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Standards, Procedures and Public Appointments Committee

**Comataidh nan Inbhean,
Dòighean-obrach
agus Cur-an-dreuchd Poblach**

Thursday 1 October 2026

Session 7



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Thursday 1 October 2026

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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

4th Meeting 2026, Session 7

CONVENER

*Jenni Minto (Argyll and Bute) (SNP)

DEPUTY CONVENER

*Tim Eagle (Highlands and Islands) (Con)

COMMITTEE MEMBERS

*Jackie Baillie (Dumbarton) (Lab)

*Steven Bonnar (Uddingston and Bellshill) (SNP)

*Mark Simpson (North East Scotland) (Reform)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jamie Hepburn (Minister for Parliamentary Business and Veterans)

Chris Highcock (Electoral Management Board for Scotland)

Professor Toby James (University of East Anglia)

Robert Nicol (Electoral Management Board for Scotland and Scottish Assessors Association)

LOCATION

The Alexander Fleming Room (CR3)

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 1 October 2026

[The Convener opened the meeting at 09:15]

Decision on Taking Business in Private

The Convener (Jenni Minto): Good morning, and welcome to the fourth meeting of the Standards, Procedures and Public Appointments Committee in session 7. Our first agenda item is a decision on whether to take in private item 7, which is consideration of the evidence that we will hear this morning on the Scottish Local Government Elections (Candidacy Rights of Commonwealth Citizens) Bill and on the legislative consent memorandum on the Representation of the People Bill. Do we agree to take item 7 in private?

Members indicated agreement.

Subordinate Legislation

Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2026 [Draft]

Scottish Local Government Elections (Election Agents, Expenses and Publication of Information) Amendment Order 2026 [Draft]

09:15

The Convener: Item 2 is an evidence session with the Minister for Parliamentary Business and Veterans on two Scottish statutory instruments. The minister is joined by Scottish Government officials Iain Hockenhull, who is head of the elections team, and Lorraine Walkinshaw, who is a lawyer in the legal directorate. I welcome all the witnesses to the committee.

The instruments are laid under the affirmative procedure, which means that they cannot come into force unless the Parliament approves them. Following the evidence session, the committee will be invited to consider two motions to recommend that the instruments be approved. I remind everyone that the Scottish Government officials can speak under item 2, but not in the debate that follows. Under a later item, we will consider two instruments subject to the negative procedure that the Scottish Government considers part of a package with these two instruments, and which therefore might also be relevant to this evidence session.

Before any questions from us, I invite the minister to make a short opening statement.

The Minister for Parliamentary Business and Veterans (Jamie Hepburn): I will keep it very short, convener. Thank you for inviting me to speak about the instruments, which will modify election rules ahead of next May's local government elections. This is my first appearance before the committee in this parliamentary session, and I very much look forward to working with the committee in the period ahead.

Ahead of any set of elections, it is not unusual for the Scottish Government to introduce regulations of this nature to revise the law as it impacts the elections that are immediately before us. These instruments—the two affirmative and two negative instruments that are before the committee today, as the convener mentioned, and another negative instrument in due course—seek to make improvements to electoral law ahead of next May's elections. Several changes echo those that were made for Scottish Parliament elections

in secondary legislation last year, so to a degree we are trying to ensure that the changes that we make read across all our electoral law. Other changes will make technical adjustments that are designed to ensure the smooth running of the election, and others have been requested by stakeholders.

Along with Iain Hockenhull and Lorraine Walkinshaw, I look forward to discussing the instruments with the committee, and I am happy to answer any questions that the committee might have.

The Convener: Thank you.

Tim Eagle (Highlands and Islands) (Con): Good morning, minister. How are you doing? I have only one question, which is about the change from 10 pm to 5 pm in relation to spoiled or lost ballot papers. Our meeting papers just say that the change reflects the fact that few, if any, replacement ballot packs are requested between 5 pm and 10 pm. Do we have any figures on that?

Jamie Hepburn: I do not have a comprehensive set of figures for you at the moment. We have asked the Electoral Management Board for Scotland for the figures. It varies between none being requested in some local authority areas and one or two in other areas, so we are talking about a very small number. I understand that, intuitively, it might look as though we are restricting things a little, but, primarily, the reason for the change is administrative. If you run right up to 10 pm, it does not give much time for people to go through the process of preparing replacement ballot papers, which is a logistical challenge.

The other point, as I said, is to try to have consistency across all elections, so that, if a voter has gone through the process in one election, they understand that the process is the same in others. It replicates what we put in place for the Scottish Parliament election last year, and it is also the practice at United Kingdom Parliament elections.

Mark Simpson (North East Scotland) (Reform): What would happen in a situation where a voter had a problem after the 5 pm deadline? Would that mean that they were unable to vote?

Jamie Hepburn: Under the changes, I suppose that in effect that is correct. However, as I say, it is a very rare circumstance. The fundamental point is that this is about ensuring that there is good communication early on so that people understand that 5 pm is the deadline by which they should come forward to seek a replacement ballot paper. Incidentally, I am happy to write to the committee with the specific details that we have been able to gather from the Electoral Management Board and electoral registration officers. We are talking about a very limited number of people.

The Convener: As there are no further questions for the minister on the affirmative instruments, I turn to the negative instruments. As you will be aware, we will take evidence later on the Scottish Local Government Elections (Candidacy Rights of Commonwealth Citizens) Bill, and I am interested to understand whether the provisions of the negative instruments incorporate or are wide enough to accept any changes that might come if the bill is passed?

Jamie Hepburn: If I can be candid with you, the reason why we need that primary legislation is that I am not able to make the alterations through secondary legislation. The negative instruments stand alone in trying to make the requisite changes so that the law is consistent with what I think the Parliament sought to legislate for last year. However, they stand together in the sense that they are a coherent package of changes through which we seek to update and modernise electoral law.

The Convener: That is helpful. I think that the questions from committee members have covered the documentation that will be required by individuals to have an emergency proxy vote in the circumstances that are set out in the instrument. You alluded to the fact that there will be a third negative instrument. Are you satisfied that the drafting errors have all been corrected?

Jamie Hepburn: I am. I obviously regret that there was a drafting error in one of the negative instruments, but that speaks to the purpose of parliamentary scrutiny. The Delegated Powers and Law Reform Committee spotted the error, and we have adjusted it accordingly.

The Convener: Great. As there are no further questions, we move to item 3, which is consideration of motions S7M-01085 and S7M-01086. The committee will take each motion in turn, so, first, I invite the minister to speak to and move motion S7M-01085.

Jamie Hepburn: The only thing that I would like to say, convener, is that I apologise for the length of the names of the instruments.

Motion moved,

That the Standards, Procedures and Public Appointments Committee recommends that the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2026 [draft] be approved.—[*Jamie Hepburn*]

The Convener: I thank you for the apology—they are tongue twisters. As there is no indication that members wish to debate the motion, I invite the minister to sum up, if he wishes.

Jamie Hepburn: Thank you for the debate that we have had on the instrument. I have nothing to add.

Motion agreed to.

The Convener: I invite the minister to speak to and move motion S7M-01086.

Motion moved,

That the Standards, Procedures and Public Appointments Committee recommends that the Scottish Local Government Elections (Election Agents, Expenses and Publication of Information) Amendment Order 2026 [draft] be approved.—[*Jamie Hepburn*]

Motion agreed to.

The Convener: The clerks will draft a report on the committee's considerations of the two instruments. I invite the committee to delegate authority to me, as convener, to sign off the report for publication. Do members agree?

Members indicated agreement.

The Convener: I thank the minister and his officials for attending. I will briefly pause to allow you to leave the room. I note that we are still live and broadcasting.

Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2026 (SSI 2026/251)

Scottish Local Government Elections Amendment Order 2026 (SSI 2026/254)

The Convener: Item 4 is consideration of two negative instruments. No motion to annul has been laid for either instrument. As members have no comments to make on the instruments, I invite the committee to agree that it does not wish to make any recommendations in relation to the instruments.

Members indicated agreement.

The Convener: I suspend the meeting to allow for a changeover of witnesses.

09:26

Meeting suspended.

09:31

On resuming—

Scottish Local Government Elections (Candidacy Rights of Commonwealth Citizens) Bill: Stage 1

The Convener: Our fifth agenda item is our first stage 1 evidence session on the Scottish Local Government Elections (Candidacy Rights of Commonwealth Citizens) Bill. We will hear from stakeholders with an interest in the bill. I welcome Robert Nicol, president of the Scottish Assessors Association, and Chris Highcock, secretary of the Electoral Management Board for Scotland and deputy returning officer at the City of Edinburgh Council. Thank you for joining us. Do you wish to make any opening remarks?

Chris Highcock (Electoral Management Board for Scotland): I do not have anything specific to say on the bill at this point. I am happy to wait for questions or to say more about the board and our work, if that would be helpful.

Robert Nicol (Scottish Assessors Association): You introduced me as the president of the Scottish Assessors Association, and you might wonder what that has to do with elections. I am also the electoral returning officer for Renfrewshire, East Renfrewshire and Inverclyde, and most assessors in Scotland are also EROs, so I am representing them.

The Convener: Thank you for the clarification.

What are your views on the effect of maintaining the current legal position? Is that sustainable, and, if not, is the change proposed in the bill the best way to resolve that?

Chris Highcock: In effect, the bill brings the approach to the Scottish local government elections in line with the approach that has been applied to the Scottish Parliament elections, and it is about the candidacy rights of a certain set of individuals. It will not particularly make a difference to how returning officers deal with candidates. It is the responsibility of returning officers to accept a nomination paper at face value. We do not have powers to undertake any investigation into or research on the qualification of candidates. It is clear, in law and precedent, that the returning officer takes the nomination papers at face value. If the papers have been properly filled in, they are accepted, and it is for the candidates to determine whether they are qualified to stand. The bill will change the qualification requirements for local government elections, bringing them into line with the approach that applied to the Scottish Parliament elections that we had in May.

The approach could stay as it is, but that just means that a different set of people are qualified to stand. As I said, it will not alter what we do; it will just allow a different set of people to put themselves forward and be content that they are qualified.

Robert Nicol: This group of people are already entitled to be registered, so there is no change in that regard.

Jackie Baillie (Dumbarton) (Lab): I am slightly bemused, but perhaps I did not understand you correctly. Are you saying that no checks at all are applied and that it is up to the individual to make sure that they are eligible?

Chris Highcock: Yes.

Jackie Baillie: Wow.

Chris Highcock: When returning officers receive nomination papers for candidates for any election, those are accepted at face value. It is for the candidates, taking legal advice if necessary, to determine and satisfy themselves that they are qualified to stand and not disqualified.

Jackie Baillie: Has anybody ever complained about somebody's qualification to stand, and are you the arbiter of that?

Chris Highcock: The arbiter would be the courts. As long as the nomination papers are appropriately filled in, the returning officers take it to be a valid nomination.

Jackie Baillie: From what you are saying, absolutely anybody could put their name forward and, although they might not be eligible, because no check is made, they could be elected. Thereafter, their election could be challenged only in the courts.

Chris Highcock: They would be guilty of an offence if they put false information on nomination papers.

Jackie Baillie: I confess to being surprised, convener.

The Convener: I do not think that you are alone in that. It is helpful to have the situation outlined.

Jackie Baillie: In 2021, there were an estimated 397,000 non-British nationals in Scotland, 165,000 of whom were non-European Union citizens. Do you have any idea what the current figures are?

Chris Highcock: I do not.

Jackie Baillie: I am keen to look at the impact of the change. Do you know how many of those people might have limited leave to remain in the UK?

Chris Highcock: I do not but, as I said, for the purposes of the bill, that would not affect the work of returning officers.

Jackie Baillie: Therefore, whatever we decide, it does not matter, because you are not checking.

Chris Highcock: We take the nomination papers at face value.

Jackie Baillie: I understand that now, and that is helpful, because I had thought that you checked nomination papers when we submitted them.

Given that the proposed rule applied in the recent Scottish Parliament elections, what insights can you give us about the impact of allowing those with limited leave to remain to stand? None, I assume, because you did not check—you did not know who they were.

Chris Highcock: We rely on the candidates to make sure that they are satisfied that they are qualified to stand and not disqualified.

Jackie Baillie: As a candidate, let me say candidly that I would take greater comfort from your checking all candidates, but that is a personal view.

Chris Highcock: Returning officers would need powers to carry out investigations to confirm addresses, citizenship, names and other personal details. We do not have the powers to do that.

Jackie Baillie: Let me muse for a minute. If somebody had limited leave to remain, and, for whatever reason, that was not extended and they needed to leave the country, but they were elected to office, what would that mean in practical terms? Would there be a by-election, or would they be able to remain in post but not attend any meeting of the council or the Parliament, because they would be out of the country?

Chris Highcock: If they became disqualified, there would be a by-election, because the seat would be vacant.

Jackie Baillie: Would that apply to the Parliament as well as councils?

Chris Highcock: If they were disqualified, there would be a vacancy, so there would be a by-election.

Jackie Baillie: That is helpful.

Mark Simpson: Under what circumstances could someone become disqualified?

Chris Highcock: Who are you referring to?

Mark Simpson: Councillors who have been elected but whose leave to remain has expired. Would they become disqualified when their leave to remain lapsed?

Chris Highcock: Yes. If their qualification was no longer applicable, they would be disqualified.

Mark Simpson: Are there any mitigations to prevent hostile foreign actors from standing for election? I presume not, given that no checks are done on the paperwork.

Chris Highcock: We check that the paperwork is accurate and complete, but we do not check the identity, address or qualifications of a candidate.

Mark Simpson: So the potential is there for someone with hostile intentions to put themselves forward for elected office.

Chris Highcock: The potential is there for anyone who satisfies themselves that they are qualified to put themselves forward and stand for election.

Mark Simpson: Okay. That seems troublesome.

The Convener: Mr Simpson, we are taking evidence on quite a narrow bill to change the law specifically to ensure that Commonwealth citizens with a limited right to remain can stand in local government elections, as they currently can in Scottish Parliament elections.

Mark Simpson: Yes, and I group potentially hostile Commonwealth citizens within that. Hence my question.

The Convener: Okay, that is fine. Thank you.

Steven Bonnar, do you have any questions?

Steven Bonnar (Uddingston and Bellshill) (SNP): Not on that topic in particular. However, I am thinking about whether, under the introduction of voter identification, it would be an option to check the ID at that stage and make sure that someone is eligible to stand. Alternatively, should the onus be on the political parties to conduct checks before someone is put forward for election?

Chris Highcock: That is a policy issue for Government to determine. We will apply the rules as they are written in the legislation. That issue has certainly been debated broadly across the UK, and the UK Government is considering whether there is a need to verify the identity of people who stand in UK elections.

If that was to be the case, it would potentially introduce significant additional work to the nomination process, which is already quite onerous and time consuming. In Scotland, there are 1,227 councillors, and thousands of nominations are to be taken ahead of 6 May next year. If we were to check the qualifications to stand of all of those, that would add a significant additional burden of administration and cost to the work of delivering the elections. At the moment,

that is transferred to the individuals, who commit an offence if they give false information, which would be dealt with by the courts.

Steven Bonnar: Does it surprise you that the politicians round the table are surprised that those checks are not already in place? We take great care in filling out the nomination papers and making sure that all the addresses and other required items of information are accurate, because we understand the importance of that. Does it surprise you that we are surprised that no checks and balances take place?

Chris Highcock: The nomination papers include an extract of the law. When people sign those nomination papers, they are giving their consent that they are qualified, making a solemn statement that they are not disqualified and accepting that they will be committing an offence if they have given false information on those papers. It is for the people signing the papers to read them and make sure that they understand what they are signing.

Tim Eagle: I have a few quick questions. It is always important to understand why we are here. My understanding is that the Scottish Elections (Representation and Reform) Act 2025, in which I was not involved, changed the law in two ways. First, Scottish Parliament elections under the Scotland Act 1998 were changed to allow those with limited leave to remain to stand. However, the Local Government (Scotland) Act 1973 was not changed, which is why the bill is in front of us. Is that correct?

Chris Highcock: Yes. It closes a gap that was created at that point.

Tim Eagle: Quite a lot of work goes into bringing bills through the Parliament. Why was that issue not picked up initially? Were you involved in the 2025 act?

Chris Highcock: I was not involved in the creation of that act. The Scottish Government introduced it, as is explained in the explanatory notes, I think.

Tim Eagle: So why do you think that that was not picked up—or can you not say?

Chris Highcock: I cannot say. That is an issue for those who drafted it.

Tim Eagle: Okay. We can come on to that in future.

Did we learn anything from the recent Scottish Parliament election about how many people with limited leave to remain chose to stand?

Chris Highcock: We do not know. People do not list their immigration status on nomination papers, so we cannot analyse that.

Tim Eagle: So there is nothing. Because you are not doing the research, we do not have any of that data.

Chris Highcock: That detail is not provided anywhere, so there is nothing to research.

Tim Eagle: Fine. Thank you.

09:45

The Convener: I will finish with a question about uncertainty for voters if representatives cannot finish their term of office due to their status, and the impact that that might have on public confidence in the voting system. I ask that of Robert Nicol—and, Robert, if you would like to add anything on previous questions from colleagues, please do so.

Robert Nicol: We are all keen, I think, to ensure that all voters have confidence in the whole electoral process, at every level of democracy, from parish councils to the UK Parliament. Anything that dents that dents it at all levels. That is worth bearing in mind.

An elected member at any level can become disqualified for a number of reasons and not just through their immigration status. That might have been more prominent recently, but a variety of things could happen that mean that someone is no longer eligible to carry on in elected office. Focusing on one possible aspect is not necessarily productive. We are looking at maintaining the integrity of and confidence in the system as a whole, at all levels.

Chris Highcock: I agree. There are lots of reasons why someone might be disqualified and, when someone is elected, there is always a degree of uncertainty as to whether they will see out their term.

The Convener: I revert to my first question, which was about consistency across elections. Will you sum up on that as well?

Chris Highcock: It is very important that there is consistency across all elections in the rules that apply. That assists the candidates as well as those of us who are administering the elections, but it also assists the voter if there is an understanding that the rules are consistent across all electoral events that are being administered.

What those rules are is for Parliament to determine. It is our job to apply them as they stand.

The Convener: That is helpful.

Since there are no further questions from the committee, I thank you both for joining us. Your comments will help the committee in preparing a report to the Parliament in a few weeks on whether to approve the general principles of the bill. If we

have any further questions, we may follow up in writing, if that is okay.

I briefly suspend the meeting to allow for a changeover of witnesses.

09:48

Meeting suspended.

09:58

On resuming—

Representation of the People Bill

The Convener: Our next item is our first evidence session on the Scottish Government's legislative consent memorandum on the United Kingdom Representation of the People Bill. For this item, I welcome back Chris Highcock, from the Electoral Management Board for Scotland, and Robert Nicol, who will be giving evidence in a different capacity to the previous evidence session, as electoral registration officer representative on the Electoral Management Board for Scotland. Also joining us remotely is Professor Toby James, professor of politics and public policy at the University of East Anglia.

Thank you for joining us. To begin, I would like to give you all the opportunity to make brief opening remarks. Professor James, I come to you first.

Professor Toby James (University of East Anglia): Thank you for the invitation to join the session and to be part of the discussion, which I really appreciate.

I will start with three broad points. First, I broadly agree with the memorandum that consent is required from the Scottish Parliament, and I think that it should be granted in the areas where it is requested. The bill stands to address many serious problems in elections across the UK, including Scotland, in areas such as voter registration accuracy and completeness and the role of money in elections. I think that the Scottish Parliament and the Scottish people stand to benefit from the changes that are proposed.

10:00

Secondly, I suggest that there are some small areas for improvement, which might come through in the discussion. One relates to clause 33 bringing about an essential registration deadline. I am concerned that 5 pm might catch some people off guard; a later deadline of something like 11 pm, or 10 pm as it is for polling, might be more appropriate.

On clause 37, I have concerns about the open, or edited, register. I think that it should be abolished, taking the Welsh route; in my view, Scottish parliamentarians might want to think about that one. On automatic voter registration, given that the Scottish Parliament has already expressed support for that and plans are under way to pilot it in Scotland, the Scottish Parliament might want to push the UK Government to have more of a firm deadline for when it will actually be

introduced, because a UK-wide scheme would empower Scottish administrators greatly.

Thirdly, the memorandum is difficult and complex, and electoral law is getting increasingly difficult and complex. There have been various initiatives over the past few years to try to consolidate electoral law and to make it easier for lawyers, administrators, other parties and the public to understand. There is a danger that something might get dropped or missed because of all the complexity. The Scottish Parliament could encourage the UK Government to continue the earlier work to consolidate electoral law.

The Convener: Thank you very much, Professor James, for your introduction. Chris Highcock, can I come to you for an introduction?

Chris Highcock: Thank you. I appreciate this opportunity to speak to the committee and to offer any information that we are able to give.

Professor James has noted two elements that I would like to pick up on. One is consistency in the delivery of elections. It is always helpful when there is a consistency of rules and when everyone knows the rules to which they are working and the rules under which people are being elected. That applies to those who are administering elections, to those who are standing in and campaigning in elections, and to the voters. Each voter needs to understand what the rules are for a particular contest.

The second issue in what Professor James said is the consolidation of electoral law. It has been noted over many years that electoral law is becoming increasingly complex, fractured and difficult to understand. There is definitely an appetite for consolidation of legislation.

We need to accept devolution and the importance of the need for the rules for Scottish elections to be made in Scotland, be appropriate to Scotland and apply to Scotland. However, there remains an opportunity, even within the Scottish rules, to consolidate things where we can.

The Convener: That is very helpful.

Robert Nicol (Electoral Management Board for Scotland): I agree very much with what my colleagues have said. As I alluded to during the earlier evidence session, we have a responsibility to make sure that democracy works at all levels, and consistency helps that to happen. Administrators do wonderful, complex things behind the scenes to make things work. It is difficult when the elector is asked to do something different to carry out what they perceive to be the same action—whether that is registering to vote, when they do not see that there are separate registers, or applying for an absentee vote or suchlike—because they often do not view those

things as being separate. The consistency of messaging puts the elector at the heart of the process. Administrators can do, and do, wonderful things in the background—although that is not where you really want to be if you can help it. When something is elector facing, that is when you get real complications.

Without wanting to change too much of the consensus, I think that Professor James and I might have some slightly different views on the 5 pm deadline, which comes under clause 33.

The Convener: Thank you very much. I am sure that we will go into more detail on the differences in opinion on this matter.

I will start the questioning. All of you have alluded to the complexity of electoral law and the importance of consistency. Can you quickly, and succinctly, say whether you believe that the bill responds to the need to modernise electoral law and any challenges that might emerge?

I am also interested in delving into the issue of consolidating electoral law, bearing in mind the differences that all of you have noted between the devolved nations of the United Kingdom, as well as with regard to the Westminster elections. Also, does the bill strike the right note of consistency with regard to devolved competences?

Professor James, I will come to you first.

Professor James: I echo colleagues' comments about the importance of consistency. Complexity is a very serious problem. I have undertaken various projects over the years and have interviewed electoral administrators around the UK, and I have heard that conflicting deadlines can give rise to a risk of administrative error. Errors are very rare, but having to think about all the different moving deadlines increases the opportunity for making them, and it diminishes capacity, too. Voters find it difficult to navigate such situations as well.

The bill gives consistency in respect of certain important technical details such as anonymous registration; a common deadline for registration; and the period of extension for postal votes. Partly because the legislation has been moving at different speeds and in different ways over the past five to 10 years, there is going to have to be some navigating and sidestepping to get things into line, but generally speaking, I think that the bill does move in the direction of bringing some consistency to things.

Of course, what the bill does not do is consolidate electoral law as a whole. Perhaps I can bring that to the fore by pointing out that, around 10 years ago, the Law Commission undertook a piece of work that set out a template of what that could look like. However, the UK

Government at that time dropped it, I think, because of the legislative burden—it could not find the time to fit it in. I do appreciate that electoral law is not necessarily top of the agenda for every Government, given that there are other very pressing issues to deal with, but there must be a time when electoral law is modernised. We need to look at it in the round and take a step further in that direction.

The Convener: I suppose that even work that was done 10 years ago will have some relevance to the situation now, but things have moved and changed so quickly, and the current climate is such, that there might be more need for a review.

Chris Highcock: Picking up on what Professor James has said about the Law Commission's work, I thought that it was very helpful. It took a huge amount of effort right across the UK, with involvement from Scottish Law Commission, too, and it looked very much at formulating an overarching set of rules that could apply across the UK to different elections. That work is still sitting there; some elements, such as updating the rules on electoral offences, have been taken forward in other bits of legislation, but there is still a huge amount of work to do on consolidation.

As for consistency, I would just reiterate that it is of great value. Since its creation in 2011, the Electoral Management Board has tried to promote consistency wherever possible in the voter-facing elements of elections. The convener of the EMB has the power to give directions to returning officers and electoral registration officers in Scotland. Since 2011, that power has been exercised in electoral events, and consistency has been achieved in such things as the date of dispatch of poll cards and, indeed, postal votes, with postal votes going out right across Scotland on a particular day. As a result, we have been able to have information campaigns so that people are ready to receive their postal vote and parties and campaigners understand when those votes will hit the doorsteps.

There are other elements of consistency that we try to achieve, but we do try to ensure consistency in all the voter-facing elements of the election. For the Scottish Parliament elections, for example, we also give directions on the colour of ballot papers, so that people are not tempted to go off and be creative. All the voter-facing elements are consistent across Scotland, which is really important.

With regard to consistency in the registration elements, much of that is dealt with in the bill, and my colleague Robert Nicol is better able to discuss that issue.

The Convener: The ballot papers are, thankfully, a very non-party-political peach and lilac.

Robert Nicol: The bill provides a tremendous opportunity for us to ensure consistency, but if we get it wrong, it will go badly wrong. If automatic, direct or automated voter registration happens for the register for one franchise, but not for another, it could have a catastrophic effect on public confidence. However, if we get it right, it will be a massive bonus and there will be a massive gain to be had. Indeed, the Electoral Commission touched on the issue in its report on the most recent Scottish Parliament election, making it clear that, if the two Governments were able to work together on it, there would be massive opportunities to maximise its potential. I am excited by that, but I am fearful of it, too, if it does not happen properly. The provisions in the bill hang in the balance on the registration side of things.

There are other areas that Professor James touched on where we are looking to keep the electorate at the heart of things. I am thinking of anonymous registration, and the people in question not having to register anonymously every year, as well as a couple of other areas.

I view the bill very much as a positive opportunity, but it will not deliver itself, if you know what I mean. It will take energy, good will and a single mindset to deliver on its potential.

The Convener: Thank you all very much. I am going to suspend the meeting briefly so that we can close a window. It is getting a wee bit draughty in here.

10:13

Meeting suspended.

10:13

On resuming—

The Convener: I call Tim Eagle, who has some questions on young voters.

Tim Eagle: I thank the witnesses for their answers.

I want to look specifically at young people. It has been 10 or 11 years since Scotland introduced the right to vote for 16 and 17-year-olds, and the UK bill seeks to introduce the same thing for UK elections. What have been the benefits or drawbacks of its introduction in Scotland?

The Convener: Chris, do you want to come in on that?

Chris Highcock: Again, any benefits or drawbacks are policy issues, but we can talk about how the measure has been applied. It came in for

the independence referendum in 2014, and since then, a great effort has been made to increase public awareness among young people and engage them in the democratic process.

Whatever the age of franchise, the work that has been done to explain the importance of voting, the role of elected members and how elections work is of great benefit, broadly across society. How that has been applied and what it has meant for elections are separate issues, but promoting awareness of civic responsibility and of how our society works democratically has been of great benefit.

10:15

Robert Nicol: The percentage registered among young people is not as high as the percentage among older people. The numbers of young people or attainers on the register in England and Wales took a massive hit when canvass reform was introduced in the past two or three years, but we have not seen that happen to the same extent in Scotland. The fact that people can register from the age of 14 has insulated us from that to some extent.

I view votes at 16 for the UK Parliament as an opportunity to further embed that approach in Scotland. It cannot be seen as just business as usual. We should not think that the door is shut and that we can simply move on; that is not my attitude, nor is it the attitude of EROs. We are looking to piggyback on what we hope will be a well-publicised change that can further drive up registration levels in Scotland.

Tim Eagle: Professor James, do you have anything to add on that? It is always helpful to learn whether something has worked well and whether we could do more. On the practical side, are there any administrative inconsistencies between what we do in Scotland and what would apply to UK parliamentary elections if voting at 16 for the UK Parliament were introduced?

Professor James: The most immediate advantage of having the vote at 16 is that it has allowed 16 and 17-year-olds to have a voice in Scotland. Their participation rates have been lower than those of other age groups, but, at the same time, they have been listened to and have been able to express an interest and have their voices heard in politics, which could not have happened otherwise. Some research shows that being able to vote at 16 can have long-term positive effects in that people engage early in their life journey and go on to vote often and regularly. That will only benefit Scottish democracy in the long term.

At the moment, the challenge is voter registration rates, which are low among young

people across the UK, especially 16 and 17-year-olds. The bill provides an opportunity for the UK, but also for Scotland, to find ways to increase voter registration among young people. Automatic or assisted voter registration is key to that. Some of the methods that we have suggested over time include direct enrolment, such as registering people when they enrol each year at school, sixth-form college or university. That can be very effective.

Because it is a UK bill, it stands to benefit not only Scottish young people but administrators. For example, Glasgow City Council has proposed to run a pilot for automatic voter registration, but, as it stands, in Scotland and Wales, there is access only to local data sources—data from council, educational and a few other sources. However, a UK bill will allow administrators to use UK data sources for voter registration. Therefore, the bill presents a great opportunity and helps to allow automatic voter registration to take place. The only “but” is that, at the moment, there is no detailed schedule of how that will work, when it will take place and what the pilot processes will be. There is an opportunity for the Scottish Parliament to push the UK Government on that.

The Convener: I was very pleased to welcome Dunoon grammar school to the Parliament earlier this week. Getting young people to understand more about what goes on here is a really important part of democracy.

Mark Simpson has questions on voter registration.

Mark Simpson: One of the things that we have to keep at the forefront of our minds is maintaining the trust and confidence of the electorate. We have touched on that—I think that it was said that, if it goes wrong, it could go catastrophically wrong. How can we ensure the accuracy of the process, and how can we communicate to the public that the system will be 100 per cent accurate and done properly?

Robert Nicol: Are you referring to automatic voter registration?

Mark Simpson: Yes.

Robert Nicol: There is no single definition of automatic voter registration. For a number of years, the Electoral Commission has written reports on what it calls the “missing millions”, but there is no pot of missing people sitting somewhere that we can tip up and pour over the electoral registers so that they suddenly become complete. I think that the electoral register’s percentage completeness and accuracy is in the mid-80s, and I am not aware of any other Government database that has been independently audited that achieves that level of

completeness and accuracy. Currency is also a difficulty.

As Professor James said, the bill presents an opportunity, because an individual does not particularly care which part of the state has their data. It does not matter whether it is their local council, the UK Government or wherever—they have given it to the state or the Government. The opportunity that automated or automatic registration presents is to look at the various data sets and get certainty that, rather than just taking a single source and saying that it is definitive—there is no definitive data set—we can combine data sets to reach the required level of confidence that a person resides at that address.

The Welsh pilots were really useful, but they did not take us too much further forward because they used local data, and EROs have been using local data to identify people who are not on the register for a number of years. We know that data well. We know where it is strong, where it is weak, when it is good and when it is bad, in terms of time periods and currency. We have never been able to get our hands on the UK Government data, so we have not been able to analyse it or combine it with other data, which is why the pilots will be really important.

We will learn an awful lot from the pilots about the strengths and weaknesses of the various bits of data and can look to plug the gaps, so that, when it is rolled out properly, we can have confidence and be able to say, “I am certain that that person is resident in that house at this time and that they are eligible to be on the register.”

Nationality data will clearly play into the UK Parliament register, and ensuring that we have the right nationality data will be one of the difficulties. It is a massive opportunity, but everybody will have to pull in the same direction for it to work.

Mark Simpson: It would be helpful to know what the impact of the Welsh pilots was on voter turnout, versus the expected impact.

Robert Nicol: I cannot comment on turnout as such, but I gave evidence at the UK Parliament two or three weeks ago with one of my colleagues from Powys, which is one of the pilot authorities. I think that it added about 5,000 people to its local government register—I might be wrong about the number, so please do not take it as gospel. However, only around a third of those people then went on to register for the UK Parliament register, which concerns us. That is where the issue of mismatch and disconnect comes in, and we want to ensure that people do not think, “I’ve already been registered” and then find that, when they go to vote in one of the elections, they are not registered on that particular register. The driving

force between the two registers and the two Governments will be important in that regard.

Mark Simpson: Yes, that could cause confusion. That is helpful. Thank you.

The Convener: I bring in Professor James, who would like to respond to Mark Simpson's questions as well.

Professor James: An Electoral Commission study estimated that the accuracy of the electoral register in Scotland is 88 per cent and its completeness is 81 per cent. Therefore, up to a million people in Scotland are either not registered or incorrectly registered. That is a major gap.

Our research has shown that, around the world, some countries have automated systems and some do not, but countries with automated systems tend to have more accurate and complete registers. It is not a trade-off; it is a win-win for voters and administrators.

On what can be done to reassure people and ensure trust, the bill is quite strong: it enables the electoral registration office to write to people when they are added to the electoral register and undertake any necessary corrections. One of the key tasks is identifying the most accurate sources of data. The pilot schemes will play a role in that, and the sooner that they can be undertaken, the better Scottish democracy will be.

The Convener: Chris Highcock, do you have anything to add?

Chris Highcock: I have nothing in addition to what my colleagues have said.

The Convener: Since members do not have any further questions on the registration of voters, we will move on to the topic of the conduct of elections.

Steven Bonnar: I would like to explore one of the most important changes that the bill would introduce, which is in relation to absent voters at elections in Scotland. How could the changes impact on electors and election officials?

Chris Highcock: That element falls predominantly to electoral registration colleagues, so I will hand over the question to Mr Nicol.

Robert Nicol: In relation to absent voting, we are in a diverged world, with divergence between the UK Parliament and local government elections. Come the beginning of November, there will be convergence. Currently, an elector who wishes to cast an absent vote for a Scottish election must use a paper form to do so. In November, they will be able to apply to do it online; that facility will be a massive benefit to the elector.

The Elections Act 2022 made changes to absent voting arrangements: previously, they would

remain valid for five years; after that act, the limits for absent voting arrangements for UK Parliament elections were in effect brought down to two years plus. Consequently, we were writing to electors to tell them that they had to reapply every couple of years. That was a massive task, which we undertook last year for the vast majority of UK Parliament electors.

The bill will move us on from that. I believe that the committee's meeting papers refer to a limit of three years, but there has been a further amendment that would extend—and return—the maximum period to five years. That would be in electors' interests, because they would not have to reapply continually. The election cycles in Scotland have elections at fixed intervals, and that maximum period would fit in reasonably well with them.

There are some provisions in the bill about replacement postal packs. I am not sure whether that was the area that you were thinking of, which might fall within Chris Highcock's remit.

Chris Highcock: There is provision in the bill for a change to the time of the replacement of postal packs. I would have to find the clause that that is referring to. I will try to find it—I think that the provision would take the deadline to 5 pm.

If a postal pack is spoiled or lost, the voter is able to have the returning officer replace their postal vote. The provisions in the bill would fix a time by which that would have to happen. The consistency and clear communication of that time are always important.

10:30

Steven Bonnar: If the bill passes, will any differentials remain, and could those be problematic?

Robert Nicol: Sorry, just to come back to the previous question, there is one part of the bill that I should have picked up on as being really helpful. If an elector has recently registered and also applies for a postal vote, rather than having to wait for the registration determination period before issuing the postal vote, the legislation allows us to issue the postal pack earlier. In practice, most electoral registration officers have taken a pragmatic approach in the elector's interest, particularly when a deadline is close—for example, at day minus 12—to allow the returning officer to send out a postal pack. That clarification of the law is welcome. Administrators have tried to make the system work, and the law has caught up with us, if you like. That is helpful.

Steven Bonnar: There is a discrepancy just now when it comes to voter ID. It is not required in Scotland but is required in the UK, and bank cards

have been introduced as appropriate forms of ID. Do you have any views on that?

Chris Highcock: Voter ID was required for the first time in Scotland at the UK parliamentary general election in 2024. Administrators in Scotland had been prepared for that. We visited local elections in England in 2023 to watch how it was applied and how it worked. We were therefore ready for its introduction in Scotland.

In practice, it was not seen as a major barrier to voting. People who turned up were generally able to vote. Not many were turned away because they failed to produce the required ID. We do not know how many people may have been discouraged from voting because they were required to show ID but, certainly, for those who did turn up, voter ID was not an issue.

There has been discussion at UK level of broadening the list of IDs that would be acceptable. I think that there have been questions about the nature of a bank card. A number of people are not satisfied that that would necessarily identify an individual. There is no photograph on a bank card to identify them by. It is a piece of evidence that the person is who they say they are, but there is no photographic confirmation.

When it comes to communicating with those who deliver elections across the country, there are many hundreds of polling places that are isolated from a head office, and people there are deputised to confirm a voter's identity. They need to understand what documentation is acceptable. If a bank card is brought within that remit, then, as long as we know that we are being asked to accept it, it will be accepted.

Steven Bonnar: Should any pilots that are run in relation to that, even if it is not applicable to Scotland, also run in tandem here, just to make sure that the information is uniform?

The same could be asked about young voters, at 16. If pilots are run for that in the rest of the United Kingdom, even though it has been implemented here, should we still run the pilot at the same time, so that we capture everybody who is eligible to vote?

Chris Highcock: At the moment, the UK is learning from Scotland on how young voters can be put on the register, communicated with and encouraged to vote. However, we would certainly be keen to run pilots on all elements of change in elections, where possible.

Voter ID would be restricted to UK parliamentary elections, which, thankfully, do not come around too often.

Professor James: Some studies have shown that voter identification can, and does, make voting

more difficult for many people, and affects the population unevenly. There is often quite a heated debate when voter ID laws are introduced but, over time, interest lessens. However, they can have persistent effects. It is sometimes not a case of people going to the polling station and being turned away; it might be that they do not even consider voting because they do not have the ID available to them. These laws are being introduced at UK level, where there has been very little evidence of personation at polling stations.

As it stands, when the bill becomes law, there will still be an inconsistency between UK and Scottish practices. There is a question whether that is a technical matter because we have inconsistency in the law, or whether it is a matter of principle, with, for example, the Scottish Parliament allowing residence-based voting, having made that decision out of principle. This is still an open debate. The bill has not provided closure on the issue, and it is something to keep in mind in the years to come.

The Convener: That is helpful. In my constituency, some people have to travel quite a distance to their polling station so, if they arrive without the appropriate ID, why would they then go home to pick it up? They would have to travel twice the distance.

I bring in Jackie Baillie on campaigns and political expenditure.

Jackie Baillie: I will direct my question to Professor James first. Recent experience in the news shows that at least one political party has received rather large crypto donations and large donations from overseas voters. Are the measures in the bill to curb that proportionate, and will they stop concerns about foreign interference in our elections?

Professor James: That is a very serious issue. It is a serious issue in the UK, for Scottish elections and around the world. I run something called the Electoral Integrity Project; we evaluate elections across all jurisdictions around the world, and the role of money in elections is the biggest problem, with many countries experiencing it. Debates and discussions about cryptocurrency and crypto donations are global, because money is being moved around the world to try to influence elections.

That is an important part of the bill, and it is right that the issue is addressed in the bill. The measures stand to strengthen Scottish democracy by being applied to Scottish elections as well. Will that solve the foreign interference problem entirely? A range of measures probably need to be considered to do that. Those include thinking about who can donate to political parties more broadly and whether we should allow overseas

residents to contribute even if they have their name on the electoral register—that question remains. There are other measures to consider about how foreign interference in elections can be reduced, which might include informational campaigns and thinking about how we manage social media and the types of disinformation that are spread at election times. However, the measures in the bill are important and welcome steps towards tackling the problem.

Jackie Baillie: Do you agree with the proposal to apply the rules on a retrospective basis?

Professor James: That is a difficult one. I can see both sides of that. On the one hand, applying retrospective rules for elections is difficult, because people are asked to comply with the rules and laws as they stand. On the other hand, if the rules are going to affect an election that is still forthcoming—a contest that has not yet been undertaken—and there is a known problem, there might be reasonable grounds to make redress ahead of an electoral event. It is a complex question, and there is a case for both sides.

Jackie Baillie: What do you think about a cap on donations from UK-based donors?

Professor James: There is a very strong case for a cap on donations from UK donors as well. There is a serious risk, given the amount of contributions that are being made to all parties, whether in the UK, Scotland or elsewhere. Money can have a very strong influence. A colleague, Sam Power at the University of Bristol, has suggested a simple cap of £1 million. That would still allow large donations to political parties and would not solve the problem entirely, but there is something serious about so-called mega-donors contributing money to parties. That one individual or organisation can have such a serious influence in an election does not quite fit with our vision of democracy, in which everyone is equal and everyone has one vote.

Jackie Baillie: There is a suggestion that the Electoral Commission, rather than the courts, should be able to allow agents to pay late campaign invoices. That seems pragmatic to me. Do you have a view on that?

Professor James: I do not have a strong view on that. It seems pragmatic, and it makes sense in the context of the bill. Internationally, there are different experiences and different ways of doing that. It is about being transparent and consistent and making timely decisions, and I think that the proposals will enable that.

Jackie Baillie: Thank you. I turn to Mr Nicol and Mr Highcock with some questions on other practical issues. The Scottish Parliament potentially has a role in implementation of the

know your donor checks for parties, candidates and campaigners. Is it appropriate that we should exercise that role here rather than it being done at the UK national level?

Robert Nicol: I am sorry, but that is not an area that I have any expertise on, so I would not feel comfortable commenting on it, unfortunately.

Chris Highcock: Campaign finance is not something that we get involved in. We deliver elections rather than monitoring campaigns.

Jackie Baillie: Okay. I have a question about something else that seems pragmatic and is not to do with finance. There is a suggestion that imprints be required of third-party campaigners. Should we have a UK-wide approach to that for consistency, or should we make provision on it for Scottish elections?

Chris Highcock: Consistency on that element would assist campaigners. We do not advise candidates or agents on campaign material. They engage with the Electoral Commission, which regulates campaigns. However, the more that the rules differ between elections, the more scope there is for confusion for candidates and ultimately for voters.

Jackie Baillie: Thank you.

The Convener: Jackie, do you want to continue with questions on enforcement and the Electoral Commission?

Jackie Baillie: Yes. I suspect that all these questions are for Professor James. There are not many, though, so he should not worry.

In relation to enforcement powers, it is proposed to extend the Electoral Commission's civil sanctions to cover a much wider range of electoral offences, including things such as financial offences by candidates and third-party campaigners. What are the benefits and risks of that?

Professor James: The principles that are important for elections include speediness of action. It is common in many countries for a central organisation that specialises in elections to have oversight of that, as opposed to things being deferred to the police. The police have a relevant role where the law has been broken, but a specialist agency is able to act swiftly with a high degree of expertise. The advantage would be that the Electoral Commission's capacity to act would be strengthened.

Jackie Baillie: What is your view about UK ministers making changes to the Electoral Commission's civil sanctions in relation to devolved elections? There seems to be a suggestion from Scottish ministers that they are not entirely happy about that, but that they would

accept an amendment to ensure that the Scottish Parliament and ministers in Scotland are consulted. Would such an amendment be useful?

10:45

Professor James: I can see good sense in that. There are important principles of devolution, which should be respected. A second consideration is the fact that there are other, different electoral rules in Scotland, the most important example being a different electoral system, where different rules are applied, so it makes sense that Scottish expertise is drawn on and Scottish voice is included.

The other principle to consider is timeliness. If you want sanctions to be applied, depending on the point in the electoral cycle—such as how close it is to or after an election—it is important that decisions are taken with proper scrutiny and consideration, but every day can count politically when it comes to whether there is any ambiguity about an electoral result or the permissibility of a donation. Certainty is really important for trust in elections. The changes are not necessarily incompatible with those principles, but that is another consideration.

Jackie Baillie: I have one final question. There is a suggestion that the UK Government's ability to set a strategy and policy statement for the Electoral Commission should be abolished. Is that a good idea?

Professor James: Yes, absolutely, it should be abolished, and it should not have been introduced in the first instance. Again, a broad international principle is that we have electoral authorities that are independent of the Government of the day, independent of political parties, and able to work with the sole priority of improving elections and acting in the interests of the voter. It is not appropriate for the Government of the day to set a policy statement of that type for the Electoral Commission, so it is very important to remove that ability.

Jackie Baillie: Thank you.

The Convener: Chris Highcock and Robert Nicol, do you wish to add any comments in response to Ms Baillie's questions?

Chris Highcock: No.

Robert Nicol: No.

The Convener: Okay.

The final question is on hostility towards candidates. Part 6 of the bill would extend existing provisions dealing with offences relating to intimidatory behaviour that is aimed at candidates and campaigners. To date, how effective have

disqualification orders and Scottish disqualification orders proven to be as a deterrent or sanction for relevant offences? Professor James, I will come to you first.

Professor James: Unfortunately, I do not have any data or experience to draw from in relation to their effectiveness to date. The main point that I would make with respect to this area is that, unfortunately, there is a growing problem internationally with hostility towards not just parties and campaigners but electoral administrators. Strong sanctions are important, and it is important for them to be applied.

The Convener: Thank you. Chris Highcock, is there anything that you would like to comment on?

Chris Highcock: I reiterate the point that Professor James made, which is that the atmosphere of intimidation and harassment that is growing in all countries applies not just to candidates in elections. Returning officers, presiding officers and polling clerks have also been subject to unpleasant behaviour in recent years, and that needs to be recognised with efforts to control and criminalise it wherever possible.

We are aware that harassment and intimidation are becoming increasingly common at all elections. In recent by-elections, even in Scotland, A-boards outside polling places have been vandalised, stolen or damaged. In the preparation for the Scottish Parliament election this year, we worked closely with Police Scotland, which had a very developed command structure, monitoring process and operational structure in place to ensure that the elections were delivered safely for all those involved. Thankfully, there were very few incidents or any problems of a serious nature in Scotland.

We need to be realistic. The issue has not been a huge problem in Scotland so far, but we are aware of issues across the UK, and the legislation needs to be prepared to address such situations and ensure that they do not extend into Scotland.

Robert Nicol: I echo the comments that have been made. It is sad that we need to consider this issue but, at the same time, I think that the extension of provisions to include electoral administrators will give our teams a boost in knowing that their work is valued and is seen as important, worth while and worth protecting. EROs undertake this work 52 weeks a year; we go into our communities and canvass people on the doorstep and suchlike, so it is important that they know that their work is valued.

The Convener: I know from my local polling station how much that work is valued—a lot of home baking arrives in electoral stations across Argyll and Bute to keep officers' energy levels up.

There is a lot of respect for them. However, we must recognise that we live in changing times and, as you have all indicated, it is not just the United Kingdom and Scotland that might be impacted by this.

As my fellow MSPs seem to have no further questions, I will just say thank you very much to our witnesses. Your evidence will help us prepare a report for the rest of the Parliament on whether consent should be given in respect of this UK bill. Are you content for us to write to you if we have any more questions? I see nodding heads—that is perfect. Thank you very much.

That concludes our business in public today, and we now move into private session.

10:52

Meeting continued in private until 11:10.

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