



OFFICIAL REPORT
AITHISG OIFIGEIL

Standards, Procedures and Public Appointments Committee

Thursday 28 October 2021

Session 6



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

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

Thursday 28 October 2021

CONTENTS

| | Col. |
|--|-------------|
| DECISION ON TAKING BUSINESS IN PRIVATE | 1 |
| SUBORDINATE LEGISLATION..... | 2 |
| Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2021 [Draft]..... | 2 |
| Scottish Local Government Elections Amendment Order 2021 [Draft]..... | 2 |
| Representation of the People (Variation of Limits of Candidates' Local Government Election Expenses) (Scotland) Order 2021 (SSI 2021/310)..... | 2 |
| Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2021 (SSI 2021/317) | 2 |
| GUIDANCE ON BILLS | 19 |
| CROSS-PARTY GROUPS..... | 20 |

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
5th Meeting 2021, Session 6

CONVENER

*Martin Whitfield (South Scotland) (Lab)

DEPUTY CONVENER

*Bob Doris (Glasgow Maryhill and Springburn) (SNP)

COMMITTEE MEMBERS

*Paul McLennan (East Lothian) (SNP)

*Edward Mountain (Highlands and Islands) (Con)

*Tess White (North East Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

George Adam (Minister for Parliamentary Business)

Jackie Baillie (Dumbarton) (Lab)

Sarah Boyack (Lothian) (Lab)

James Dornan (Glasgow Cathcart) (SNP)

Iain Hockenhull (Scottish Government)

Rona Mackay (Strathkelvin and Bearsden) (SNP)

Liz Smith (Mid Scotland and Fife) (Con)

CLERK TO THE COMMITTEE

Katy Orr

LOCATION

The Sir Alexander Fleming Room

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 28 October 2021

[The Convener opened the meeting at 09:15]

Decision on Taking Business in Private

The Convener (Martin Whitfield): Good morning, and welcome to the fifth meeting in 2021 of the Standards, Procedures and Public Appointments Committee. I ask those members and witnesses who are on the BlueJeans platform to remember to type R in the chat function as your request to speak.

Item 1 is consideration of whether the committee will hear a complaint from the Commissioner for Ethical Standards in Public Life in Scotland and whether that item should be taken in private at a future meeting. Are we agreed on that?

Members *indicated agreement.*

Subordinate Legislation

Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2021 [Draft]

Scottish Local Government Elections Amendment Order 2021 [Draft]

Representation of the People (Variation of Limits of Candidates' Local Government Election Expenses) (Scotland) Order 2021 (SSI 2021/310)

Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2021 (SSI 2021/317)

09:16

The Convener: Item 2 is subordinate legislation. We will take evidence on two affirmative and two negative Scottish statutory instruments. I welcome George Adam, the Minister for Parliamentary Business, and his officials Iain Hockenhull and Craig McGuffie. I invite the minister to make a short opening statement, after which the committee will ask questions.

The Minister for Parliamentary Business (George Adam): As always, it is a pleasure to be here. I thank you for the opportunity to discuss the proposed changes to the procedures for running local government elections in Scotland.

The measures that are laid out in the instruments that are before the committee were carefully developed to assist with the delivery of next May's local government elections. They will apply some of the changes that were made ahead of this year's Scottish Parliament elections, and they reflect recent primary legislation by the Parliament on the franchise and wider electoral reform.

Although our focus has been on clarifying and strengthening existing approaches, we have also taken the opportunity to update electoral rules to strengthen our system and improve the experience for candidates and voters. For example, we are bringing in new exemptions on candidates' spending in relation to costs for security, adaptations for disabilities and translation. That aligns with the approach that was taken for this year's Scottish Parliament election, and it reflects the importance of accessibility, inclusion and safety.

Development of the instruments has benefited from close engagement with key stakeholders including the Electoral Management Board for Scotland, the Electoral Commission and the Scottish Parliament political parties panel. Those partners and the wider electoral community continue to play a vital role in shaping policy and in ensuring that voters have the best experience on polling day. I thank them for their support and their reflections, and I look forward to working closely with them in the coming months on the preparations for May 2022.

I hope that the committee will agree that the provisions are positive changes that will benefit voters, candidates and administrators and that it will therefore give its support to the instruments. I am willing to take any questions, and I thank you for listening to me.

The Convener: Thank you for that, minister. My intention is to work through each of the four SSIs in order. That will make the next agenda item more straightforward.

The first SSI is the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2021.

Paul McLennan (East Lothian) (SNP): I refer members to my entry in the register of members' interests. I am a serving councillor on East Lothian Council. I am glad that you read out the title of the regulations, convener, as that has saved me from having to do it.

I want to talk about the changing of the deadline for requesting a replacement for a lost or spoilt postal vote ballot paper from 5 pm to 10 pm on polling days. Why was the deadline previously 5 pm, and what impact will the change have on electoral administrators?

George Adam: I will answer your first question first, by saying that the 10 pm deadline was created first so that local government elections would be on a par with Scottish Parliament elections.

The reason that the deadline was initially 5 pm might have been lost in the annals of time, but Iain Hockenhull might be able to help me out on that.

Iain Hockenhull (Scottish Government): "Lost in the annals of time" was pretty much what I was going to say. We could investigate that, if it would be of interest to the committee. Personally, I do not know the answer.

Paul McLennan: Was there any indication from previous elections that anyone was disenfranchised because the deadline was 5 pm rather than 10 pm?

George Adam: I do not think so. Iain Hockenhull might be able to give you some more

detail on that, but, on the whole, I do not think that there have been issues. There has always been flexibility for people, whatever time they have had to turn up. There will always be times when things will be difficult and a replacement will not be issued, and we have to make sure that we deal with that situation. We have tried to create flexibility so that no one is disenfranchised. Iain Hockenhull can give some more detail.

Iain Hockenhull: We do not have any particular data on people saying that they have been disadvantaged. The experience from the Scottish Parliament elections suggests that offering five extra hours would help in the odd case in which someone might be disadvantaged in that way. We have asked electoral administrators to monitor how it goes and to see whether there are any complaints. The Electoral Commission was very much in favour of the change.

The Convener: It is fair to say that, in the previous election, events in East Lothian led to an emergency proxy being issued at about 9 o'clock, and I can see similar events occurring in council elections.

As no other committee members have any questions on the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2021, we will move to the Scottish Local Government Elections Amendment Order 2021.

I will use the convener's privilege and start the questioning, because a couple of matters concern me, the first of which is the equality impact assessment. I note from the information that was provided that there was an assurance that the assessment would be published before the instrument was laid before the chamber. It has, indeed, been published alongside the instrument. I do not know whether the minister has had sight of the equality impact assessment, but some questions were raised when it was being compiled. The assessment says:

"Follow-up after the elections on how this expenditure exclusion is used may be helpful in understanding the impact of the policy."

In addition, it refers to a lack of data to feed into decision making.

First, will the minister give an assurance that there will be a follow-up? Secondly, on a slightly higher level, do you have any concerns about the equality impact assessment, given the lack of data about the people to whom it applies?

George Adam: I will bring in Iain Hockenhull to answer those questions in more detail.

Iain Hockenhull: The intention is certainly to monitor progress, and that will inform any future elections orders. The data to which the convener

referred does not really relate to this order; it is more about future development. We consulted a number of groups and stakeholders, and we wrote to a number of community groups. I think that we got a response only from Age Scotland. Overall, no particular concerns were raised.

The Convener: In relation to excluding certain items from the expenditure, the equality impact assessment specifically says:

“Follow-up after the elections on how this expenditure exclusion is used may be helpful in understanding the impact of the policy.”

I understand that the changes will obviously apply to future elections, because you do not have the data on this one. There has been a very strong request, and it seems to me that, unless there is confirmation that there will be that follow-up, the impact of the policy will be unknown.

Iain Hockenhull: Various types of spending, such as that on making events accessible to people with disabilities and making publications, will not count towards a candidate’s spending limit. The idea is to see how that goes, what sort of activities are covered and what people put in their spending returns, in which they say what they have done. We want to see what the pattern is and whether we can draw any conclusions from that, such as whether additions or subtractions should be made.

The Convener: Those who drafted the equality impact assessment certainly seemed to face a challenge in saying what the impact would be, given the lack of data. I think that there is agreement on that. I will push further: will the follow-up take place on the basis of the expenditure returns that come after the council elections in May next year?

Iain Hockenhull: Yes. I think that the Electoral Commission looks at such matters and at returns. Returning officers also monitor those.

The Convener: I am sorry, but I am talking about the impact of the policy on the excluded expenditure returns, because that falls under the Government’s responsibility.

Iain Hockenhull: We will work with the Electoral Commission’s findings, because it normally does the questioning in the first instance. We will look at the information that it provides.

The Convener: Right.

George Adam: I can summarise this. We will take the data that we receive from the next election and use it to take things forward in the future. We are trying to do something. I can give a personal example of the expenditure for a disabled candidate. My sister Jennifer is a councillor in Renfrewshire and Paisley. As a disabled

candidate, she had extra support needs, and Inclusion Scotland helped with those for various candidates.

It will be interesting for us to receive that data and see what we can do to make things more accessible so that everyone can engage and can be a candidate. We all accept that certain candidates will need more expenditure.

The Convener: That is helpful. Discussions that I have had show that people with disabilities felt very much supported by the additional expenditure. I was homing in on a request that had been made for assurance that that will be looked at after March.

George Adam: It would be helpful for us all to check that information so that we can tweak it and be sure. We do not claim to have all the answers all the time. We must ensure that we get things right in the future.

The Convener: That assurance is very helpful.

I would like clarification of a few more points. Can you explain the thinking behind additional costs for security? I have asked a number of sitting and prospective councillors, but they did not really understand what was being referred to.

Iain Hockenhull: That is a reference to potential increases in security. In the current climate, there might be a need for security at a venue or at an event where a candidate is speaking and for that not to be counted as part of that candidate’s spending when they compile their returns.

The Convener: We are living in a period following an absolute tragedy, and the security of individual elected members, and of the venues where they gather, is paramount. The SSI and that discussion about security predate recent events. It is my understanding that additional security is now needed because of that event. There is advice from Police Scotland and other bodies about that.

What was being considered at the time, given that the responsibility for funding security will rest with the individual and their political party and that the purpose of the SSI is merely that the cost will appear in the return but not be set against the totals that need to be expended? Was anything more specific being considered?

Iain Hockenhull: I do not think so. The gist of this is that spending that is not to a candidate’s advantage, such as spending that takes account of a person’s disability or that is for taking care of security concerns, does not help them to get elected. It therefore seems reasonable not to have it count towards those totals.

George Adam: The purpose of the SSI is to ensure that nobody is disadvantaged in any way if

they have an expense that another candidate would not have. It creates parity.

I understand your question about security. We live in difficult times. There had already been a number of tragedies before the SSI was created, and that would have been taken into account. We must ensure that all candidates, whether for councils, Westminster or Holyrood, feel safe and have the opportunity to be safe.

At the same time, elected officials must be accessible to the public. I heard a security briefing recently at which someone suggested to me, "Perhaps you should not advertise your surgeries and not tell people what time you will turn up." I said, "Well, that's not really helpful, because that's what we do." I think that we need to be very careful that we do not end up in that place.

09:30

The Convener: The wording in the SSI is broad. It talks about the additional costs that any disabled person would face. It is only when we look at the policy note that we see that there appear to be emphases and restrictions. I absolutely accept and whole-heartedly agree that this should be about removing the additional expenses that some individuals face in running for election, as compared with others.

The certainty of that answer brings me to my last question on this SSI, which is about the bodies that were consulted. I found the bodies that were reached out to a little limited—let me put it that way—given that various bodies in Scotland have substantial evidential experience that could have been contributed. I hear what you say about the responses that you received, but were positive steps taken to reach out and ask disability organisations and disabled elected representatives to feed into this?

Iain Hockenhill: I think that it was just the organisations that are listed. I take the point that we could go further. We can make a note of that for future exercises.

George Adam: I am happy to take that point on board for future consultations. I am a great believer in such consultation. As you will be aware, my wife has multiple sclerosis, so accessibility to everything for disabled people is important to me. I will take the point on board and look at various other organisations that we can work with. On the positive side, with the ones that we have worked with, we have got good conclusions and also outcomes.

Can we do things better? That is always the case. Every day is a school day, and we will be able to do things better in the future. We will take your points on board, and, if there are any groups

that you or members of the committee want to suggest, we will be quite happy to look at them.

The Convener: I think that that would be helpful as part of the review process following the elections, if only to capture the experience of how it has worked the first time round.

George Adam: Yes. This might make me sound like a political geek, but personally I always find that bit quite exciting, because it means that we can work out how we can make things better. When something goes wrong, I see it as an opportunity to try to make it better. That might sound a bit cheesy, but it is always the way.

The Convener: Absolutely. My last question on this SSI—I know that I said that my previous question was my last—is about how the provision on deductions will be applied across Scotland. What are you going to do to monitor the position so that we do not have a situation in which certain expenses are allowed to be deducted in one submission while others do not benefit in the same way?

George Adam: On the whole, it should be the same throughout Scotland. It is probably our job to ensure that returning officers in every area are aware of that and that everyone gets the same training. I know where you are coming from, convener. As someone who has been part of the electoral process, I know that things can differ from area to area depending on the staffing.

The difficulty that we have is that, if we look at the Scottish elections and think about some of the things that did not work out and the issues that we have been discussing today, we can see how different they were compared with others. I cannot guarantee what will happen with Covid between now and May next year, so I cannot say that those elections will not happen under the same pressures. However, it is down to us to ensure that all returning officers are aware that these are the key priorities and that they need to make sure that all their staff and everyone who works on the elections are aware that this is what we want to do.

The Convener: That is helpful.

Tess White (North East Scotland) (Con): I am concerned about one area, which relates to the order placing an obligation on the returning officer to send an official poll card or notification to a detained prisoner, or a prisoner held on remand, at the place where they are being detained rather than the address at which they are registered to vote. Can you give us some background on why you felt that there was a need to make that change, bearing in mind that it affects such a small number of people?

George Adam: I agree—a lot of the time, people say that we make things difficult for ourselves. It is a small group of individuals, but we are working to the principle that voting needs to be accessible to everyone. No matter how you look at it, it is difficult for us to make it easier for prisoners to vote, because there are all kinds of complex issues. Prisoners could be released early or they could be incarcerated for longer. All kinds of variables make the issue quite difficult and complex for us.

I will ask Iain Hockenhull to give you the detail, but I have given you the mood music. It is a complex situation and we are trying to make sure that it is as simple as possible, but it can be quite challenging.

Iain Hockenhull: The specific problem with poll cards was highlighted by electoral registration officers, who pointed out that, in effect, the prisoner would be relying on someone at their home address to pass on the poll card to them in prison. The change allows the poll card to go directly to the prisoner.

Tess White: So you are making the change because of a suggestion that has come from somebody else, rather than a complaint that you have received or data. Bearing in mind the Conservatives' position on prisoner voting, I would ask what is to prevent us from leaving the situation as it is now, because the change is an area of concern, and then reviewing it at some future stage.

Iain Hockenhull: Do you mean issuing poll cards to the home address?

Tess White: Yes. I am suggesting leaving the situation as it is currently, whereby you send the poll card to the home address. Some people would prefer to have it sent to their home address, because they get everything sent there. You would be making an exception with this change. Have you sought people's input?

Iain Hockenhull: The suggestion came mainly from electoral registration officers. It is not a change that we would expect to make a big difference either way.

Tess White: It is a change and there is a concern. If there have been no complaints and nobody has found any difficulties, why make the tweak?

Iain Hockenhull: It was suggested that it would make things a little easier for most people in that the polling card would not have to be forwarded on.

Tess White: So it is not that important to you. It is just a tweak.

Iain Hockenhull: Yes.

Tess White: I am just saying that it is an area of concern. I recommend that we leave things as they are now rather than change anything. Will you consider doing that, minister?

George Adam: We will maybe look at what you have discussed today, but with regard to the Scottish statutory instrument that we are considering now, we need to ensure that we can have the elections next year. I suggest that you bear with us at this stage. I have given an assurance that we will look at what you have suggested, but, at the end of the day, we have a process that some of our electoral registration officers have said is the way forward and would be better for the electorate.

If we can find other information and data, we will pursue that at a later date. However, in the here and now, to ensure that we move forward, we have to stick to what we have in front of us today.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): That was a really interesting line of questioning, but there is a general policy agreement across the Parliament. I know that some members did not support prisoner voting, but there is a clear majority for it. The policy intent is to ensure that the maximum number of prisoners who are entitled to vote can exercise that democratic right as part of their journey. The issue is about citizenship rights and responsibilities, and there is a broad agreement in the Parliament that that is what we should do. I wonder, minister, whether, after the next elections, you would review what difference sending polling cards to prisons rather than home addresses makes.

The underlying issue is that very few prisoners register to vote in the first place and, I suspect, very few eventually cast their vote. I suspect that the change is about encouraging more people in custody to exercise their democratic right. We want to make sure that the measure has had a positive effect. I am minded to support the statutory instrument, but, after the next election, I would be keen to see a review and analysis of the impact that the measure has had.

George Adam: As always, you make an articulate case. I agree that that would be interesting information for us to look at after the election.

You are correct in saying that the measure is all about the rehabilitation of those who are incarcerated and about bringing them back into society. We are trying to make that as simple and easy as possible.

I think that we should look at the detail, and I have already made a commitment to Ms White that we will look at the data when it comes in after next year's election.

The Convener: That concludes the evidence on the affirmative SSIs.

We have two more SSIs to deal with. The next SSI is the Representation of the People (Variation of Limits of Candidates' Local Government Election Expenses) (Scotland) Order 2021. I invite Edward Mountain, who is with us remotely, to put his questions to the minister.

Edward Mountain (Highlands and Islands) (Con): Perhaps you could help me out, minister. I want to find out a bit more about the spending limits. The expenses limit of £740 is being increased. When was that limit put in place, and when was that sum last reviewed?

George Adam: I am sorry, Mr Mountain, but your sound is quite faint—I did not quite hear you.

Edward Mountain: Okay. I will move closer to the microphone. Can you hear me now?

George Adam: Now you are the voice of God.

Edward Mountain: As I had hoped. [*Laughter.*] Maybe that is something to do with the broadcasting team.

I was asking about the £740 expenses limit, which has been reviewed. When was that amount set, and when was it last reviewed?

George Adam: I ask Iain Hockenhull to answer that.

Iain Hockenhull: I am reasonably confident that that was done in the previous main local government elections order before the 2017 elections, but I would not swear to that. I can double check. The figures get reviewed ahead of every major election cycle, and they are updated largely to take account of inflation.

George Adam: We will get back to the committee and confirm that detail to you, Mr Mountain.

Edward Mountain: Thank you, minister. How did you come up with the £66 figure? The figure is bizarre—it is an 8.918 per cent increase. How did you work it out?

George Adam: Once again, I rely on Iain's expertise.

Iain Hockenhull: I think that that is an inflation calculation. I am told that it is not an exact calculation but a reasonable approximation. As I said, I think that it is based on inflation.

George Adam: I believe that, prior to every election, we look at inflation to see where we are at with the limits, to make sure that we do not always stay at the same level and that all the candidates get the right spending amount.

Edward Mountain: If the increase is based purely on inflation, I am not sure how, even in calculating a cumulative inflation figure for the period, we would arrive at that figure.

The next election will be very different to previous elections because of Covid. I still believe that a lot more will have to be done remotely. I have argued the point before that, when it comes to parliamentary elections, there has been a huge shift from hand deliveries to postal deliveries. Do you think that the £66 increase is sufficient, given that it has probably already been accepted that the increase in the expenses limits for parliamentary elections will need to be bigger than the amount that would be delivered through a formulaic increase that is based on inflation?

George Adam: In looking at the matter as a candidate and a former councillor, I would always say that you could spend more money on a campaign. However, you have to draw a line on what is fair for everyone, to make sure that there is a level playing field. The instrument gives us that opportunity.

When you look at the end of the previous Scottish parliamentary election, when we were finally allowed to go out, get involved and get back to some form of normal campaigning, we managed to get things moving and deliver leaflets. Personally I do not know of many local candidates in our area who used mailing to that extent. I did not do so myself but simply moved forward with the campaign as it was.

09:45

We had the campaign laid out right from the start. We made sure that we were accounting for the fact that we were living in difficult times and that things would be a certain way. Was it a nervous time for me, as a candidate? It probably was. Indeed, halfway through the campaign, I was sitting in the house, starting to worry. However, we need to give the parties the opportunity to continue with these limits, and I think that they should be okay. If, after the next election, we get data further down the line that says otherwise, we will review the situation.

Edward Mountain: I suspect that it has been some time since you were a councillor, minister, but how many councillors were asked whether they thought that the spending limits were correct, and did that happen in every geographical area? It is much easier to deliver leaflets in your area than it is in, say, the north of Scotland, where there are huge geographical areas to cover. How many councillors were asked and what were their opinions?

George Adam: I take your point on board. It was not yesterday that I was a councillor, Mr

Mountain, but you should not let the white hair fool you. It was only 11 or 12 years ago.

I also take on board your comments about geographical differences. I am aware of that issue, but I ask Iain Hockenhull to talk about consultation with local authorities and councillors.

Iain Hockenhull: In this instance, the consultation was primarily with the Scottish Parliament political parties panel, representatives of each of the parties and the Convention of Scottish Local Authorities. I am not aware of individual councillors being involved.

George Adam: As the main body for local authorities, COSLA will have an opinion, and leaders and deputy leaders throughout the country, as well as those involved in the process and COSLA members who lead groups, will have fed into that. The consultation has been reasonably broad, but it would be difficult for us to break things down to the individual councillor level, because, as Mr Mountain will know, there are quite a few councillors. As always, if there are better ways of engaging with people and opportunities for us to do so, we will look at them.

Edward Mountain: I am slightly disappointed that you have not been to the coalface, as it were, to ask councillors whether the limits are sufficient. I understand that COSLA is a representative body, but there are a lot of councillors who do not feel that it represents their particular views. Had I been in your position, I would have set up a poll for councillors, which is easy to do through SurveyMonkey and various other means. It would have been nice to know that we had spoken to councillors, so I am disappointed by that answer.

Just to push things slightly further, I take from what you have said that you believe that there should be spending limits. I agree with you, but I wonder whether the Scottish Government will be thinking of such limits when it comes to Covid and the effects of the huge amounts of travelling around. When I stood in Caithness, for example, I did 14,000 miles trying to get round the constituency during the election campaign. That was a massive amount. Indeed, we do not want to do things like that, which might mean that we have to rely more on pushing out leaflets and information. Will you be considering spending limits on such matters, and will you be speaking not only to councillors but to MSPs and, indeed, MPs to find out whether they think that the limits are correct instead of your making the decision yourself?

George Adam: I am quite happy to have a dialogue with anyone on how they see the way forward. As for your earlier remark about some councillors not feeling as though they are represented by COSLA, as the representative

body, I have to say, as a former councillor, that I find that difficult to believe. Even though I was a back-bench councillor for much of my time on the council, I attended a number of COSLA meetings and was able to input what I wanted to say through my group. It is down to individual groups and parties to do that, too.

With regard to your perspective on the cost of campaigns in relation to geographical areas, I say again that that issue has always been one for individual campaigns and parties to deal with. The issue of how we fund elections is probably not one for discussion today but something that we can discuss and debate in the future.

Edward Mountain: The only comment that I would make before I hand back to the convener is that a lot can change in 12 years—not just views on COSLA—

George Adam: I still talk to councillors.

Edward Mountain: —but views on election expenses. I am sure that the minister accepts that.

Bob Doris: I am sure that Mr Mountain and the minister do not look very different from how they looked 12 years ago—they looked old then, too. *[Laughter.]*

On the substantive question, Mr Mountain has made a reasonable point on consultation, as you have also done, minister. You mentioned that COSLA is consulted, as is the political parties panel. The next time that the Government consults both COSLA and the political parties panel, can they be reminded that they should be as extensive in their own consultation with councillors and party activists across the country? There is a joint responsibility—the job of consultation is not just for Government but is also for political parties and COSLA, and we need to hold to account appropriately each organisation that has that job of consultation, not just the Government. After the election, it would be good, when you have that discussion, if the Government reminded COSLA and political parties to have that consultation internally.

George Adam: That is helpful, Mr Doris. COSLA and the political parties panel could use a lot of the technologies that Mr Mountain mentioned in order to engage with their membership. It is important to remember that the Government is there to govern and that, although we consult, we need to make sure that those organisations consult their own membership as well. That is helpful, and it is something that we could suggest to and discuss with partner organisations.

The Convener: Is it correct that the increase in the spending limits in this instrument takes no account of any additional expenditure on Covid

measures and that it has been calculated just as an uplift? I ask merely for the record.

George Adam: I have been led to believe so, but we will hear from Iain Hockenhull if he has to tell me otherwise.

Iain Hockenhull: That is my understanding, too.

The Convener: Thank you. I just wanted that on the record for the purpose of clarification.

As there are no further questions on that instrument, we come to our last SSI, which is the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2021. In essence, the instrument makes changes for emergency proxy applications that are made after 5 pm. A number of questions arise from it, but the crucial one is, what was the reason for the 5 pm deadline for an emergency proxy application for someone who is disabled but the removal of that deadline for someone who is detained?

George Adam: I pass that question to Iain Hockenhull.

Iain Hockenhull: The principal divergence relates to prisoners who have been detained for some time. For example, if a prisoner is detained on 1 January and the election is at the start of May, it is to be hoped that they would put in place arrangements for a postal vote or a proxy vote at that point. However, it is possible that they might expect to be released before polling day but then something happens that means that they end up serving their term past polling day. If that happens during the run-up to the election, the provisions offer them the facility to get that emergency proxy vote even though they have been detained for some time. That seems slightly counterintuitive, but, given that so few people are involved, we thought that an alternative option would be so complicated to construct that it would just confuse everyone horribly. We therefore put those provisions in place.

The question is also raised of what happens when someone has been detained very shortly before the normal proxy deadline. If someone is detained, say, seven days before the election, they are probably not going to think, "I've got two days to get a normal proxy." They might think of it only a few days before polling day, in which case, if we had applied the deadline rigidly, they would be too late for an emergency proxy in the classic sense—they could make an application, but we thought that it was probably fairer to make that a little simpler.

The changes should help disabled people as well. If someone suffers a disability before the normal proxy deadline and, understandably, is unable to get their normal proxy through, the

change will help them and they will be able to get an emergency proxy much more easily.

The Convener: But only until 5 pm.

Iain Hockenhull: Until 5 pm on the day of the election, yes.

The Convener: It will be later for—

Iain Hockenhull: No, it is 5 pm on the day of the election for everyone—that is the end point for anyone getting an emergency proxy.

The Convener: Are you saying that the 5 pm deadline for a person who is detained has not been removed and is still there?

Iain Hockenhull: Yes. However, there is a slight difference in the deadline for applying for an emergency proxy, which is six days before the election.

George Adam: Convener, you highlight helpfully the complexities of trying to legislate for prisoner voting. As I have said, it is about a small number of people, and it is quite difficult and challenging for us to do. You have highlighted that perfectly, convener.

The Convener: Thank you for that. I am conscious of the time, but I want to raise again the question of who was approached for advice in the consultation. It appears to have been quite limited, unfortunately. I know that the minister has undertaken to review that on a number of matters, which is extremely helpful.

George Adam: I will just reiterate that with regard to this issue, so that we do not have to go through the whole process again. I am quite happy to say that we will look at that after the next election, too. We will consider the data that we have and take it from there.

The Convener: That is very helpful. As no committee members have further questions before I close the evidence session, I thank the minister and those who advised him for their evidence, which has been very helpful.

We move to agenda items 3 and 4, for which the minister will stay in order to formally move the motions. If necessary, we will have a debate on the matter. I invite the minister to speak to and move motion S6M-01320.

George Adam: For the sake of brevity, for the committee and its agenda, I will move the motion formally.

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 2021 [draft] be approved.—[George Adam]

Motion agreed to.

The Convener: Is the committee satisfied that I will sign off the report to the Parliament?

Members indicated agreement.

The Convener: I invite the minister to speak to and move motion S6M-01321.

Motion moved,

That the Standards, Procedures and Public Appointments Committee recommends that the Scottish Local Government Elections Amendment Order 2021 [draft] be approved.—[George Adam]

Motion agreed to.

The Convener: Is the committee happy that I will sign off the report to the Parliament?

Members indicated agreement.

The Convener: I thank the minister and his officials for their attendance today.

George Adam: Once again, it has been a pleasure.

The Convener: Agenda item 5 is consideration of two negative SSIs. Are there any comments before I move to the formal element?

Edward Mountain: I have a point about election expenses. I am unclear whether sufficient consideration has been given to what they should be in the Covid-influenced environment in which we live. I would urge that, when the committee talks to the Scottish Government, we ask it to reconsider that and to consult more widely on whether they are appropriate. When it comes to local government officials, independent councillors might well have not been included in previous consideration by COSLA and such organisations.

10:00

The Convener: It is fair to say that, as we heard in evidence, the SSI does not include any Covid-influenced increases. It would be right for the committee to point that out, because we do not know what the situation will be next year. We hope that we know what it will be, but experience tells us to be careful about making assumptions.

To be fair to the answer that Bob Doris received, there is an understanding that there is a need for better and wider consultation with individual councillors through COSLA and the political parties, specifically in relation to the election expenses order. I am assured by the evidence that we heard that there will be a wider consultation, particularly in relation to groups that are influenced by the two SSIs. Does that make sense?

Edward Mountain: I am happy with that. I just want to put it on the record.

The Convener: Does the committee agree to make no recommendation in relation to the SSIs except that which appears in the evidence?

Members indicated agreement.

Guidance on Bills

10:01

The Convener: Agenda item 6 is consideration of an update to the guidance on bills. The Parliament agreed a number of standing order rule changes during session 5. As a consequence of those changes, revisions to the guidance on public bills have been made.

If members have no comments on the guidance that has been provided to us, are we content to agree the revised guidance and approve it for publication?

Members *indicated agreement.*

Cross-Party Groups

10:01

The Convener: Agenda item 7 is consideration of applications for recognition from five proposed cross-party groups.

The first group that we will consider today is the proposed CPG on Ireland. I hope that we can welcome James Dornan, who is the convener of the proposed group. He joins us remotely.

James Dornan (Glasgow Cathcart) (SNP): Hi.

The Convener: Good morning, James. You have made it through to us. We are asked to consider and approve the application for recognition under agenda item 8. In due course, the clerks will inform you of the committee's decision. I invite you to make some opening comments on the proposed CPG.

James Dornan: Ireland is one of our closest neighbours. The cross-party group would be about fostering further links for culture and business and giving the Irish voice in Scotland a place to be heard. The Irish community is one of the biggest migrant communities in Scotland, and it is important that the Scottish Parliament has a distinct place where people in that community can come to tell their stories and tell us about the successes that they have had while living in Scotland, as well as something that enables us to strengthen the link between the two islands.

The Convener: You have been appointed as the convener. Will you tell us who your deputy convener is, please?

James Dornan: Yes, of course. Finlay Carson is the deputy convener. To date, seven MSPs from four parties have said that they will join. Countless organisations and individuals are also keen to join if the CPG gets up and running. It will have a lot of people on it.

The Convener: As I said, the clerks will be in touch after we make our decision on the CPG under the next agenda item. I thank you for joining us. We will, no doubt, speak soon.

James Dornan: Thank you very much.

The Convener: We will now consider the proposed CPG on long Covid. I welcome to the meeting Jackie Baillie, who is a co-convener of the proposed group. Again, we will make a decision on the proposed CPG under the next agenda item, and the clerks will notify you of the decision in due course. I invite you to make an opening statement on your proposed CPG.

Jackie Baillie (Dumbarton) (Lab): Thank you very much, convener. I thank committee members for their time this morning.

The pandemic has touched everybody in Scotland, but, unfortunately, its impact on some people still lingers and has quite serious consequences. A number of MSPs were asked by Long Covid Scotland, which represents ordinary people across Scotland who are still suffering from the after-effects of Covid, to set up a cross-party group. It asked us to do so in order to bring focus to the issue, to highlight and recognise the problems that are being experienced, to ensure that there is appropriate service provision, to try to influence the policy that is emerging from the Scottish Government and to bring to the Parliament the lived experience of people who are suffering from long Covid.

I have had discussions with colleagues, and we have set up the cross-party group. We hope that the committee will support us.

The Convener: I am very grateful for that.

Bob Doris: I welcome Jackie Baillie to the committee. I am pleased that you have been able to come along.

In your opening statement, you commented on the question that I wanted to ask. Who could disagree with the purpose of the cross-party group? However, I did not see anything about how people with lived experience of long Covid can help to shape, improve and enhance services and service provision in a positive and constructive way. I know that Long Covid Scotland wants to do that, but I did not see that reflected in the purpose of the group. It is up to the cross-party group to shape its work programme, but what you have put on the record gives me confidence that that will be a key part of the group's objectives. I do not know whether you want to add anything to that.

Jackie Baillie: I agree with what you have said. Given that that is such a core part of the group, it is not a single objective. The group is serviced by Long Covid Scotland, which brings those voices into the Parliament. Even as we speak, the cross-party group and I are negotiating with the Cabinet Secretary for Health and Social Care to ensure that lived experience feeds through into Government policy. We see the group very much as a supporting vehicle to do that. People with lived experience are central to the cross-party group and to every agenda that we will have, and we will certainly promote that work. I am happy to reassure Bob Doris that that is the case.

Edward Mountain: You have answered the question that I was going to ask about how to reach out and include everyone who is suffering from long Covid. How will you make people who are suffering aware of all that you are trying to do?

The group's aim is very laudable, and it will be breaking new ground. You have partly answered my question, but I would appreciate it if you could give me a bit more information.

Jackie Baillie: Long Covid Scotland represents hundreds upon hundreds of long Covid sufferers in Scotland, but it is not our only member organisation. A variety of organisations, including Long Covid Kids, are very active in this space. They will bring their knowledge directly to the Parliament and to the cross-party group, and they are also willing to share their knowledge with the Government. If you have listened to anyone who is involved describing their experiences, you will know that what they say is hugely powerful. Those experiences will be very welcome for policy makers across Scotland in considering how we ensure that people with long Covid are catered for within myriad complex systems in our public services and are assisted in their journey to recovery.

The Convener: You are a co-convener, so it is right to note that Alex Cole-Hamilton MSP and Sandesh Gulhane MSP are the other co-convener—is that correct?

Jackie Baillie: That is right. We like to be very inclusive and to work across parties. We share the responsibility, because I think that it reflects well on the Parliament that we can operate in that way.

The Convener: That is excellent. Thank you very much for your evidence. As I said, we will be in touch after we have made our decision.

There will be a short suspension while there is a changeover of witnesses.

10:09

Meeting suspended.

10:12

On resuming—

The Convener: The committee will continue to consider CPGs. I welcome Liz Smith for our consideration of a proposed CPG on outdoor education. We will make the decision on the proposed CPG under the next agenda item. The clerks will be in touch with you about that. Would you like to make any opening comments about the proposed CPG?

Liz Smith (Mid Scotland and Fife) (Con): Yes, I would. I thank committee members for giving up their time to listen to what I have to say.

Most people around the table are aware that, during the 15 years that I have been in the Parliament, outdoor education has been a strong personal interest. As time has gone on, I have

been struck by how much it means to many members across the political spectrum. You will know from recent members' business debates and discussions that we have had on the subject that it is capturing the imagination.

In relation to the Covid situation, outdoor education and all the assets that it brings are vital to young people's wellbeing. It is clear from what members have said in debates that there is an issue in relation to pressures on education and, especially, outdoor education centres.

I have convened the cross-party group on sport for some time. There is a distinction between sport and outdoor education, and one of the gaps in the Parliament is that we do not have a sufficiently discrete group on outdoor education. I spoke to various colleagues across the political spectrum when thinking about setting up the group, and they are very keen that I do so.

That is where we are. I did an informal consultation about it and spoke to a lot of people with whom I have considerable contact in the outdoor education world. We agreed that not only would it help the Parliament to engage with that increasingly important sector but it would help local authorities, schools and people who have a strong interest in the unmeasurable aspect of education, which I would defend as being the most important. We all feel passionately about that.

Those are the basic reasons for the group, convener. I set out its purpose in my paper.

10:15

The Convener: Do members have any questions?

A broad set of organisations from outwith the Parliament support setting up the group, which is good to see. The deputy convener is Daniel Johnson—is that right?

Liz Smith: That is correct.

The Convener: Excellent. We wish you well for our next agenda item.

10:15

Meeting suspended.

10:27

On resuming—

The Convener: I now welcome to the committee Rona Mackay MSP, who is joining us to speak to a proposal for a CPG on women, families and justice. I invite Ms Mackay to make some opening comments about the proposed group.

Rona Mackay (Strathkelvin and Bearsden) (SNP): When I was the convener of the cross-party group on women's justice, which was formed in 2018, it became increasingly clear that what we were discussing involved children and families, too. There was already a cross-party group on families affected by imprisonment, and its members regularly attended and contributed to our group's meetings. As a result, it seemed logical and sensible to merge the two groups in this parliamentary session, given that we shared the same agenda on many occasions and spoke about the same problems faced by women going through the justice system and the effect on their wider families.

The Convener: Thank you very much. Do members have any questions?

Bob Doris: Good morning. I just want to take this opportunity of Rona Mackay's appearance to ask a brief question that, I think, reflects a constituency interest. I know that alternatives to custody for women will be part of the group's work. Frankly, we are failing too many women by locking them up. One of the new smaller custodial units for women is being developed in Maryhill, in my constituency, and we are all very keen to see what difference these establishments make in ensuring that women whose being held in such a unit is unavoidable still have access to their families and wider support mechanisms and are not cut off from that wider family group. As the new units come online over the course of this parliamentary session, will looking at their effectiveness or otherwise form part of the work of the cross-party group?

10:30

Rona Mackay: That was part of the work of the previous group, and, now that the units are nearing completion, we are very keen to press the need for contact between mothers and children. We are asking for mother-and-baby units to be part of these establishments in order to allow mothers to bond with their babies instead of being separated from them. As I said, it has been part of our work—we have taken evidence on it from the Scottish Prison Service on many occasions—and we very much see such work as on-going and necessary.

Bob Doris: I just wanted to give you the opportunity to put that on the record.

Tess White: I think that this is an important CPG, but I have two questions about it. First, what, for you, as the convener, would be the measures of the group's success?

Rona Mackay: One such measure would be highlighting the huge issues that women on remand face. There are still far too many women

on remand and in custody. Although we are 10 years on from the Angiolini report, which concluded that we have to stop locking women up for low-level offences, that is still happening. There are many causes of such offending—addiction problems, mental health problems, chaotic lifestyles and so on—and, at that level, prison is not the place for women. Our objective is to keep pressing the issue and to look at what are pretty radical new ways of keeping women out of prison. After all, prison does not help them; indeed, it just makes the situation that they find themselves in much worse, given the mental health effects, and so on. Moreover, it affects not just them but the wider family and their children. Only 5 per cent of children whose mother is in prison remain in the family home, which indicates how disruptive such an approach is. We are focusing on all aspects of how the situation could be improved and on how a much more holistic method might be brought in.

Tess White: So your focus is on keeping women out of prison.

Rona Mackay: Yes.

Tess White: Does that mean that you will not be focusing on the safety of women in prison?

Rona Mackay: Our focus is on all aspects of women in the justice system. Far too many women in prison have mental health problems or have been victims of domestic abuse and are brain injured. There are huge issues that we need to look at. The cross-party group on women's justice made a start on that work in the previous parliamentary session, and I hope that, in this session, we can dig deep into the issues and try to effect a lot of change.

Tess White: Thank you. I have to say that I fully support this proposed CPG.

The Convener: We will get to that in the next agenda item, but your intention is noted.

For the record, Ms Mackay, can you tell us the name of the group's deputy convener?

Rona Mackay: It is Collette Stevenson.

The Convener: That is excellent. Thank you. It is wonderful to see in your application so many organisations supporting the group. I also put on record how positive it is to see two CPGs with so much of an overlap coming together. I hope that they will provide a stronger voice as they move forward.

Thank you for attending this morning's meeting. We will make our decision under the next agenda item, and the clerks will let you know the outcome.

Rona Mackay: Thank you very much.

The Convener: We will now have a short suspension.

10:33

Meeting suspended.

10:37

On resuming—

The Convener: The final group that we will consider today is a proposed CPG on culture and communities. I welcome Sarah Boyack MSP, who joins us as the convener of the proposed group. I invite Sarah to make some opening comments.

Sarah Boyack (Lothian) (Lab): Thanks very much, convener. We want to set up the group after a lot of reflection from the members of the group and after learning from experiences, particularly during the previous parliamentary session. The term "culture" covers a huge number of areas, and there was a very strong suggestion that it is too broad a term for a cross-party group. For example, the Scottish Government has separate culture and creative industries departments, with a full department for each with different aims, objectives and strategies. We therefore think that the proposed group would make a lot of sense in relation to exploring accountability issues.

There is also a real grass-roots sense about it, looking at the two areas of communities and the industrial sector. There is the publicly funded sector of libraries, museums and national performing companies, and we have lots of community arts and culture groups that want to have a voice and speak to us in the context of a CPG rather than through a committee. We also have the industrial sector of publishing companies, record companies, entrepreneurs and the media. There is therefore a huge area to cover.

We have spoken to Culture Counts, which represents the sector, and we think that, if we had two cross-party groups, that would allow both MSPs and the sector to have a proper focus on both areas. I reassure the committee that we are not necessarily planning on having eight CPG meetings a year, as opposed to four, though. In the first year, we are thinking of experimenting with having two meetings for each of the CPGs, with the opportunity to have more, depending on the members of our groups.

I think that that will work really well, and there is a lot of enthusiasm for it. I hope that the committee will be okay with it, because we think that it is a good idea.

The Convener: Does anyone have any questions?

Tess White: Did you say that you would have only two meetings a year?

Sarah Boyack: For each cross-party group. There will be a cross-party group on culture that relates to communities and then one that will be concerned much more with the culture industry. We wanted to mirror the two Scottish Government departments, so we will have one for each. To be honest, as we come out of Covid, we are thinking of giving ourselves the aim of having two meetings each. We have had one first meeting of everybody and we reckon that, in the next few months, we will have another two meetings for our cross-party group in the first year. We might have more in the future.

Tess White: What are your measures of success? How will you know that the CPG is working as you want it to?

Sarah Boyack: There are now so many grass-roots organisations that are involved in culture throughout the country that we wanted to be inclusive. We will be concerned with engagement opportunities and following up how the Scottish Government's strategy is working in practice. The Constitution, Europe, External Affairs and Culture Committee is examining that, but the CPG would enable us to take a much more grass-roots approach and involve people on the ground. That has been missing because the proposed cross-party group on creative economy tries to cover too much.

People in the sector being happy, feeling included and having access to MSPs is our number 1 objective this year as the culture and communities group.

Tess White: Engagement is how you will measure success. Do you have any engagement indicator or will you take a general view at the end of the year?

Sarah Boyack: We will definitely review it at the end of the year. There is a sense that people at the grass roots have felt excluded from the CPG on culture in the past because it has tended to be dominated by the creative industries sector, which is also important. We want to ensure that both sides get a voice and an input.

Bob Doris: Thanks for coming along, Sarah. I know that it is a busy morning for you. I had not intended to ask a question, but I looked at the list of cross-party groups that have been approved. You mentioned the music sector, and that list includes a cross-party group on music. There is clearly room for it and your group to exist, but what might the relationship between them be? The CPG on music might consider a variety of matters that the cross-party group for which you seek approval might seek to consider. Would you consider

partnership working or common themes? Do you have any thoughts on that?

Sarah Boyack: No, not at this point. The meeting that we had was a high-level discussion with a big attendance. Culture Counts commented that we could have about 20 different culture groups. We are thinking about the whole range: crafts, fashion and textiles, design, photography, writing and publishing, heritage, cultural education and performing arts. It is still a huge section, even without thinking about the CPG on music. We are not worried that we will overlap.

Bob Doris: I anticipated that that would be the answer, but it is in the nature of such exchanges that we ask certain questions. Overlap is a theme that comes up quite often. It is not specific to your proposed cross-party group but is a general matter that the committee considers.

The Convener: For the record, who will the deputy convener be?

Sarah Boyack: That is on our form. We have formally applied as a group, have we not?

The Convener: Yes—it is Sue Webber.

I will follow on from Bob Doris's question. This is absolutely not a criticism. In fact, I welcome the way that the proposed CPG has dealt with overlap, because concerns are expressed about the total number of CPGs that exist. I welcome your comments that there is a need for two separate CPGs but that the workload of each will reduce and they will approach different people so that MSPs can witness the experience and knowledge that the different sectors bring. That is most helpful.

I thank you for attending. We will make our decision under the next agenda item and the clerks will be in touch. Thank you for your time.

Sarah Boyack: The only thing that I did not clarify is that we would be looking at the publicly funded sector and the creative economy CPG would be looking at the private sector. That goes back to the different Government departments. That was a key issue for us.

The Convener: That is helpful.

Sarah Boyack: I have not been to one of these meetings, so I appreciated looking at previous committee discussions. I hope that I have answered your questions.

10:45

The Convener: That is kind. Thank you very much indeed, Sarah.

Agenda item 8 is on the approval of cross-party groups. It is for the committee to consider whether to accord recognition to the proposed cross-party

groups that we have heard from today—that is, the proposed cross-party group on Ireland, the proposed cross-party group on long Covid, the proposed cross-party group on outdoor education, the proposed cross-party group on women, families and justice, and the proposed cross-party group on culture and communities.

Do members have any comments to make before I formally ask the committee whether to accord recognition to the proposed cross-party groups?

Tess White: My only comment is on the proposed cross-party group on Ireland. We already have BIPA—the British-Irish Parliamentary Assembly. I support the setting up of the cross-party group, but I want to ensure that reference is made to BIPA and the work that it does.

The Convener: The British-Irish Parliamentary Assembly has been in existence for a long time. It allows co-ordination between parliamentarians from the different areas, and I know from experience how valuable its work is. Although this was not confirmed in the evidence that we took, I am quite sure that BIPA will be involved. If we agree to recognise the proposed CPG on Ireland, I undertake to speak to its convener, to pass on your comments.

Tess White: Thank you.

The Convener: As there are no other comments about any of the proposed cross-party groups, I will formally put the question. Does the committee agree to the formation of the groups whose representatives we have heard from this morning?

Members indicated agreement.

The Convener: Agenda item 9—our final item—is on the re-registration of cross-party groups. The committee is asked to consider a change of purpose for the proposed CPG on colleges and universities and the proposed CPG on nuclear disarmament, and a change of name and purpose for the proposed CPG on improving Scotland's health. As members are aware, such changes of name or purpose have to come before the committee to be formally approved. Does anybody have any comments that they would like to make?

As no one has any comments to make, my intention is to put a single question to the committee, if everybody is happy with that. Does the committee agree that the proposed CPG on colleges and universities, the proposed CPG on nuclear disarmament and the proposed CPG on improving Scotland's health can be re-registered in the new session?

Members indicated agreement.

The Convener: I thank committee members for their attendance.

Meeting closed at 10:47.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot



The Scottish Parliament
Pàrlamaid na h-Alba