate to the issue of dual mandates. Members will recall that, earlier in the parliamentary session, the committee considered a petition that related to dual mandates, and we asked about the issue in our stage 1 scrutiny of the Scottish Elections (Representation and Reform) Bill. Amendments to the bill at later stages led to the SSIs that are before us. For our consideration of these SSIs, we are joined by Graham Simpson, who lodged the amendments.

We will have the opportunity today to take evidence from Graeme Dey, the Minister for Parliamentary Business and Veterans, before we consider whether to recommend to the Parliament that the regulations be approved. I welcome Graeme Dey to the meeting and to his new ministerial position. From the Scottish Government, I also welcome Ailsa McKeever, from the Parliament and legislation unit; Iain Hockenhull, head of the elections team; and Jordon McGrory from the legal directorate.

Before we move to questions, I invite the minister to make an opening statement.

The Minister for Parliamentary Business and Veterans (Graeme Dey): Thank you for inviting me to give evidence on these three sets of regulations. The regulations that the committee is scrutinising are the culmination of an intense period of consultation and policy development since the passing of the Scottish Elections (Representation Reform) Act 2025. Part 2 of the act, which was passed unanimously by the Scottish Parliament in December 2024, requires that the Scottish ministers lay draft regulations before the Parliament prohibiting MSPs from holding dual mandates as MSPs and peers. It includes a discretionary power in relation to MSPs who are also councillors.

The public consultation exercise ran in early 2025, to ensure that members of the public,

interested stakeholders and political parties had an opportunity to share their views on the issue of dual mandates in the Scottish Parliament. The consultation sought views on the practical steps required to create a workable policy for the institution.

There are three sets of regulations before us, one for each category of dual mandate. The first set of regulations will disqualify MSPs who also hold an MP role if they do not resolve their dual mandate within 49 days of being returned as an MSP or an MP, whichever comes second. That period is intended to limit vacancies that arise before the end of June, thereby seeking to ensure that by-elections do not fall during the typical Scottish school summer holiday period of July and August.

The second set of regulations will disqualify MSPs who also hold a role as a member of the House of Lords if they do not resolve their dual mandate within 14 days of being returned as an MSP or of taking the oath as a member of the House of Lords, whichever comes second. This period is shorter than the other periods proposed, in order to reflect the unelected nature of the Lords and therefore the lack of constituents and the lack of by-elections that would be expected in the other categories.

The final set of regulations will disqualify MSPs who also hold a role as a councillor in a Scottish local authority if they do not resolve their dual mandate before the end of one of the periods of exception. The first exception applies if there are fewer than 372 days between the day on which the person is returned as an MSP and the day that the next ordinary election of councillors is due to be held. The exception allows councillors who become MSPs at an election that falls in the year before the local elections to complete their term as councillors. That is intended to prevent a large number of vacancies and by-elections within a year of a local government election.

The second exemption applies when there are more than 372 days between a councillor being returned as an MSP and the date of the next ordinary election of councillors. In these circumstances, they must resolve their dual mandate within 49 days of being elected to their second role. As is the case with the first set of regulations, this seven-week period is intended to limit by-elections over the summer period.

Although all the regulations will come into force on the day after they are signed, they do not disqualify any MSP until the day of the poll at the next Scottish Parliament election, which ensures that no current MSPs face disqualification, providing around six months' notice of the change in position and preventing any disruption to the last year of the current parliamentary session.

The Convener: Thank you. Before we move to questions, there are a number of declarations of interest.

Emma Roddick (Highlands and Islands) (SNP): Until May 2022, I held a role as a Highland councillor and received a salary for that, which I donated to local charities in the Highlands.

Sue Webber (Lothian) (Con): I was in a similar position in that, until May 2022, I was a councillor in the City of Edinburgh Council, for the Pentland Hills ward. I was fortunate that the council had a mechanism to allow my salary to go directly to local charities so that it never came to my bank account.

Ruth Maguire (Cunninghame South) (SNP): Until 19 May 2016, I was a North Ayrshire councillor.

The Convener: That is excellent. Thank you. Sue Webber, would you like to start the questions?

Sue Webber: Thank you. Minister, as you heard in the declarations of interest, there are a number of issues in relation to the period of time when you are allowed to sit as a councillor and as an MSP. It is recommended that salaries be given up. There are different mechanisms for doing that with regard to providing transparency. As I said, my salary was taken at source. In Ms Roddick's case, it was her decision to transfer her salary. How would you manage such situations? I am aware that there were councillors who took their councillor salary as well as their MSP salary while they held dual mandates. Do you want to comment on that?

Graeme Dey: I can take you through what we are doing in the regulations, but I will first bring Ailsa McKeever in to explain the rationale, if that is helpful.

Ailsa McKeever (Scottish Government): As you will see from the regulations, when we look at the MSP-councillor scenario, we have proposed that the MSP salary be reduced by whatever the base councillor salary is at the time, which will ensure that people in that situation receive the equivalent of only one salary—the higher of the two—creating consistency across the board. It will ensure that everyone in that scenario has the same salary limitations. The rationale for that is that members of the public expressed quite strong views, through the public consultation, that salary limitations should be applied.

Graeme Dey: We are trying to protect colleagues in that situation, too, because there is often a great deal of media interest in what is happening in that regard—

Sue Webber: I know.

Graeme Dey: —and people might be acting with the best intentions, so this is a clearer and more transparent way to do it, which we hope provides a degree of protection for MSPs who find themselves in this situation.

Sue Webber: Yes, that is agreeable. As I said, I was fortunate that the City of Edinburgh Council had a mechanism that allowed me to nominate two charities to send the money to. This might not be a matter for this committee, but how does the pensions element work? How are those concerns squared off?

Ailsa McKeever: We spoke to parliamentary officials while we were drafting these regulations, so they have had notice of the provisions that we are putting in place. It will be for them to take that aspect forward and ensure that the salary reductions that they are required to put in place are reflected across other aspects, such as tax and pensions.

Sue Webber: I am thinking about the other end of things with His Majesty's Revenue and Customs, when we have to complete our self-assessment tax returns, which are complicated. I assume that we will figure out a way to make it clear how we are to reflect all of that when we declare our various—

Graeme Dey: I would suggest that there is a role for the committee in that regard, in writing to the Parliament to seek that assurance. You make a very valid point, because colleagues will have complicated tax affairs as they move from being a councillor to being an MSP and there is a transition period for salaries. You would not want colleagues to find themselves in difficulty further down the line.

Sue Webber: No, we would not.

Graeme Dey: For our part, I am happy to have a conversation with the Parliament about the practicalities of that. The committee might feel that it wants to reinforce that.

The Convener: For clarification, minister, with regard to the proposals before the committee in these three SSIs, two have a remuneration deduction that relates to the MSP salary. Can you confirm that discussions have taken place with the Scottish Parliamentary Corporate Body about the consequences of the SSIs? Ailsa McKeever, I think that you suggested that that is the case, but I would like it on the record, because if we have an unresolved problem in one area that you are asking others to act on, that might raise a concern about the SSIs that are being presented to the committee as a formula for arriving at what was carried through unanimously in the legislation. Therefore, is it the case that there have been discussions with the SPCB and that the practical

provisions in relation to how any deductions take place would fall to it?

Ailsa McKeever: Yes, I am happy to confirm that official-level discussions have taken place and that we have had confirmation that officials in the Parliament are comfortable that they can administer what we have put forward. The former minister had also written to the SPCB, I think at the end of June, to confirm the plans.

Graeme Dey: Convener, I was just suggesting that that option is open, if the committee feels the need to reinforce that or to seek further reassurance from the parliamentary authorities.

The Convener: It is the phrase “further reassurance” about an SSI—all three SSIs that are being presented today—that worries me. Emma Roddick, would you like to come in? Emma is online.

Emma Roddick: My questions have been answered, convener.

Sue Webber: Apologies, Emma.

The Convener: No, that is fine. Edward Mountain, do you have any questions?

Edward Mountain (Highlands and Islands) (Con): I am delighted that these regulations are being brought forward. I remember that it was an issue that we wrestled with many years ago, when I was a member of this committee, and I think that this is the right move.

With regard to how you have sorted out the finance, why did you decide that the split would be that the council salary would still be paid by, presumably, the council and that only the adjusted MSP salary would be paid by the Parliament? Surely the councils are the ones that are short of money and the one that could bear the cost is the Scottish Parliament.

Graeme Dey: Again, I was not in post when the matter was initially progressed, so Ailsa McKeever could perhaps explain the rationale.

Ailsa McKeever: Our decision on how to apply the salary limitations was made with consistency in mind. What we have presented is that it is always the MSP salary that is adjusted. We do not have the powers to adjust an MP's salary, so, keeping the responsibility in one place—dealing with the MP salary and the council salary in this institution—felt like the simplest and most consistent way to ensure that it is done correctly across the board.

Edward Mountain: I believe that, in some councils, people in senior administration roles or roles with additional responsibilities receive allowances on top of their council salary. Therefore, why have you deducted only the basic

rate, given that they could be getting the basic rate-plus?

Graeme Dey: That was part of our thinking.

Ailsa McKeever: Again, that was to create consistency. We have not sought to address Presiding Officer or ministerial salaries or senior councillor or leader salaries in councils. Senior councillor salaries, in particular, are not set at a national level. From parliamentary officials, we understood that administering that would create an additional burden for them as well as being inconsistent with how we treat other roles with additional responsibility and additional remuneration.

Edward Mountain: From that point of view, it is the easier route. I can understand that, because it is easy to administer. However, minister, is it possible to put on the record the fact that, if somebody was getting additional pay on top of their councillor pay, you would not expect them to draw it, because it would make them better off than an MSP or just a normal councillor who had become a member of the Parliament?

09:45

Graeme Dey: We would be dealing with a very limited period. Going back to Ailsa McKeever's point, the approach is about consistency, which is why it is focused on the base salary. A further complication arises in the context of additional remuneration and special responsibility allowances, which can be variable. Therefore, in a practical sense, it would have been quite difficult to manage that. What we have come up with is a pragmatic set of proposals that are easily understood and easy to implement. To address your point about expectation, it is a matter for the individual to decide what they will do with regard to the additional salary.

Edward Mountain: I have probably explored that matter as far as I can. However, I would just comment that the way that the salaries have been dealt with—deducted at source—is a much more comfortable position than allowing people to choose charities. Sometimes, that can be difficult to administer, and the individual might have links with those charities, which could create problems. Therefore, deducting the salary at source is the right way to do it and a huge step in the right direction.

The Convener: Again, for the purpose of clarification, given that the Scottish Parliament rightly and understandably has no control over the salaries of members of Parliament, it was decided to take the same approach with the three statutory instruments, which relate to two elected roles and one unelected role, because it is easier and more pragmatic to make the deduction from the MSP

salary. Control over that can be provided, and the practicalities of implementing that can then be dealt with. Is that right?

Graeme Dey: Yes.

The Convener: There is no deduction in relation to members of the House of Lords because, as you say in the policy document, they do not receive a salary; they receive an attendance allowance. What consideration was given to that, perhaps drawing on the consultation, and why was it not considered appropriate to treat the attendance allowance in the same way as the salaries for councillors and MPs?

Ailsa McKeever: In essence, the variation across members of the House of Lords and what they might claim could be very wide. There is not much information available to allow us to take a view on how varied that would be and how many people would be captured by that. Given the numbers involved and the fact that this will be for a period of only 14 days, rather than 49 days, it was felt that it would create an administrative burden and a system that could be complicated to implement in practice when making deductions. The daily allowances that could be claimed are very varied and they could be claimed for only a very short period—potentially, it would be nothing at all.

Graeme Dey: It would also have required self-declaration by the member of how much they had earned in that period.

The Convener: Yes. I go back to the fundamental reasons for seeking to end dual mandates, namely that it is rightly considered that roles such as councillor, MP and MSP are full-time jobs and that we expect the individuals who fulfil those roles to give them their full-time commitment. The discussions that we have had about the financial side relate to the practical implementation of one of the consequences, whereby individuals benefit—I use the word “benefit”, although I doubt that any of them feel that it is a benefit in this sense—from receiving, in effect, two salaries for a period of time. That is the policy decision in relation to what we are trying to achieve today, is it not?

Graeme Dey: Yes, it is, but it is also what the public would expect. It is the public's expectation that people are focused on the job to which they have been elected. As I said earlier, it also helps to protect colleagues from criticism in some instances.

The Convener: The one outstanding period of time relates to councillors. The longer exception in that regard is a response to an understandable concern about multiple by-elections occurring following a Holyrood election. However, 372 days is a considerable period of overlap. Did that form

any part in the consideration of whether there should be a dual salary for a period? If not quite two full-time jobs, there is one plus an almost full-time job to take account of, so someone is effectively being required to hold down two jobs, but with a penalty to their salary. Was that part of the consideration in either coming up with the 372 days or just saying that the burden of multiple by-elections outweighs the benefit of looking at anything less than that?

Graeme Dey: Again, I will bring Ailsa McKeever in, because she has been through this whole process.

Ailsa McKeever: I would say that the 372-day period has very much come about through that desire to avoid significant numbers of by-elections at the same time. In addition, the councillors who were elected would be in that role only for a short period before they faced another election.

With regard to the salary aspect, it is a combination of the consultation responses that showed strong support for stronger salary limitations being in place, as well as the recognition that the standard practice at the moment is that most people do not take that salary anyway, so there would not be a significant jump from what is happening informally at the moment.

The Convener: My other question is about what mechanisms will exist to monitor that. Councillors could resign their councillorship much earlier than that, so this is a sort of long stop. What will prevent multiple by-elections from occurring in around September of the year of a Holyrood election?

Graeme Dey: Ultimately, there will always be an element of that being up to the individual. There is only so much that we can control. It is possible that, despite our best efforts, we could have a resignation in the MP-MSP space in that summer period. People will want to sort their lives out and get organised. Most people are cognisant of the reason for the 49 days and, therefore, we would expect common sense to prevail. I recognise the risk that you allude to, convener, but my perspective is that there is a limit to how much we can manage it. I would expect it to be monitored going forward, to see whether the issue that you allude to arises, and we still have a plethora of by-elections.

The Convener: Who will take responsibility for the monitoring?

Graeme Dey: We will undertake the responsibility.

The Convener: The Scottish Government will monitor it.

Graeme Dey: Yes—it is up to us to do that.

The Convener: What concerns me is that, in the public responses to the consultation, there is a very strong view that members should not hold two positions. There will be enormous pressure on new MSPs to immediately resign their council seats in order to give a full-time commitment to this job, and undertakings to do so will probably be extracted from them during the election period.

I understand why the SSIs have been articulated as an environment in which this change can happen. However, that has perhaps ignored a reality—I think more with councillors than with MPs, because that would be resolved and understood before the election—that multiple council by-elections could happen only months before the start of the campaign for the new council elections in 2027.

Graeme Dey: I recognise that risk, convener, but, in taking forward the regulations, we had to strike a balance and take account of, as was alluded to earlier, the risks around having by-elections arise on a large scale to elect people for only six or nine months, with all the costs that come with that.

Nothing is perfect, but I think that this is the most pragmatic way to proceed. Of course, we will monitor that and, if the concerns that you are expressing arise, it will be open to Parliament to return to the issue if that is deemed necessary.

The Convener: Absolutely.

Emma Roddick: For my part, when I was a councillor and MSP at the same time, it was not easy to hold both roles—I would compare it to being a minister at the same time as being an MSP—but a driver for me was not wanting to leave a vacancy on the local planning committee.

I am curious, though, minister. You say that the by-election concern is the main driver for the 372 days, but if a councillor were to step down within six months of the full election, there would not have to be a by-election. So, why is it 372 days instead of 186 days?

Graeme Dey: We will go back to Ailsa McKeever on the rationale for the 372 days.

Ailsa McKeever: The 372-day period is crafted to ensure that, from the point of a Scottish Parliament election, if the local government election is scheduled within that period, that person can retain their role until the term ends. The rationale for that period is to ensure that it captures the date of the scheduled election rather than any other point in time. It is pinned around the election date rather than any other point, if that makes sense.

The Convener: Would it be correct to say that, if we look at the events that are going to happen next year and the year after, the 372-day period

will take us just beyond the scheduled council elections but is more than the six months that would mean that there was no need for a by-election if the resignation was in that period? It captures the six months-plus to the election at Holyrood.

Graeme Dey: Yes, and it might be useful for colleagues to understand why it is 372 days and not 365 days. That is because the first Thursdays in May can fall up to six extra days apart. Thursday 1 May 2036 and Thursday 7 May 2037 are 371 days apart. In case anyone was wondering, that is the reason for that number.

Emma Roddick: Given that there are 49 days for MPs to resolve their conflict, I still wonder why there is not a similar arrangement for councillors. If we believe that holding two roles is not the best situation and that we want to avoid by-elections, why not require that a councillor give up their role within 186 days?

Ailsa McKeever: We are seeking to ensure that colleagues have the ability to see out their full term and not create that vacancy. If people are required to resign at that slightly earlier point, there is still the potential for a gap in which members of the public do not have that representation. This period allows them to see their role out to the very end of its term, rather than concluding it slightly earlier.

The Convener: Emma, do you want to come back? I am not sure that that actually answers your question.

Emma Roddick: It does, in a sense, because I did not want to put my ward in the position of having such a vacancy. All that I would say is that it feels inconsistent.

The Convener: Edward, you wanted to come in—I do not know whether your question has been answered.

Edward Mountain: My question is more on the mechanics of it, convener. I do not know the answer to this, but, if someone is an MP and then gets elected as an MSP, I presume that they will go straight on to being able to employ staff as an MSP, who might also be the staff they are employing as an MP. Have you considered that? Will guidance on that be issued between the two Parliaments? There could be a period in which the MSP and MP are employing the same staff. You are solving one issue, minister, but have you thought about solving the other? Or does it not happen? I do not know the answer to that, but I am sure that you will have looked at it.

Ailsa McKeever: I am happy to come in on that. We had a round-table discussion with the Independent Parliamentary Standards Authority, which spoke to us in a bit of detail about how the policy would operate. The authority is very

confident in that scenario. It has good relationships with colleagues in the Scottish Parliament, and they already work through those instances in quite a collegiate way. There was no concern that there would be scope for anyone to claim twice for staff salaries or anything like that, and the authority was confident that it would be able to work with Scottish Parliament colleagues to ensure that there was a smooth transition for those who were supporting someone from being an MP to being an MSP, or vice versa, and that there would be no difficulties with managing that. IPSA was very confident in the processes that it already has in place and that it could issue guidance to make sure that that was clear to colleagues.

Edward Mountain: IPSA is confident, and you are confident.

Ailsa McKeever: Yes—IPSA is confident that it can manage the process of what we have put in place here.

Edward Mountain: Okay. Thank you very much, convener.

The Convener: Expenses were excluded from all of this—we have discussed that issue with regard to the House of Lords. We are looking specifically at salary, so the question about the implementation of expenses falls to be organised between IPSA and this Parliament's corporate body. The question of expenses rests outside the purview of this Parliament anyway in relation to Westminster; it could be addressed only in relation to expenses in this Parliament.

Am I right to go back to the confirmation that you gave last time, that the corporate body is able to deal with this through our expenses system instead of by trying to pursue someone who is outwith our remit? Is that fair?

10:00

Ailsa McKeever: Yes, officials are happy that they have the ability to take that forward.

The Convener: Excellent. Ruth, is there anything else that you want to ask?

Ruth Maguire: No. It is all very welcome and my questions have been covered. It is good to provide clarity and for there to be recognition that there are pressures on individuals when they have a dual mandate. It is good to see that all cleared up.

The Convener: I have a couple of questions relating to our fellow committee, the Delegated Powers and Law Reform Committee, and its responses—and, indeed, the committee notice that was given in the chamber about, at a higher, generic level, the quality of some of the drafting

that is coming out of the Scottish Government at the moment.

Ironically, the matters before us today go back to pay—it is funny how money is so important—and the tension that exists between the Scotland Act 1998 and the chosen wording in the SSIs. Minister, before I delve into what level of confidence you have that the SSIs comply with the 1998 act, can you explain why we ended up in a position whereby different terminology was used, which certainly caused tension for the DPLR Committee?

Graeme Dey: It caused tension, but the DPLR Committee recognised that the provision would do what it said, so there was no issue about that—I think that the only issue that the DPLR Committee raised was the discrepancy in the use of language. The committee was content that the provision would achieve the stated purpose.

Oddly enough, that was the question that I asked as soon as I looked at this, convener, because I recognise the commentary from the DPLR Committee. We believe that the language that has been used provides the maximum clarity on what we are setting out to achieve. I will bring in Jordan McGrory to talk you through that, if that would be useful.

Jordan McGrory (Scottish Government): The language in the SSI is slightly different from what is in the 1998 act, because the SSI does something slightly different. The existing reductions in salary in the 1998 act are reductions in salary: a proportion of the pay is taken, but an amount of pay is still paid to the member even while they hold a dual mandate. What the House of Commons regulations do in this case is stop the MSP salary entirely for the dual-mandate period. Therefore, it was felt that the SSI ought to be worded differently, because it does something different, and we ought to be very direct about the fact that it does something different, so that there would be no ambiguity that the salary would not be paid.

The Convener: So, you are seeking the authority through the SSI to amend or redefine the statement in the 1998 act that there needs to be “provision for the payment”?

Jordan McGrory: No. The SSI will not change the mechanism by which pay is arrived at. Pay will continue to be—

The Convener: Sorry, I realise that it will not change the mechanism. What I am concerned about is the ambiguity in wording. One provision places a duty to pay and the other is, in effect, placing a duty not to pay, by deduction.

Jordan McGrory: We are confident that the reference in the SSI, as currently drafted, to

section 81 of the 1998 act makes it clear that what we are referring to in the new drafting is how Parliament is to use its authority to make arrangements. We have not framed it in quite the same way, because, as I say, we want to be as direct as possible about what is a total removal, but we are confident that it still links up correctly with the existing system.

The Convener: So, the Scottish Government is confident that the authority to make provision for payments will prevent an accusation against the corporate body that it is failing to meet the 1998 act because it is not making such provision.

Jordan McGrory: Yes, we are confident.

The Convener: Do you have a precedent for that?

Jordan McGrory: We are in unprecedented times, I suppose: in 25 years we have not amended that to make it do anything different. We are in new territory, but we are confident that it will work regardless.

The Convener: I am not asking for the publication of legal evidence—which politicians seem to ask for at the drop of a hat—but is your position supported by legal advice?

Jordan McGrory: Yes.

The Convener: Okay—I am grateful for that. Are you content, minister, with those answers on behalf of the Scottish Government?

Graeme Dey: I am indeed. I was smiling just now because I was thinking about the number of times that the Government is criticised for being insufficiently clear. In this instance, we have sought to provide the maximum clarity, recognising that people would like that, as we are in unprecedented territory.

The Convener: I would say—tongue in cheek—that it is because there has been a lack of clarification that the question arose in the first place. You have put it on record that the Government is confident that the provision will stand the test, perhaps even a judicial test, and that you have advice that supports that view.

Does any other committee member have any other questions before I turn to a colleague who is joining us today?

Just for the record, I note that the 14-day period in respect of being a member of the House of Lords is a period of time that has been chosen, in essence, so that someone in such a position can resign. Is the Scottish Government confident that there are no circumstances that may exist where it would be impossible for an individual to resign within 14 days, for example if the House of Lords is not sitting between a general election and the King’s speech?

Graeme Dey: I will bring in Ailsa McKeever to provide the detail. To answer your question, I point out that the Welsh system uses a period of eight days, and it was deemed to be working quite well and effectively. However, we took the view that that length of time is probably a little bit sharp, so we extended it to 14 days. We thought that that was a sensible compromise, if you wish to look at it that way.

Ailsa McKeever: I think that 14 days is flexible enough. The 14-day period does not start until the new member of the House of Lords takes the oath, and there is built-in flexibility through the fact that they are not officially a member of the House of Lords until that point. We are content that there will not be scenarios in which someone is caught short by that. However, I flag up the point that the existing provisions in the 1998 act include a mechanism by which Parliament can effectively overwrite the disqualification if something has gone wrong. Therefore, if a bizarre scenario that we cannot imagine did occur, there would be a mechanism to allow Parliament to recognise that something had gone wrong with the system, rather than with the individual's attempts to resign, and that could give them a little bit of leeway if needed. We cannot imagine that that would be required, however.

The Convener: Did you consider the challenge that, although ennoblement occurs when it occurs in the House of Lords, the individual will be aware that ennoblement is coming, and, funny enough, they actually have a huge amount of control over when it happens? Did that form any part of your concerns or, to go back to the policy behind the measure, are you satisfied that it is existing members of the House of Lords that you are talking about when it comes to dual mandates, rather than someone who is anticipating becoming a member?

Ailsa McKeever: Yes, we considered that, and we were clear that they are not actually fulfilling the role until the point at which they are a member of the House of Lords and have taken the oath. While they may have prior notice that that will be occurring in the future, it is potentially helpful to extend the period to see out their term, if there is an election coming up or something like that. We were happy with that situation.

The Convener: I apologise to Graham Simpson, but I have a final question before I come to him.

At present, according to my understanding, lords essentially suspend their membership of the House of Lords for the period, and that cannot be reinstated without it being a matter of public notice. What was the policy reason for not being satisfied with that, but requiring entire termination from the House of Lords?

Ailsa McKeever: Our consultation responses revealed a strong view on that. Around two thirds of respondents were in favour of a leave of absence not being permitted, which was largely to do with wanting to see commitment from elected representatives that the member was fully focused on their role. Some responses referred to members having a back-up option available, and so on.

In addition, there was some discussion during our round tables with stakeholders about the ability to exert soft influence through attending the House of Lords but not necessarily taking part. In attending, members still have access to other members and they could use their influence in that way without actually taking part in proceedings and voting. A leave of absence would still allow for that, which is why we landed where we did.

The Convener: That is very helpful. It goes back to the policy decision that being an MSP is a full-time job and the public expectation is that the member has a full-time commitment to it and nothing else to detract from it. That underlies the practical decisions that are having to be taken in the SSIs.

Thank you for your patience, Graham.

Graham Simpson (Central Scotland Reform): I am delighted that we have arrived at this point and that we have the regulations in front of the committee. Dealing with the matter is long overdue. As has been said, the public do not expect people to hold dual mandates, so dealing with it is a good thing.

I have a couple of questions to follow on from what the convener asked. I just want to be clear that, in relation to the House of Lords, it will no longer be possible for somebody to take a leave of absence. We have one member of this Parliament who has done that. Is that correct?

Graeme Dey: Yes.

Ailsa McKeever: Yes, but not until the start of the next parliamentary session.

Graeme Dey: It will not impact anyone currently.

Graham Simpson: Yes. I am not going to name the member, but we know who it is. If that member was to stand next year and be returned to this Parliament, they would not be able to continue in the House of Lords. They would have a choice to make—is that correct?

Graeme Dey: Yes.

Graham Simpson: Okay. My next question is about councillors. I expect that, in the Scottish Parliament election next year, a number of people who are returned to the Parliament will be councillors. That is always the case. They will not

have to stand down as councillors for a year, let us say, until the next council elections. However, we also have a position whereby a councillor could become an MSP mid-term. That has happened before. We had an example in the previous session, when Tom Mason came in. You have chosen a period whereby somebody like Tom Mason would have to stand down as a councillor within 49 days. Why did you arrive at that period?

Ailsa McKeever: Essentially, we are trying to make sure that the rules are as simple and easy to understand as possible. The period of 49 days will apply in scenarios that do not involve local elections within the one-year cycle or the House of Lords. To keep it consistent across the board, the grace period for both MPs and councillors is 49 days to ensure that members understand what is expected of them and that there is clarity as to what they have to do by which point.

Graham Simpson: I understand the 49-day figure for MPs and MSPs. You are trying to avoid the summer period. However, if a councillor is returned and they become an MSP, that could happen at any time of the year, so the 49-day period is a bit illogical.

Ailsa McKeever: It could occur at any point in the year, but we have also thought about it in reverse, whereby a current MSP seeks to become a councillor. That is rare but not impossible. We wanted to ensure that there is consistency and that the summer by-election issues are still accounted for. The 49-day period will also ensure that that issue is avoided over the summer in the reverse scenario whereby a current MSP seeks to become a councillor in May, when the usual election would occur.

Graham Simpson: Okay.

The Convener: Before you continue, Graham, Ruth Maguire has a supplementary question on that point.

Ruth Maguire: Is it not the case that, in that scenario, it is likely to be one individual? I would imagine that that mid-term scenario would arise, if it was not due to a by-election, because someone was standing down from the list. It will take away the administrative burden of lots of by-elections after an election. Is that perhaps what that points to?

Ailsa McKeever: Yes—that is correct as well.

The Convener: Thank you, Graham?

Graham Simpson: That is entirely correct. I have no further questions.

The Convener: Excellent.

Graham Simpson: But I welcome the regulations.

10:15

The Convener: By way of clarification, the purpose of the statutory instruments is not to remove someone from being a councillor or an MP or being in the House of Lords; it would prevent an individual sitting as an MSP if those other consequences existed outside of those periods. It is not about this place ordering someone to step down as a councillor and saying, “Should you choose not to, the consequence will be that you cannot be an MSP.” Is that correct?

Ailsa McKeever: That is correct. It is focused on giving someone the time and space to make the decision to remove themselves from one of their roles before disqualification as an MSP would occur automatically.

The Convener: Excellent. Thank you.

Our next agenda items are the debates on the three pieces of subordinate legislation that are before us. The first is on motion S6M-18743.

As members will be aware, only the minister and members can speak during any debate on the motion. I invite the minister to move the motion.

Motion moved,

That the Standards, Procedures and Public Appointments Committee recommends that the Scottish Parliament (Disqualification of Members of the House of Commons) Regulations 2025 be approved.—[Graeme Dey]

Motion agreed to.

The Convener: The next item is a discussion of motion S6M-18744. I invite the minister to move the motion.

Motion moved,

That the Standards, Procedures and Public Appointments Committee recommends that the Scottish Parliament (Disqualification of Members of the House of Lords) Regulations 2025 be approved.—[Graeme Dey]

Motion agreed to.

The Convener: The next item is a debate on motion S6M-18745. I invite the minister to move the motion.

Motion moved,

That the Standards, Procedures and Public Appointments Committee recommends that the Scottish Parliament (Disqualification of Councillors) Regulations 2025 be approved.—[Graeme Dey]

Sue Webber: I will comment briefly on the back of Mr Mountain’s questions about when councillors have additional responsibilities. We should be mindful of that, because a leader’s allowance on top of a councillor’s allowance, certainly in the City of Edinburgh Council, can be a substantial remuneration. How we manage that should certainly be on our radar going forward.

Graeme Dey: You make a welcome point. It is an opportunity for the Standards, Procedures and Public Appointments Committee, or its next iteration in Parliament, to continue to monitor the effectiveness of the regulations. They may develop from that starting point as the Parliament goes forward.

Edward Mountain: Having raised that point, I think that it is important to pursue it. A bit of research that I have done suggests that sums of up to £20,000 in relation to admin appointments could be paid on top of a councillor's salary. It is difficult, because there are exceptions, and I know that the minister has alluded to that. Additional pay and grading might be disallowed in some council areas but encouraged in other areas. I encourage monitoring of that to make sure, and I ask for a clear comment that it would not be expected that people who are getting that additional money would take it on top of their salary. I would be grateful if the minister could say that that is his understanding—unless perhaps it is not.

Graeme Dey: I simply acknowledge the point that you have made, Mr Mountain. As I said a moment ago, if the committee and the Parliament see fit to pass the regulations, it will fall to the next Parliament to monitor their effectiveness.

Motion agreed to,

That the Standards, Procedures and Public Appointments Committee recommends that the Scottish Parliament (Disqualification of Councillors) Regulations 2025 be approved.

The Convener: The committee will report on the outcome of the decisions on the SSIs in due course. Are members content to delegate the authority to approve the draft report to the convener?

Members indicated agreement.

The Convener: The deadline for reporting is 27 October. As we have nothing further to do in public, I bring the public part of the meeting to an end.

10:19

Meeting continued in private until 10:34.

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