



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

Thursday 26 March 2015



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**STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE**  
**6<sup>th</sup> Meeting 2015, Session 4**

**CONVENER**

\*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

**DEPUTY CONVENER**

\*Margaret McDougall (West Scotland) (Lab)

**COMMITTEE MEMBERS**

\*George Adam (Paisley) (SNP)

\*Cameron Buchanan (Lothian) (Con)

\*Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab)

\*Gil Paterson (Clydebank and Milngavie) (SNP)

\*Dave Thompson (Skye, Lochaber and Badenoch) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Professor Charlie Jeffery (University of Edinburgh)

Professor James Mitchell (University of Edinburgh)

Dr Hannah White (Institute for Government)

**CLERK TO THE COMMITTEE**

Gillian Baxendine

Alison Walker

**LOCATION**

The David Livingstone Room (CR6)



## Scottish Parliament

### Standards, Procedures and Public Appointments Committee

*Thursday 26 March 2015*

*[The Convener opened the meeting at 09:30]*

### Decisions on Taking Business in Private

**The Convener (Stewart Stevenson):** I welcome members to the sixth meeting in 2015 of the Standards, Procedures and Public Appointments Committee and remind everyone to switch off their mobile phones as they affect the broadcasting system.

Agenda item 1 is a decision on taking business in private. Do members agree to take in private item 7, which is consideration of a complaint?

**Members indicated agreement.**

**The Convener:** Agenda item 2 is another decision on taking business in private. Does the committee agree to take in private our consideration of a report from the Commissioner for Ethical Standards in Public Life in Scotland about a complaint and our draft report on the complaint at a future meeting and, in relation to our inquiry on the election of committee conveners, our consideration of the oral evidence under agenda item 6 and our consideration of issues for the draft report and the draft report itself at future meetings?

**Members indicated agreement.**

**The Convener:** Agenda item 3 was to be an evidence-taking session with Bruce Crawford MSP on the proposed cross-party group on tourism. Unfortunately, Bruce is ill and unable to attend this morning's meeting. Therefore the item and the evidence session, which will be relatively brief, have been rescheduled for next week's meeting.

## Election of Committee Conveners

09:31

**The Convener:** Agenda item 4 is our first evidence-taking session for our inquiry on the election of committee conveners. I welcome to the meeting Dr Hannah White, programme director at the Institute for Government; and from the University of Edinburgh, Professor James Mitchell, co-director of the academy of government, and Professor Charlie Jeffery, senior vice-principal. Thank you all for your help.

We will go straight to questions. If, at the end of the session, you think that there have been gaps in our questioning and comments that we should have heard, I will give you a limited opportunity—roughly 100 words—to inform us about the points that we have missed. Members will ask a series of questions and your answers might inform further questions, so we will see where that takes us.

**Margaret McDougall (West Scotland) (Lab):** Good morning. Would elected conveners enhance power sharing and accountability between members, the Parliament, the Scottish Government and the Scottish people?

**Dr Hannah White (Institute for Government):** I suppose that I have been asked here to talk to you because of my research on how the elections of select committee chairs at Westminster have been working out over the last parliamentary session. I can talk to you mostly about what I have learned from my research with regard to the impact of the move.

There is certainly symbolic value in increasing the democratic nature of the appointment of committee chairs at Westminster, and there has been a definite impact on the way in which select committee chairs view themselves and the legitimacy and credibility that they feel they have, having been elected by their peers. In the sense that there is a direct line of accountability—in other words, the people elect the Parliament and then the Parliament is responsible for electing those who will scrutinise the executive in the legislature—one can argue that it enhances the situation.

**Professor Charlie Jeffery (University of Edinburgh):** I think that you are asking whether some of the Parliament's founding principles would be enhanced by such a change. The question is whether those founding principles are being borne out in the way that we might have expected, given the sense of ambition and renewal that accompanied the Parliament's foundation just over a decade and a half ago, and I think that now is a good time to be thinking about that.

It is fair to say that there are academics who consider that the Parliament is not fully matching up to those founding principles and that the work of the committees is one of the areas where it might be falling short. Indeed, a good reason to think about having elected conveners and making other reforms is to see whether some of those founding ideas can be better realised than they have been.

There are two ways in which that might be achieved. The experience in the House of Commons has shown that it might not be the best idea to allow the Government—the majority constellation in a Parliament—to pick, through party discipline and whipping measures, some of the people who scrutinise it. That argument could be transferred quite easily to the context of the Scottish Parliament.

There is also a point to be made about the Opposition. There might be a sense that the Opposition is not always using the Scottish Parliament's structures as it might to do its job of scrutinising government. Elected conveners, some of whom would be provided by Opposition parties, might enhance the scrutiny function of holding the Government to account to the general benefit of Parliament and those that it represents.

**Professor James Mitchell (University of Edinburgh):** If we go back to the constitutional convention and the debates leading up to the Parliament, we will see that there was an expectation and a hope of greater power sharing than has been realised. Part of the problem was that some of those expectations were unrealistic to start with—either idealistic or unrealistic; you can choose whichever term you wish. We have not realised those high ideals; if we were to try to move towards them, we would be looking for some kind of reform, and it is conceivable that among the reforms that could be considered would be the election of committee conveners. I would not want to suggest that elected conveners are a panacea that would solve everything—there is a danger of assuming that—but they could make a contribution.

Having looked at the evidence from other countries, I have to say that the evidence base for this measure is relatively weak. That is not to say that there is not a strong case to be made for it, but it has not been tried out very often. The House of Commons is the obvious place to look for evidence for the Scottish Parliament to draw upon, and, as we have heard, there is evidence that the election of chairs there has been symbolically important. However, anyone who imagines that such a change would dramatically alter the balance of power is mistaken. That is not to say that it is not a good idea, but we ought to be

realistic in a way that we might not have been in the early days of devolution.

**Margaret McDougall:** Professor Jeffery touched on my second question, which is about whether the move would enhance scrutiny, and I wonder whether Dr White and Professor Mitchell can give their views on that. In any case, I take the point: we are talking about the election of conveners today, but does that mean that we should elect committee members, too? We are opening a can of worms. Can you expand on the point?

**Dr White:** It is an obvious next question. Westminster chose to open that can all in one go and in some ways, it is difficult to disaggregate the impact of electing chairs from the impact of electing the whole committee, which is what happened at the start of this Parliament at Westminster.

Approximately a fifth to a quarter of the current chairs at Westminster would not have been committee chairs under the old system. That fact became particularly visible in the two by-elections that we have had since the start of this Parliament, which were for the Health Committee and Defence Committee. Both of the candidates who ended up being elected as chairs of those committees are candidates who would never have been chairs under the old system, because they were first-term members and were regarded in some respects as mavericks in their parties. They were not the obvious candidates, and it was not the result that the whips expected.

Of course, we are talking about a sample of two, so it is not in any sense scientific. Interestingly, however, both—again, this is supposition—might have been elected by their peers, partly because they brought with them previous experience of the subject matter of the committee that they were going on to and had clear ideas about the policy questions that they wanted to look at when they spoke about their manifestos.

Looking at them and more broadly at the chairs who were elected at the start of the Parliament, I think that you can say that some different people have been elected chairs and that that has had an impact on scrutiny. Some of those who have been elected chairs—I am thinking in particular of Andrew Tyrie, who was unexpectedly elected chair of the Treasury Committee at the start of this Parliament—have pushed the boundaries of the powers and practices of committees a little further than has been the case in the past.

Based on what those chairs have told me, I think that they thought that the legitimacy that they felt of having been elected by their peers gave them a mandate to try different things. In Andrew Tyrie's case, there was the parliamentary

commission on banking standards, in which he deliberately tried to be innovative and take some new approaches to scrutiny. The election of chairs has definitely had that kind of impact on scrutiny.

**Professor Mitchell:** Again, I have to point out that the evidence is not strong, but that is not to say that what has been suggested is not possible. If we work on the assumption that an elected chair has an authority and legitimacy that would otherwise be absent, it is conceivable that that would bring different and more independent leadership to a committee. I certainly do not mean to criticise the convener of this committee or, indeed, any other committee, but if the authority that might come with being elected gives a convener a sense of independence, that could be useful for scrutiny purposes or any other business.

I have to stress that there are ifs, buts and maybes here. As I have said, the evidence is not strong; we have to draw on the experience of the House of Commons, and it is still early days. However, the theory of electing chairs makes sense. We should expect the authority and the legitimacy that comes with being elected to lead to a different type of approach but, again, I do not want to overstate my case.

**Dr White:** Of course, it remains to be seen what the activity of chairs in this Parliament does to their chances of being re-elected as chairs in the next Parliament.

**Professor Jeffery:** I agree with James Mitchell that the evidence base is slight and that there are not many examples to draw on. A striking fact in the Scottish Parliament information centre briefing that accompanies this inquiry is that what is happening in the House of Commons appears to be pretty much unique. That reflects the particular style of operation of the House of Commons, where the approach is highly adversarial and party discipline is very strong; the notion of the sovereign Parliament plays into all that, too. It suggests that something is needed to balance the Parliament against the Executive a bit more.

However, it should also be noted that this Parliament is, in many respects, within the Westminster tradition. Despite attempts that were made in the framing of what the Parliament should be and how it should work, the Parliament has in practice replicated many of the features of the Westminster system, with a strong adversarial element and pretty strong party discipline. Those shared features with the Westminster Parliament might make what is happening in the Westminster Parliament a good example to look at, given that there are not many other examples around.

09:45

**Dave Thompson (Skye, Lochaber and Badenoch) (SNP):** Good morning. Following on from the general point, I believe that in a comment he made about the reforms Professor Mitchell hinted that other things might need to be done. This change might achieve something on its own, but in order to make it really effective and to ensure that we get the scrutiny that you might think is appropriate, would it need to happen in conjunction with other things?

For instance, one of our big problems in the Parliament is the limited number of MSPs. A big chunk of them are taken out of the equation, because they are in the Government or are main Opposition spokespersons. As a result, we have way under 100 MSPs to service all our committees, all our cross-party groups and everything else. The time for scrutiny is therefore very important. Moreover, because we have a system in which we have debates with six or four-minute speeches, our party sometimes needs to get nine speakers into an afternoon debate, which ties up nine people. Do we need to take a broader look at the system if it is really going to be effective, or will this change on its own be sufficient to initiate further change down the line?

**Professor Mitchell:** Starting with the last point, I do not think that the election of conveners alone will be sufficient. That is the easy part; it is much more difficult to outline what needs to be done. From what you have said, one could draw the conclusion—which I have already drawn—that the size of the Parliament is an impediment in many respects. However, I do not see any appetite for increasing its size, certainly not at this juncture.

There are issues about the size and number of committees. Perhaps the resourcing of committees needs to be looked at but, again, we must take the current environment into account. Resources are scarce, and I suppose that one might conclude that this is as good as it gets in the current climate. Nevertheless, it is well worth looking at reform overall and considering the relationship between the chamber and committees, the number of committees and the subjects that are considered. I will not try to give a prescription—a lot more work would be required for that—but to anyone who thinks that the election of conveners will dramatically change things, I have to say that that is unlikely, to put it mildly.

**Dave Thompson:** I want to follow that up briefly, and perhaps the other panellists might want to comment.

In that case, would we be better advised to take more time, take a broader look and consider a bigger package of changes over a longer period

rather than go ahead with what I think you are saying is one relatively small, piecemeal change? The process might even need to run into the next session. Should we drive ahead with the change anyway, or would it be better to do things in a broader sense and in the round?

**Professor Mitchell:** It is not a question of either/or—I think that both can be done. You could go ahead with the change and then take things further and look at matters in the round.

**Dr White:** It might be reasonable to suppose that, if you went ahead with the change now, those who stood as conveners of committees would be self-selecting members who had more of an interest in the committee system and how to make it work to best effect. The role of the Conveners Group might then be enhanced in looking at other options for improving things. It might be a useful interim step.

**Professor Jeffery:** I am not sure that the change would be small and piecemeal; in fact, I think that it would be a significant change to the culture of the Parliament's operation. That said, I have quite a lot of sympathy for the wider point that has been made and even more sympathy for it when we project forward, because the Parliament will have more to do in a way that has yet to be entirely determined. For example, it will have particularly complex fiscal and welfare policy matters to add to its list of tasks. That puts into perspective the capacity point that has been made and suggests the need to go beyond thinking about conveners—that could be done separately—and to think in a much more systematic way about how the Parliament remains fit for purpose as it moves forward.

**The Convener:** Cameron Buchanan has some points on that issue. I ask him then to move on to what he was going to ask about.

**Cameron Buchanan (Lothian) (Con):** Dr White said that some chairs who were elected were “first-term members”. I did not quite get the message. Do you see that as a disadvantage or an advantage?

**Dr White:** I was merely noting that it was a change and something that the new system facilitates. I think that any member who is elected to a Parliament should have an equal chance of standing for any of the jobs in Parliament and that it should not necessarily be about the length of their experience. It certainly used to be the case in Westminster that the members who were parachuted in, or chosen by the whips, tended to be those with longer experience. Members with outside experience can bring useful things to the committee system, so I think that it is a good thing that any member of the UK Parliament can stand and potentially be elected as a chairman.

**Professor Mitchell:** I will offer an observation on the other side. In the past in the United States, committee conveners in Congress were for decades appointed based on how long they had been elected members, which proved not to be a good policy and so it was changed dramatically and the system improved. That is looking at the issue from the opposite angle.

**The Convener:** There is an old saying that goes, “Have you five years’ experience, or one year’s experience five times?” That probably covers the issue. We should think about the nature of people’s experience rather than the duration.

**Cameron Buchanan:** Are there differences in the Scottish Parliament that mean that elected conveners would not have the same effect here as elected chairs in the House of Commons? I am thinking about the fact that we are a smaller Parliament.

**Dr White:** I must defer to my learned colleagues, who have a much better understanding and knowledge of the Scottish Parliament than I do but, obviously, there is a smaller pool of members to choose from. This is also a younger Parliament, so at Westminster there is probably a greater variety of members who have exhausted their possibilities for ministerial office—or who have no expectations of that—but who are seen as senior back benchers with experience who might be available and would wish to stand as chairs. There are also the first-term members who want to come in. There is necessarily less of that variety in the Scottish Parliament, because it has not been in existence for as long. Obviously, there are differences, but I do not think that those differences would preclude the changes being beneficial.

**Cameron Buchanan:** Our briefing papers say that some people are very happy to be elected chairs, and that is as far as they want to go. It is the summit of their achievement.

**Dr White:** Certainly, the intention behind the reforms that Tony Wright proposed was that people could see being a member and chair of a committee as a career path in itself—a back-bench career. Of course, that is assisted in the Westminster context by the fact that committee chairs are paid.

Being a committee chair is seen as prestigious and many people would argue that it gives more power and influence—well, certainly influence, but maybe not power—than do many junior ministerial jobs. Chris Mullin made the point in his diaries that he would rather be chair of the Home Affairs Committee than a minor minister. However, from the interviews that I have carried out in my research, I would say that, even now, it seems that most members would give up a committee chair



for the lure of the front bench—no one argued the opposite. Apart from perhaps Tony Wright, who was a politics professor who came into Parliament with a lot of ideas about what he would like to be done and who had the opportunity to go on the Public Administration Select Committee to explore those ideas, very few members see being a chair as being preferable to ministerial office.

**Gil Paterson (Clydebank and Milngavie) (SNP):** Is there no chance that those folk would get into the Government in the first place? Is that why they would likely choose to be chairs?

**Dr White:** Do many members who are elected think that there is no chance that they will get into the Government?

**Gil Paterson:** I am just trying to put myself into their frame of mind. They might think that there was no chance that they would get into the Government because they were a little bit bolshie. They might think, "I'm an independent-minded person, so the Government whips wouldn't put me in." Is there not an element of that? Being a convener is a good job to get.

**Dr White:** Certainly. A system for electing conveners would make that much more of a possibility.

**Professor Jeffery:** I am not sure whether you were thinking of that as a recommendation, Mr Paterson, but it suggests to me that, if one can find a place for the talented expert in a particular field who feels less comfortable than others with the strictures of party discipline, the route that we are discussing is a good one.

It might be a good system for the Scottish Parliament as it matures and gets older, because there will be a stock of people, perhaps a bigger one than there is now, who have been ministers—the convener is one—and are unlikely to figure in a future Government because Governments and parties like to renew themselves.

**The Convener:** Oh dear! [*Laughter.*]

**Professor Jeffery:** I was not talking about specific people.

Elected conveners might be an alternative way of using that accumulated expertise. We see that in the committee chairs in Westminster, some of whom are just a bit too spiky for the party but are very talented—Andrew Tyrie is one—and have found a platform that is of general benefit and fits their particular set of skills.

**Gil Paterson:** You have just handed the convener the black spot.

**The Convener:** You will need to read my biography in due course to get the full story, but it might be worth my while to observe that when I was invited to Bute house in 2007, it never

occurred to me that I was being invited to discuss being a minister because I had never had the faintest thought in my mind on the subject. However, that is for another day.

**George Adam (Paisley) (SNP):** Each session of the Parliament has created a different political situation. The design of the voting system has probably caused that. How would the system of elected conveners work with the many different political situations in which we have found ourselves?

**Professor Jeffery:** If the process of electing conveners includes an allocation key that determines for how many committees parties will provide conveners, that system will work with different complexities of parliamentary make up. It might mean that a smaller or greater number of parties provide committee conveners.

**George Adam:** Bear in mind that we have had a minority Government, a majority Government and, before that, the rainbow Parliament.

**Professor Jeffery:** Yes, but the point is partly to disconnect the process of establishing committee conveners from the Government, whatever form it takes. That would apply whatever constellation of parties and minority or majority relationships exists in the Parliament. I do not see that that would necessarily complicate the operation of an election system.

**The Convener:** I wonder whether George Adam's point is this. On this committee, for example, the Conservative party has only a single representative, and if that party was allocated the convenership, we would have to select the Conservative member of the committee. We would not have a choice. Could, therefore, we have elected conveners without opening up the issue of how we decide who will be on the committee? I suspect that that would be part of the question. If there is only one possible candidate who is already a member of the committee, it is not an election. It is a mechanical question rather than a political one.

10:00

**Dr White:** In Westminster, committee chairs are elected first. The D'Hondt system is used to decide how many committees will be chaired by each party and the party whips between them decide which party gets which committee. Only members of that party are eligible to stand for election to that committee chair. That is all sorted out before members stand for election as members of the committee. There is potential for a minority party to have a large number of candidates for a committee chair. If, under that system, a Conservative chair was allocated to this

committee, for example, it would not just be one member who would be eligible; others could stand.

**Professor Mitchell:** I may have misunderstood the question, so I apologise if I am running off on the wrong track, but I do not think that it matters what the composition of the Government is; this is about Parliament. Even if mid-term the Government were to change from a coalition to a minority, that should not affect convenerships of committees. The Parliament ought to be a Parliament in and of itself. It would not be a very healthy situation if it was to radically change its ways because of the Executive. The Parliament, not the Executive, should be calling the shots. One would imagine that numbers of committee conveners would be based on the level of party support and would be chosen as Hannah White outlined. I am not convinced that the nature of the Government, whether it is a minority, a coalition or a majority, would or should affect things. However, I may have misunderstood the question.

**George Adam:** The Parliament is comprised of its members. If we take out the fact that I mentioned Government, we still have political parties and how they stand. How would election of conveners work with the various combinations of members that we have had since 1999?

**Professor Mitchell:** There would at the margins be an issue with the smaller parties that would have to be addressed. In this parliamentary session and others when there have been a number of smaller units, there have always been questions about how many, if any, committee convenerships should be allocated to smaller parties. That could always be an issue and it would need to be sorted out, for sure. I take that interesting point on board.

The problem is not insurmountable, but the committee would need to consider it. The Parliament having a large number of independent members or two or three groups of two or three MSPs would be an interesting scenario; there would have to be rules in place for such scenarios.

**Dr White:** That has led to a problem in the Westminster context. The system has retained some flexibility in order to accommodate smaller parties, which has led to some committees expanding to give seats to small parties. Some people believe that that has made those committees unwieldy. That plays back into the issue that was raised earlier of Parliament's capacity as a whole and the number of members who are available to sit on all the committees.

**Dave Thompson:** In the previous parliamentary session there was a minority Government. The convenerships were allocated under the D'Hondt system and in order to secure support from the Green Party, the SNP minority Government

offered a committee convenership to Patrick Harvie of the Greens. Politics came into the process at that point. Would it be easy to write rules that would still allow politics to come into the equation when necessary?

**Professor Mitchell:** The system would have to accommodate politics. Politics would creep in whether you liked it or not, which is not necessarily a bad thing. It is possible to be overly prescriptive. Those matters would have to be considered at the start of each session of Parliament. I do not think that the issue is insurmountable.

We do not want to have a situation in which the Government—not just the Government, but the front benches—controls things. The essence of the idea is to give more power to the back benches, rather than to the front benches.

**Professor Jeffery:** In a few weeks, we may well see an illustration of some of the issues because the composition of the House of Commons is likely to be more diverse and complex than it has been. The committee may well have an example in action to observe in the not-too-distant future.

**Dave Thompson:** I will just run on to the next point.

**The Convener:** Other members want to come in on that point.

**Dave Thompson:** I am sorry.

**The Convener:** The other former minister in the committee wants to ask a question.

**Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab):** I am quite intrigued by the question of how we would react to different parliamentary scenarios. I understand the point that is being made. At the moment, there are five Liberal Democrats, for example. If we were to have elected conveners, and given that we are saying that elected conveners are important and that there should be opportunities for everyone to exert influence or power, it would be hard for a party of that size—and it is not unique—both to service the issues that it wanted to cover as a front bench and to have members as elected conveners.

I get the impression—Dr White will know better than I do—that the elected conveners at Westminster have an enhanced role, at least to the extent that they are more in the public eye, and are more likely to give interviews and to be the focus of press attention. It strikes me that such things would take up more of an elected convener's time than is the case for most conveners at the moment. That is a dynamic that might be difficult for a Parliament of this size to accommodate, simply because of the numbers.

**Dr White:** I would qualify what I said before when I said that the election of chairs in Westminster has delivered some slightly different results. Some chairs had a high media profile before they were elected and they sought to develop that. The focus has depended on the style of the committee chair, rather than its being a function of whether they were elected.

The mandate of having been elected has allowed those who have wished to do so to exploit to a greater extent the media platform. For example, Keith Vaz, the chair of the Home Affairs Committee, was an appointed chair who became an elected chair; he was certainly already a high-profile media figure before he was elected. I am not sure that the process of election makes the difference.

However, that was not quite the point that you were making, which was about the capacity of members.

**Patricia Ferguson:** I think that Parliament would have an issue with a member being both a front-bench spokesperson and a committee convener, because that would clearly defeat the purpose of having elected conveners. We would have a difficulty. Almost since day 1 we have had groupings of MSPs who are not affiliated to a single party, but who come together for the purposes of the Parliamentary Bureau's numbers. We would have to think again about that entire system.

**The Convener:** We are slightly over halfway through this session, so perhaps we can have crisp answers.

**Professor Jeffery:** That is partly a question about the allocation key for the distribution of committee convenerships to parties.

On the other aspect of the question—whether an elected convenership would get in the way of front-bench duties—perhaps for a small party such as the Lib Dems or, in previous Parliaments, the Greens or the Scottish Socialist Party, the platform of a committee convenership might be seen to be far more attractive to the party, as well as to the individual member, than having a front-bench spokesperson on a range of policy fields. Being an elected convener might be a different way of performing a parliamentary role that could be especially valuable for small parties, and would give them a profile that they might not otherwise have.

**The Convener:** I will bring in Gil Paterson before I move on to Dave Thompson.

**Gil Paterson:** My point is somewhat less substantive, but it has been raised so I would like to follow it up just now.

**The Convener:** Okay—go on.

**Gil Paterson:** It follows on from what George Adam said. In the very short history of this Parliament, we have had almost everything but revolution delivered to us—we really have. There cannot be any other Parliament that has had all that experience in such a short time, but it has always been based on the principle of proportionality. Would proportionality go out the window? If not, I assume that the parties would still need to present candidates based on the proportion of the parties in the Parliament, if you follow what I mean.

**Professor Jeffery:** Hannah White knows more about how the system works in Westminster.

**Dr White:** The proportionality system has remained the same in Westminster, so the allocation between parties according to the balance of the parties in the House has stayed the same. So, that is not a difference.

**Gil Paterson:** However, as you said earlier, there is the influence of the whips there and the fact that the Scotland Act 1998 dictates that everything here is governed by the proportionate system. At present, the Scottish National Party has a majority, so it gets the majority of conveners. Is that not right?

**Dr White:** If party discipline in a Parliament is very strong and a chair is allocated, for example, to the SNP and a number of SNP candidates wish to stand for that chair, the whips would still make it perfectly clear to the rest of the members who the preferred candidate was and that candidate might still be elected. Therefore, there is a question over whether, in a Parliament where party discipline is strong, the introduction of elections would have a great impact. One of the important aspects of the system in Westminster is that it is a secret ballot so, if members feel strongly about who they wish to be chair of a committee and do not wish to follow the recommendation of their whip, which I feel sure may still be the case in certain circumstances, they can do what they wish to.

We can probably see that the whips' influence over who gets to be the chair of a committee has reduced in Westminster from the fact that there are rumours that the whips would like to return to a system where committee chairs are elected by an electorate from within their own party rather than from across the whole House. There is obviously a sense in which the grip of the whips has been loosened and therefore that Parliament, more than the party whips, is expressing a view on who should be chair of a committee.

**The Convener:** Is that therefore evidence that the reforms are working?

**Dr White:** That depends on what you mean by "working".

**Professor Jeffery:** If the whips are complaining, it is working.

**The Convener:** That is what I was creating the opportunity for you to say, rather than saying it myself.

**Gil Paterson:** I have a final question, convener.

**The Convener:** Go on.

**Gil Paterson:** Are you proposing, Dr White, that there should be no party influence at all in the allocation of conveners?

**Dr White:** The allocation would be done in the same way as now in that the number of chairs for each party would be allocated by a formula, as Charlie Jeffery said. In Westminster, the party whips decide which party gets which committee, but there is a secret ballot on who from within that party becomes the chair. It should be up to the whole Parliament to decide who becomes chair from among the candidates.

**Margaret McDougall:** For clarification, is it the case in Westminster that ministers cannot vote in those ballots?

**Dr White:** That is the convention for ministers and parliamentary private secretaries in the department that a committee's remit follows. For example, Department of Health ministers would not vote in the election for the chair of the Health Committee. However, otherwise, everyone votes.

**Margaret McDougall:** I am thinking about the situation that we are in at the moment, where there is a huge majority.

**George Adam:** It is not a huge majority.

**Margaret McDougall:** It feels like a huge majority.

**The Convener:** It is a huge plurality.

**Margaret McDougall:** I thought that all ministers were excluded, but it is only the ministers who are relevant to the committee that is up for ballot.

**Dr White:** Those ministers voluntarily do not vote.

**Professor Jeffery:** It would be harder to make that work up here.

**The Convener:** It would mean that ministers could certainly vote in a ballot on the convener of this committee, because it is not a party committee in that sense.

10:15

**Cameron Buchanan:** If a convener is to be from a minor party, could more than one person from that party stand? If I was, by chance, selected to be convener of this committee, could

someone else from the Conservatives stand or would there be only one of us, because of the D'Hondt system?

**Dr White:** Under the D'Hondt system, there would be, say, 10 conveners from the SNP and so on. If the whips decided that the convener of this committee was going to be a Conservative, it would then be up to all the Conservative members to decide whether to stand for the committee.

**Cameron Buchanan:** Thank you.

**Dave Thompson:** Most of the points that I was going to raise have been raised. I would, however, like to tease out the issue that we are discussing. I want to go back to comments about independent-minded members who might feel that they are never going to be ministers but who would enjoy convening a committee, and the issue of the whips and the parties' preferred candidates and so on. It is interesting that Bruce Crawford made a short submission to us. Bruce was previously a business manager and in charge of the whips; a chief whip, in essence. In his submission to the committee, he made the point that parties will play games—I think that that was the term that he used—around such matters. In principle, he came out in favour of independently elected conveners, which is quite revealing, coming from someone with Bruce Crawford's experience.

There is no doubt that power generally likes to retain power, so the system has to allow counter-power, if you like, if it is to be really effective. It is just in the nature of things that any Government will keep things as tight as it can.

The secret ballot is important. If there was not a secret ballot, the power of the whips would be retained.

**The Convener:** David, this is acquiring the nature of a statement. Perhaps you might come to a question.

**Dave Thompson:** It probably had to, given the points that were made earlier. I just wanted to make the point that Bruce Crawford has come out in favour of the idea in principle.

I saw the witnesses nodding their heads when I said that, if we were going to have elected conveners, it would need to be done using a secret ballot.

**Dr White:** Yes. That is a really important element.

**The Convener:** A number of members have talked to me informally about the secret ballot and asked when would be the right time to have the vote. I think that 80 members are retiring from the House of Commons this time, so there will be a fair intake there. After our last election, our intake was proportionally even greater. If the elections

were held relatively early, as they would have to be, would the electorate know the strengths, weaknesses and capabilities of the members for whom they might be voting as convener? What snags are associated with that?

Professor Jeffery is dying to come in.

**Professor Jeffery:** Thank you. You would have to do it at the start of the parliamentary session—there is no other real logic.

I do not imagine that new members would be unable to inform themselves, and I am sure that the whips would try to do some of the informing. The point of having a slate of candidates who want to get elected to the post is that they will also do some informing through whichever kinds of statement they make or the conversations that they have in the bar downstairs or however it happens; they will seek support for their election. That would be a communication mechanism for the skills that they think they have for the role.

**The Convener:** We have a secret ballot for our Presiding Officer and Deputy Presiding Officers, but in fact—if I recall correctly—the nominations are known one hour before the vote.

Nobody is disagreeing with me, so I must be right. That presumably implies that we would need to know who was up for election sufficiently far in advance to allow for the process in which individual members were examining and interrogating and sidling up to people in the bar and so on. There would therefore need to be some changes in that regard.

I will bring in Jim Mitchell on that point.

**Professor Mitchell:** I would like to think that all elected members are capable of doing the work and research to find out about their colleagues before they make a choice. I would like to think that they would do that for every vote in which they participate. A new member will not have appeared from outer space—they will probably have been active in politics and will know the strengths and weaknesses not only of their colleagues in the party but of many other members.

It is worth noting the World Bank research that outlined the key characteristics that it feels are important in any convener. Those characteristics can certainly develop during a parliamentary career, but equally they will have developed in many aspects of a member's life before entry into Parliament, or indeed into politics.

I suspect that many conveners, and many members, have enormous skills well before they come through the door of this institution. I perhaps have a higher opinion of members of this Parliament than the questioner, if you will excuse my joke.

**The Convener:** We shall treasure your input from here on.

Does Patricia Ferguson have any further points?

**Patricia Ferguson:** I would like to ask about the process that might develop. We have heard that ministers adhere to what I presume is a self-denying ordinance that they do not become involved in the vote on the chair of the committee that scrutinises them. However, in a Parliament of this size, would it be more sensible to have a rule, rather than a self-regarding mechanism, that ministers do not take part in the election of committee conveners?

I am conscious that ministers can find themselves appearing before a number of committees. I was, for a time, Minister for Tourism, Culture and Sport—and for international development and a few other things that were thrown in over the piece—and I could find myself at any one of four committees. Would it not, therefore, be easier to say that ministers should not take part in the election of conveners?

**Professor Jeffery:** That is a fair point about an important difference in the relationship between Parliament and Government here and the relationship in Westminster, where the select committees are designed directly to mirror departments. In Scotland, we have moved away from the idea of a department, so that does not work as well, and your suggestion may therefore have quite some merit.

**Patricia Ferguson:** Okay. We have heard that you think that there should be a secret ballot. I have to say that my experience of secret ballots in this Parliament does not bear out the view that whips would not be involved in such a process. I say that as someone who was Minister for Parliamentary Business for some time, and who did not try to influence secret ballots, although the approach seems to have changed in that respect.

Should nominations come from an individual's party or from anyone? I was struck by the fact that the system at Westminster—at least from reading about it—sounds quite complicated in practice. These things tend to be what people know and understand, but I would have thought that we would want to make the system simple to understand, as well as open and transparent. Have you given any thought as to how that should be done? Should an individual have to achieve a certain amount of cross-party support before they can stand, for example?

**Dr White:** In that respect, the system at Westminster is not very complicated. An individual should be able to show that either 15 members, or 10 per cent, of their party—whichever is the lower number—support them, and can show that up to five members of other parties also support them.

That information goes on the nomination paper so that other members can take it into account.

Such a system would have to be tailored to the circumstances here. It is useful for an individual to show that they have a minimum level of support from their party, and it is interesting to other members to see what other support an individual has received.

**Professor Jeffery:** There is a lovely example in the SPICe paper regarding the election of the Defence Committee chair, in which eight Conservatives nominated themselves. I am pretty sure that one or two of them were encouraged to do so by their whips, but I do not think the winner was.

**Dr White:** Interestingly, the winner was the only member who was not already a member of the committee.

**Patricia Ferguson:** That is interesting in a number of respects.

**Professor Mitchell:** The key point is that whips will try to intervene, and will intervene; that is understandable, and even almost acceptable. The system minimises the influence—that is all. It will not overcome it, so you are right that the influence will still be there.

I also think that the breadth of support in the nominations is important. It would be best if a member was nominated by members other than just those in her own party. That would, again, encourage independence and the likelihood of getting a convener who will seek consensus across parties, so it is a very important point.

**Patricia Ferguson:** There is, of course, the possibility that support from someone's own party might be the killer, because of how other members will perceive them.

**Professor Mitchell:** Indeed.

**Patricia Ferguson:** Should there be a simple majority vote on each of the positions, or should it be done proportionally, as the Parliament is proportional? I am interested to hear your views, if you have thought that far forward.

**Dr White:** In Westminster, there is an alternative vote system, and then a simple majority. The system is designed to avoid a series of ballots, so the decision can be made in one go.

**Patricia Ferguson:** I am sorry—I missed that.

**Dr White:** It is an alternative vote system, and a simple majority.

**Patricia Ferguson:** Right—okay.

**Professor Mitchell:** In as much as members are electing one person, the system could not really be proportional in the normal sense of the

word. If there is to be an outcome of one, you could just go for simple plurality and first past the post, or an alternative vote, so someone would have to have 50 per cent plus one.

That is an interesting point. I would be inclined to favour the alternative vote, but I do not think that it would be a killer if the reforms are not to go that way.

**The Convener:** I always remember that, in the 1945 Westminster election, in the university seats, the third member elected by the Scottish universities got 4.16 per cent of the poll, which was less than a third of 12.5 per cent, and thus he lost his deposit but still got elected. That also happened in one of the English university seats; it was not a uniquely Scottish thing.

There are quirky results that arise from different systems. It is perhaps no surprise that the university seats were abolished.

**Professor Mitchell:** That would not apply in this case.

**The Convener:** George Adam will go next.

**George Adam:** The witnesses already touched on this issue in response to Dave Thompson's questions. Would there have to be other changes in the Parliament as well? Would we, as Dave said, have to look at the larger aspects?

Our discussion today has already brought up some questions. For the system to work properly, would we have to broaden the spectrum totally and look at making other changes in the Parliament?

**Dr White:** In my view, any Parliament should be constantly thinking about its own effectiveness and the impact of its structures and systems in terms of desirable outcomes—

**George Adam:** I get that, but is the proposal for elected conveners not just an Elastoplast? If there is an issue, should we not be looking at it on a larger scale?

**Dr White:** I would not call it that. It would not be desirable if the act of introducing this reform meant that the issue of looking at what else might be done would be closed. If, on the other hand, a move to elected committee conveners was seen as a first step, because the Parliament thought that it was important to think about the range of things that might be done, it looks like a positive step forward.

**Professor Mitchell:** I am not so sure that it is an Elastoplast, but it could conceivably be a catalyst—it could contribute to a next stage. I do not think that it would undermine the next stage in any overall review. I would be very much in favour of a review. The Parliament has been pretty good at looking at itself periodically. It would be good if

there were a major review, in which the Parliament asks itself how it should go forward—particularly in the light of Charlie Jeffery's points on the increase in powers—but elected conveners would be a catalyst. It would be a good base on which to look at the broader question.

10:30

**Professor Jeffery:** The Parliament faces different challenges, one of which is whether there is the right balance here between Parliament and the Executive. The committee convener issue is relevant there.

There are other questions that are as—or perhaps even more—important, which are about the capacity of the Parliament, through its current structures, to deal with the issues that face it. The prospect of additional powers puts that question into sharp focus. However, it is a different question. The question about the Executive-Parliament relationship will persist through those different capacity challenges. We can separate out different questions and see elected conveners not necessarily as a sticking plaster but as one aspect of change that might be needed.

**George Adam:** Thank you for being the only one not to mention the brand name. I forgot.

I take on the capacity issue. When I consider this issue, though, my problem is that, apart from the odd wild card, it has not created that much difference at Westminster. Call me cynical, but I do not think that it would make that much difference in the make-up of the convenerships, apart from the odd wild card. That is why I am asking whether the issue of elected conveners is like a sticking plaster. Should we consider something a wee bit more detailed and in-depth to make the difference that you are all advocating?

**Dr White:** I am inclined to agree with Professor Mitchell's point about a move to elected conveners potentially being a catalyst. According to some of the House authorities, one of the impacts of electing chairs has been a greater demand for resources and support for committees from those elected chairs because they are trying to do more and to do things differently. That might be seen as a disadvantage for some. There are certainly risks involved in it, in that you potentially create a system in which the committee that shouts loudest and wants to do most starts to attract more of the resource, and you have to find ways of managing that.

From the point of view of how I would imagine most elected members feel about the role of Parliament, it has to be a good thing if members are pushing towards doing more and trying different things. That is not just the ones whom you might think of as wild cards; it is some

members who might have been appointed chairs under the old system but feel that they have more legitimacy to do more and do it differently under this system.

What we are getting at is that the first time it happens, the result may not look very different from how it might have looked if it had been done just as the system is now, but at least it creates the conditions in which a different result is possible, whereas, under the existing system, a different result is never possible.

**Margaret McDougall:** What should the procedure be to remove an elected convener?

**Professor Jeffery:** I cannot answer that. I dug into some of the standing orders of the House of Commons earlier this morning but I did not get into that issue. I am sure that there is an example there of how that circumstance is handled. I guess that it would probably need to have two dimensions. One is an expression of loss of confidence on the part of the committee, but as the convener would have been elected by Parliament as a whole, there would be a second stage, in which the consent of Parliament as a whole was needed to endorse a motion to remove the convener. I suspect that that is more or less what the standing orders say.

**Dr White:** It has not happened yet, but I think that that is right.

**Professor Mitchell:** The electorate that elected the convener would presumably have to be involved in the deselection or sacking—however we want to put it—of that convener. It would be democratically unacceptable otherwise.

**Patricia Ferguson:** I want to come back to my colleague George Adam's point and explore a little more the issue of committee conveners pushing to do things differently or to do more. At the moment, because of the numbers that we have and the time that is available to us, we cannot even do the things that we have the power to do now, for example pass our own legislation as committees, which I think has happened only once in the lifetime of the Parliament. I am not sure how much spare capacity there is without there being other, more fundamental changes.

If we consider that the role of the committee is to scrutinise Government and hold it to account—as is the job of Parliament—is the election of the convener really going to make a big difference in that very important element of the work that we do, or are there other things that we should be doing that would give effect to that in a better way? That kind of takes me back to George Adam's point. Are we looking at the right thing at the moment or should we be looking at something else, such as the make-up of the committee or how the committee is formed? Should we be jumping

straight into the election of conveners, which seems to me to be disconnected from all the other things that we might want to do?

**Professor Mitchell:** That is a valid point and a good point. There is a danger that the elected conveners will be seen or expected to be the answer to all of the weaknesses. That is not going to happen. We have got to be clear about that. Electing conveners is about achieving certain functions and certain improvements, but it cannot do everything, which is why we have got to be very careful not to overstate the case for elected conveners.

There is a powerful case for an overview of the Parliament. The more I have listened to this morning's discussion, the more powerful I think it has become. Patricia Ferguson makes an important point about the expectation that the committees would produce legislation. That was there at the outset and has just not happened. There is a capacity issue. We need to go back and revisit that. It may be that the conclusion is that that is not possible but we should be honest about these things and revisit these matters. We have had 15-odd years of experience of this structure. It would be a good idea to revisit it.

Where we might have a slight disagreement is that I think that elected conveners would facilitate the process of further deliberation and potential reform. If I am correct, Patricia Ferguson is sceptical about that, at the very least. There is a powerful case for revisiting in the whole, particularly, as Charlie Jeffery said, in the light of powers that are coming.

**Professor Jeffery:** Can I make one point about scrutiny? There is a fundamental point, which is connected to the capacity and resourcing issue but also distinguishes itself, which is whether scrutiny is best delivered in a system in which the party or parties that form the Government determine who a good proportion of the committee conveners are. That is a patronage system, which may not allow the sense of independence that you might wish to have in certain circumstances.

The same applies to Opposition whips choosing conveners from the other parties, because Oppositions have particular priorities in opposing Governments, which may not necessarily be the priorities that a committee should be following in the work that it does. For those reasons, detaching the process from the party whips is, in and of itself, a really good thing to do.

**Dave Thompson:** We have talked about this issue on its own and we have talked about a wider review. However, it might be helpful to the committee if, when you go away, you could put your heads together and think about whether, rather than having a full review of what we do, it

might be possible simply to link a number of issues to it.

One such issue springs to mind. Could we, for instance, increase the time that is available to MSPs by not having such big committees? We have seven members on this committee, but I think that the biggest committee currently has 11 members. Perhaps we could take that back down to eight. Of course, D'Hondt comes into the equation, but reducing the numbers of members on committees would certainly increase the time that is available to some MSPs. Could you comment on that? Would you be willing to consider issues that might assist with the capacity difficulties that we have?

**Professor Jeffery:** Yes. What you set out seems to be a sensible approach. However, I suspect that the clerking and the SPICe support side might need to be reconsidered if we were in a situation in which we were, in a sense, lifting conveners into a different status. A different level of support from parliamentary officials might be required.

**Dr White:** These are questions that are still being explored at Westminster. The Liaison Committee published a report earlier this week in which it talked about the very question of whether committees are too big and noted that there was not enough time to enable members to sit on all the committees that there are. It considered the potential for moving to a system in which, rather than having an exact party balance reflected on every committee, you would ensure that the party balance was reflected across the committee system as a whole, or at least a certain set of committees, with parties being able to make their own decisions about which committees it was crucial to have more members on. Those are certainly questions that can be considered.

**Professor Mitchell:** There is a process that can be followed. It would be good to consider how any change could be handled. Frankly, however, I would not hand the issue over to academics.

I think that there is an opportunity for some kind of dialogue and deliberation that would enable the experience elsewhere to be drawn on, and we could certainly help to facilitate that. Perhaps the starting point would concern the founding principles. I would be nervous about identifying things that we were particularly interested in. I think that any change has to draw on your experience and what you think is important. That could perhaps be done in a safe place, as it were—the academy of government obviously springs to mind. We would certainly be happy to help to facilitate that.

**The Convener:** That is very helpful.



**Cameron Buchanan:** You talked about committee conveners being lifted to a different status. What is your opinion about remunerating them accordingly?

**Professor Jeffery:** I was not talking about money —

**Cameron Buchanan:** No, but it is part of it, is it not?

**Professor Jeffery:** The idea that we should give MSPs who are elected committee conveners another £15,000 a year, which is the case in the House of Commons, might not find public favour too easily. When I was talking about status, I was talking about the legitimacy of being elected by the Parliament as a whole and not selected by the whips, which I think gives a stronger sense of legitimacy to the Parliament as a whole.

**Professor Mitchell:** I have to admit that I am on record as saying that I think that remuneration should be considered, although I suspect that my view on that is very much the minority view.

The reason why I think that it would be worth considering is to do with the symbolism. That is more important than the money itself. It would be a statement that we take these posts seriously. However, I acknowledge that there are incredibly powerful arguments against the proposal, and I think that, in the current climate, such a move would clearly be unacceptable

**Dr White:** Anecdotally, in Westminster, people feel that election has narrowed the gap between Opposition chairs and Government chairs. Opposition chairs used to be relatively weaker and had to find support within the committee to get what they thought was the right programme through or to get reports passed and so on, but the fact they are now elected has strengthened them and brought them closer to the position that Government chairs were in before.

**The Convener:** Prof Mitchell has successfully anticipated the question that George Adam was going to ask and has answered it, so we will move to the point at which I thank you for attending. First, however, I will give you the opportunity that I adumbrated at the outset to, in 100 words or less, talk about anything that you think that we have not covered but which we might usefully be informed by. Does anybody wish to add to the remarks that have been made thus far?

**Professor Mitchell:** Only to repeat the offer that I made, which is that we are happy to help to facilitate any further discussion.

**The Convener:** I think that the committee is, in broad terms, quite open to considering further reform. Finding the appropriate time to do it and deciding what to focus on is a matter for another day. However if the academy for government is a

safe haven in which the early stages of such a discussion could take place, we are grateful for that offer, and will seek to come back to you at the appropriate time once again. Thank you very much indeed.

10:46

*Meeting continued in private until 11:16.*



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