



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

LOCAL GOVERNMENT AND REGENERATION COMMITTEE

Wednesday 20 June 2012

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LOCAL GOVERNMENT AND REGENERATION COMMITTEE

17th Meeting 2012, Session 4

CONVENER

*Joe FitzPatrick (Dundee City West) (SNP)

DEPUTY CONVENER

*Kevin Stewart (Aberdeen Central) (SNP)

COMMITTEE MEMBERS

*James Dornan (Glasgow Cathcart) (SNP)

*Anne McTaggart (Glasgow) (Lab)

*Margaret Mitchell (Central Scotland) (Con)

*John Pentland (Motherwell and Wishaw) (Lab)

*David Torrance (Kirkcaldy) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

John Swinney (Cabinet Secretary for Finance, Employment and Sustainable Growth)

CLERK TO THE COMMITTEE

Eugene Windsor

LOCATION

Committee Room 3

Scottish Parliament

Local Government and Regeneration Committee

Wednesday 20 June 2012

[The Convener opened the meeting at 09:00]

Decisions on Taking Business in Private

The Convener (Joe FitzPatrick): Good morning, everyone, and welcome to the Local Government and Regeneration Committee's 17th meeting in 2012. As usual, I ask folk to ensure that they have switched off mobile phones, as they interfere with the electronic sound system.

Our first item of business is a decision on whether to take items 7, 8 and 11 in private. Those items relate to planning for our forward work programme; our approach to the consideration of the Government's forthcoming draft budget; and consideration of the committee's reports on two legislative consent memorandums that are under consideration today. I propose that we take those items in private. Do members agree?

Members indicated agreement.

The Convener: Agenda item 2 is a decision on whether to consider a list of candidates for the post of budget adviser to the committee in private at a future meeting. Do we agree to consider that in private?

Members indicated agreement.

Local Government Elections 2012 (Witness Expenses)

09:01

The Convener: Under agenda item 3, do members agree to delegate to me as convener the responsibility for arranging for the Scottish Parliamentary Corporate Body to pay, under rule 12.4.3 of standing orders, any expenses of witnesses arising from our recent round-table session on the local government elections?

Members indicated agreement.

Electoral Registration and Administration Bill

09:01

The Convener: We race on to agenda item 4, which is an oral evidence-taking session on legislative consent memorandum LCM (S4) 10.1, which relates to the Electoral Registration and Administration Bill, which is currently under consideration by the United Kingdom Parliament. I welcome our witnesses, who are John Swinney MSP, Cabinet Secretary for Finance, Employment and Sustainable Growth, and Andrew Sinclair, policy officer with the Scottish Government's elections team. We also have Jonathan Sewell, who is here for a later LCM, but it is better if he is in place now to save us having to shift chairs later, as we are tight for time.

Thank you for coming, cabinet secretary. Do you want to start with some opening remarks?

The Cabinet Secretary for Finance, Employment and Sustainable Growth (John Swinney): Yes please, convener.

The Electoral Registration and Administration Bill was introduced to the House of Commons on 10 May 2012 and received its second reading on 23 May. Part 1 of the bill provides for the introduction of individual electoral registration across Great Britain. Part 2 introduces a number of changes relating to electoral administration and the conduct of elections. Electoral registration is a reserved matter, but the conduct of local government elections in Scotland, including arrangements for absent voting, is devolved to the Scottish Parliament. The legislative consent motion in my name seeks agreement from the Parliament that a small number of the bill's provisions should apply to local government elections in Scotland and should be considered by the United Kingdom Parliament as part of its scrutiny of the bill.

The UK Government has consulted widely on its proposals to introduce individual electoral registration in place of the existing system of household registration. That has included regular contact between our civil servants. Scottish and UK ministers have corresponded and the Scottish ministers have given their views on the proposals at various stages.

There is widespread support for the introduction of IER and the principle that people should be able to take responsibility for their vote. The Electoral Commission has called the introduction of IER

"the biggest change to the voter registration process since the universal franchise was introduced."

The commission asserts that the introduction

"requires careful planning and implementation and needs to be done in a way that puts the voter first."

In addition to the contact between Governments, there has been regular contact between the United Kingdom Government and electoral registration officers in Scotland to ensure that the necessary practical preparations are made.

The bill sets out proposals for the introduction of IER, including arrangements for a transitional period. The first register that is based on individual registration is likely to be published in December 2014. The bill provides that any existing voters who have not registered under individual registration by that time will retain their entry in the electoral register for a further year. However, any voter who wishes to vote by post or proxy will have to be registered under the new system if they wish to vote other than in person at a polling station. Electoral registration officers and the Electoral Commission will undertake extensive publicity and public information campaigns ahead of the cut-off date to ensure that voters are aware of the need to register and of how to register so that they can vote by post or proxy, if that is their choice.

The Gould report was guided by the principles of putting the voter first and reducing the fragmentation of electoral arrangements. Seeking the Parliament's approval for the legislative consent motion is consistent with those principles.

It will be better for the voter if the practical arrangements for IER apply to local elections in the same way as they apply to other elections. That will avoid the imposition of different requirements for postal and proxy voters in the transitional phase to IER.

The other provisions of the bill that we propose should apply to Scotland place a duty on electoral registration officers to inform voters after an election if their postal votes were rejected because the postal vote identifiers that were used at the time of voting did not match those that were stored on record for those voters. Voters who apply for an absent vote must provide a signature and a date of birth. If the signature or date of birth on a postal voting statement does not match to a returning officer's satisfaction, the vote will be rejected.

Information from local authorities about postal votes that were cast in last month's local government elections suggests that the rejection of postal votes because the personal identifiers did not match those that were submitted when the voter applied for a postal vote might have been an issue. The bill will allow returning officers to inform affected voters after an election that their votes were rejected, so that they might not make the same mistake at the next election.

The legislative consent memorandum outlines the reasons why the Government is seeking consent for the UK Parliament to deal with the issues rather than introducing legislation in the Scottish Parliament to mirror the Westminster provisions. In the interests of voters and for consistency and the effective use of parliamentary time, we have concluded that a legislative consent motion is the best way to extend the relevant provisions of the bill to cover local elections in Scotland.

The Convener: We touched on the legislative consent memorandum at our round-table event last week, and Andrew Sinclair has been helpful in giving us a flavour of it. Members will have questions about the motion, but will you tell me first what the implications would be if the motion was not agreed to?

John Swinney: If that happened, we would lack consistency between local authority elections and other elections, unless we introduced distinct legislation in Scotland to regularise the position and make it consistent. Given the other issues that the Scottish Government is addressing in its legislative programme, I cannot envisage how such legislation could be introduced and be the subject of practical consideration by the Parliament. If the motion was not agreed to, we would lose out on the opportunity to make a couple of administratively and procedurally beneficial changes that could be made as a consequence of legislation that the United Kingdom Government is pursuing.

Anne McTaggart (Glasgow) (Lab): Good morning, cabinet secretary. Will you explain in more detail how the transitional arrangements for postal voting will work and say whether the Government foresees any potential problems?

John Swinney: I do not have much to add to what I said about the procedural arrangements. There will be a carryover period for a year in which individuals who are on the electoral register courtesy of household registration will remain there until individual registration kicks in.

Ms McTaggart asks about anxieties and worries about the process. My main concern is about voter awareness. We must ensure that the public information campaigns fulfil the purpose that is envisaged for them. If we follow the Electoral Commission's assessment that this is

"the biggest change to the voter registration process since the universal franchise was introduced",

we must judge it to be pretty significant.

The principal vulnerability arises out of the issue around voter awareness of the change. As our experience of changes to electoral systems shows us, despite the fact that extensive education

campaigns are undertaken, members of the public are sometimes not able to follow all the detail. We will have to be particularly mindful of the significance of that task when addressing the point that Anne McTaggart has raised.

Anne McTaggart: What is the current situation with rejected postal votes? What is the level of postal votes that are rejected?

John Swinney: I do not think that I have that data before me—oh, sorry, I do.

At the 2012 local government elections, approximately 4.4 per cent of postal votes were rejected because of missing or mismatched personal identifiers. That is down from 5.9 per cent at the elections to the Scottish Parliament 12 months previously. Obviously, in interpreting those figures, we must bear in mind that increasing numbers of the public are using postal votes. Obviously, 4.4 per cent of a larger number is a larger number of individuals. That is the rate of non-application or rejection because of a mismatch of signature or date of birth.

In essence, if a signature or date of birth on the postal voting statement does not match to the returning officer's satisfaction, the returning officer will deem the postal voting statement not to have been duly completed, and the vote will be rejected. The issue hinges on the judgment of the returning officers. A multiplicity of factors may be involved. Individuals might simply make an elementary administrative error, as I am sure that we have all done—it is easily done with our date of birth, as we sometimes try to forget its reality.

On the issue of the signature, I am not sure that members of the public are aware of how important it is that the signature that they put on their application form remains consistent with the one on their postal vote return. Again, that comes down to voter awareness and education.

James Dornan (Glasgow Cathcart) (SNP): Earlier, you talked about returning officers getting in touch with people to let them know that they had filled in their postal vote wrongly. Would that be compulsory, or would it be done at the discretion of the officer?

John Swinney: Currently, the returning officer does not have an obligation to do so. In essence, the measure would provide for that to happen.

James Dornan: Does that mean that it would happen as a matter of course, or that it would depend on the returning officer's decision?

John Swinney: It would be a matter of course.

Kevin Stewart (Aberdeen Central) (SNP): The intensive canvass that will be going on is welcome. Will it give us an opportunity to get more 16 and 17-year-olds on the register?

John Swinney: It opens up that opportunity. Part of the electoral registration process already enables that to be part of the canvass, but the focus on individuals will overcome what we might call head-of-household lethargy.

09:15

John Pentland (Motherwell and Wishaw) (Lab): I am sure you agree that this bill is significant with regard to the way in which people will register to vote. Does the Government think that the bill strikes an effective balance between the need to modernise the system and tackle electoral fraud and the need to ensure that everyone participates in the democratic process? Will the bill have an adverse effect on registration levels?

John Swinney: I sympathise with and support all your comments, with the exception of your final comment, because I hope that the bill will enhance, rather than undermine, the voter registration process. Currently, there are obstacles to registration. If the head of household does not bother to register, someone else in the household who is keen to be registered might miss out on the opportunity, unless they pursue the matter by other means.

I mentioned the Gould report, which was all about maximising registration and participation. That is the whole purpose of the exercise, so I think that the system of registration will be enhanced and that there will be more opportunities to enhance the level of participation.

John Pentland: The bill will introduce a civil penalty. How will that work? Do you agree with the application of a civil penalty?

John Swinney: That takes us into the territory of questions about whether there is an obligation to register and whether the balance should change in that regard. As a society we do not provide for compulsory voting. In essence, we must enable members of the public to decide whether they want to register, so it would not be appropriate to introduce a civil penalty in relation to registering.

What we must consider is whether there are circumstances in which a civil penalty is appropriate in relation to an electoral registration officer's attempts to obtain information that they are satisfied is correct, which is an important part of the process. Electoral registration officers need to be satisfied that they have been given bona fide information, so that they can guarantee to the wider public that the register is accurate. That is an important foundation of the system.

Margaret Mitchell (Central Scotland) (Con): The Electoral Reform Society suggested that the reform of electoral registration presents an

opportunity to take advantage of innovative approaches. For example, the Government could consider providing for forms to be available at post offices and Government offices. The society also suggested that electors could be reminded to register to vote when they undertake official transactions such as applications for a passport, driving licence or social security or registration for council tax. You mentioned an awareness-raising campaign. Will you look favourably on the Electoral Reform Society's suggestions?

John Swinney: They are all helpful suggestions. However hard we try with public information campaigns, getting messages across is a challenge, so we should use every available opportunity. Some of the suggestions are straightforward; the idea that forms should routinely be available in convenient locations is an essential one.

Individuals increasingly undertake transactions online, and of course the electoral registration form can be accessed online, so there are ways of enhancing the links between registration and other transactions. The Government has dialogue with electoral registration officers and will continue to do so, to take forward such suggestions.

The Convener: Thank you.

Local Government Finance Bill

09:19

The Convener: Agenda item 5 is an oral evidence session on legislative consent memorandum LCM (S4) 12.1. The legislative consent memorandum relates to the Local Government Finance Bill, which is also under consideration by the UK Parliament.

Do you want to make some opening remarks, cabinet secretary?

John Swinney: If I may, convener.

I am grateful for the opportunity to explain the thinking behind the Government's legislative consent motion on the UK Local Government Finance Bill, which the Minister for Parliamentary Business and Chief Whip lodged on 31 May. I hope that the memorandum makes our intentions clear, but I will try to address any issues that members have.

If the LCM is agreed to by Parliament, it will allow the United Kingdom Parliament to progress the issue, confer powers on the Scottish ministers and protect the most vulnerable people in Scotland. The LCM relates to a minor technical amendment, the acceptance of which will enable us to keep down the administrative costs of delivering council tax reductions to the vulnerable. Its rejection would increase those administrative costs and potentially compromise our ability to ensure that those who require reductions in their council tax bills will be able to secure them where they have no means of paying. By agreeing to the LCM, the Parliament will facilitate the Scottish Government's ensuring that the administrative costs of operating a replacement to council tax benefit remain constrained.

The Welfare Reform Act 2012 includes provisions that create a legal gateway for Department for Work and Pensions data to be shared with local authorities, but it has become clear that a fundamental part of an individual's assessment for the universal credit will be based on Her Majesty's Revenue and Customs data rather than DWP data. There is no legal gateway for those data to be shared with Scottish local authorities by the DWP or HMRC.

Currently, council tax benefit can be accessed in two ways: by the passporting process through a person's being in receipt of defined other benefits—for example, the jobseekers allowance—or by direct means-tested application to a local authority. Around 70 per cent of the claims of the approximately 564,000 current council tax benefit recipients in Scotland are passported claims; the remaining 30 per cent are

non-passported standard claims. The allocation for combined housing and council tax benefit administration costs for 2012-13 was £46 million. A large majority of the costs and time involved is most likely associated with non-passported standard claims.

If the Scottish Government does not have access to the relevant HMRC income data following the introduction of the universal credit, the costs to local authorities will significantly increase, as they will have to recreate the information that has already been captured by the universal credit system. That means that, if the Scottish Parliament cannot consent to the provisions in the UK Government's bill, the costs of administering future council tax reduction systems will substantially increase. For that reason, I hope that Parliament will support the LCM and accept the data-sharing amendment to the UK Local Government Finance Bill.

The Convener: Thank you very much, cabinet secretary. I think that you have answered many of the questions that we might have had.

You mentioned administration costs increasing substantially if the LCM is not agreed to. Do you have any indication of what the increase from £46 million would be? Do you have a ballpark figure?

John Swinney: I would not like to begin to assess that, convener, as that would involve us getting into territory that would significantly extend the capturing of information that would normally be triggered by passported benefits. The fact that the £46 million covers non-passported housing and council tax claims, which represent 30 per cent of the claims, gives a flavour of the sum of money that might be involved.

The Convener: Okay. That is helpful. The amendment is largely technical and the cabinet secretary has answered many of the questions that we might have had. Thank you very much, cabinet secretary.

Subordinate Legislation

Town and Country Planning (Development Management Procedure) (Scotland) Amendment Regulations 2012 (SSI 2012/165)

Energy Performance of Buildings (Scotland) Amendment Regulations 2012 (SSI 2012/190)

09:24

The Convener: Our next item of business is consideration of two negative instruments: the Town and Country Planning (Development Management Procedure) (Scotland) Amendment Regulations 2012 and the Energy Performance of Buildings (Scotland) Amendment Regulations 2012. Members have a paper from the clerks that sets out the purpose of each instrument. The Subordinate Legislation Committee had no comments to make on either instrument.

As no member has any questions or comments in relation to the instruments, are members content not to make any recommendations to the Parliament on either of them?

Members *indicated agreement.*

The Convener: As agreed, we move into private session.

09:25

Meeting continued in private until 11:18.

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