



OFFICIAL REPORT
AITHISG OIFIGEIL

Standards, Procedures and Public Appointments Committee

Thursday 2 February 2023

Session 6



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

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

Thursday 2 February 2023

CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
CORRESPONDENCE (NET ZERO SCRUTINY).....	2
CORRESPONDENCE (PROXY VOTING SCHEME).....	3

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
2nd Meeting 2023, Session 6

CONVENER

*Martin Whitfield (South Scotland) (Lab)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Edward Mountain (Highlands and Islands) (Con)

*Collette Stevenson (East Kilbride) (SNP)

*Alexander Stewart (Mid Scotland and Fife) (Con)

*attended

CLERK TO THE COMMITTEE

Katy Orr

LOCATION

The Sir Alexander Fleming Room (CR3)

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 2 February 2023

[The Convener opened the meeting at 09:30]

Decision on Taking Business in Private

The Convener (Martin Whitfield): Good morning, everyone, and welcome to the second meeting in 2023 of the Standards, Procedures and Public Appointments Committee.

Agenda item 1 is a decision on taking business in private. Does the committee agree to take item 4, which is consideration of an update to the guidance on committees, and item 5, which is consideration of a paper on parliamentary privilege, in private?

Members indicated agreement.

Correspondence (Net Zero Scrutiny)

The Convener: Agenda item 2 is in respect of correspondence that we have received from the Conveners Group, which relates to strengthening net zero scrutiny arrangements. Do members have any comments?

Bob Doris (Glasgow Maryhill and Springburn) (SNP): I found the correspondence to be informative in relation to the ambitions of the Conveners Group and the wider Parliament to embed the scrutiny of net zero into the work not just of the Net Zero, Energy and Transport Committee—I acknowledge its convener, Edward Mountain, who is with us today, as he is a member of this committee—but of all parliamentary committees as we scrutinise legislation.

However, the letter also said:

“The Group noted that it was important that the Scottish Government was able to provide essential data to facilitate this scrutiny work. With this in mind, you will have seen the correspondence that I have had with the Cabinet Secretary for Net Zero requesting better information on this; the Group will return to this at our meeting later this month.”

I have not seen that correspondence, and I am unaware of whether the Scottish Government has replied to it. I would like to see those two essential pieces of evidence before we make a specific commitment to do further work, or even decide what such further work might look like, in relation to our approach to any changing of standing orders or rules in the Parliament with regard to net zero.

The Convener: That is helpful. Do members have any other comments? It seems not.

Given that we are talking about the procedures, it seems sensible, if we are to arrive at something, for us to know what wants to be arrived at. That would be helpful for the committee. Therefore, does the committee agree to the suggestion that we correspond formally with the Conveners Group—and, if necessary, the Scottish Government—to get access to all the correspondence? Does the committee also agree to write to the requisite committee to ask what its views and asks are?

Members indicated agreement.

Correspondence (Proxy Voting Scheme)

09:32

The Convener: Agenda item 3 is consideration of correspondence that we have received from the Presiding Officer on a request to vary the proxy voting scheme—which, as we know, came in only this year but, as we have all seen, has been successfully used in the chamber on a number of occasions. Do members have any comments on that correspondence? Are we in agreement with the Presiding Officer's proposal to vary the scheme?

Edward Mountain (Highlands and Islands) (Con): This is a really difficult subject. Every member has probably had to experience such circumstances at some stage. I am keen to ensure that we are seen as fair and reasonable, and also as being in line with what is expected of people outside the Parliament when it comes to bereavement.

The rules have changed, and there are some stipulations about what can and cannot be expected. I am keen to understand what other people across Scotland are given in this regard, so that we make sure that the Parliament is in line with that—or, at least, so that, when we make our decision, we do so in the light of what other people have to face. That is my first point.

Secondly—I know that the convener is going to give me a rap across the knuckles for this—it gives me the opportunity to mention something about the scheme that I have mentioned to him outside of the committee. At the bottom of page 4 of our papers, it is stated:

“Designation of a proxy must be made by the Member from their Parliamentary email account by 10.00am on the Tuesday”.

My understanding is that the committee decided and agreed that the designation could be made for a period of time. The way that that is written seems to imply that a member must notify the Presiding Officer every week that they wish to have a proxy. I just know that there are circumstances in which that might not be possible. Could we write to the Presiding Officer and ask that a member be able to apply for a proxy for a period of time, and then it could be reassessed?

For example, a member might have to go into hospital on a Friday and have a serious operation that takes them past the Tuesday deadline. That means that they would not be able to apply for a proxy. I am not sure that that is what we meant. I am not sure that that is necessarily the way that it will be interpreted, but it is the way that it is

written. I would like to flag that up at the same time.

The Convener: That is helpful. To deal with that second point first, my understanding is that the proxy scheme is operating as we thought it was going to operate. However, I note your concern about the actual wording of the voting scheme and I am more than happy to write to seek clarification. You will recall that we tried to frame it in such a way as to give the Presiding Officer the widest possible opportunity to reach the right decision on individual cases without having to seek medical advice or additional information. Therefore, I am more than happy to write to seek clarification.

Before we deal with your first point, in which you hinted that we should seek more information before reaching a decision, I will ask whether any other members want to come in.

Bob Doris: This is specifically on the variation to the proxy voting scheme that the Presiding Officer is suggesting. Can I just check—I am sure that the answer is yes—that annex A, the letter from the Presiding Officer, is a publicly available document?

The Convener: Yes, it is.

Bob Doris: I ask that because it refers to two colleagues who had a loved one nearing the end of their life and sought to use the proxy voting scheme in those circumstances. It is unanswerable that that would be the right thing to do, but I had not realised that the pilot scheme that our committee agreed to did not build in such flexibility and discretion for the Presiding Officer. That is okay, because we always said that it would be an iterative process and that we would shape the scheme as we went along to reflect circumstances as they developed. I am keen to clarify that such a use would be allowed under changes to the proxy voting scheme.

If I am allowed to share them, my personal circumstances were that when my mother was approaching the end of her life, the Scottish National Party's whips were wonderful and I got to spend my mother's final week with her. There was no pairing and no proxy but, even as I sat at my mother's bedside, I was still on my phone, doing my work and clearing emails. I would have liked to have had a proxy, which would have meant that I did not feel excluded or remote from the Parliament but instead had that link. That would have enabled me to avoid having to log on to vote virtually by permitting me to have a trusted colleague to vote on my behalf.

I think that the proxy scheme should cover such circumstances and that, if the Presiding Officer does not think that the scheme is suitably flexible at present, we should agree to change it to provide that flexibility.

The Convener: That is helpful. Thank you.

Alexander Stewart (Mid Scotland and Fife)

(Con): I understand where we are with all this, convener. It is an important issue. At the outset, we said that we needed to be sensitive to members and to understand how the scheme would work in practice, and it is now working in practice. That is giving us an insight into the complexities that require to be managed when someone is in circumstances in which they need to use the scheme.

Like Bob, I think that we should be realistic about what we are trying to achieve. We are not trying to put up barriers or to set areas where we think that the scheme should not be used. At the same time, we need to be sensitive to what is required not just for the Parliament but for the member.

As Bob said, the scheme should provide the opportunity to not have to rush back to do things and continually think, "Is this going to happen?" Having someone who you know and trust to give you that support takes some of the pressure off. That is what we are trying to do. We are trying to alleviate the pressure on the member so that not only can their work be done, but they can have the confidence of knowing that they are supported with regard to voting and the practical side of things, and that that is being done on their behalf. That is what I wanted out of this whole process, and that has been achieved.

The Convener: That is helpful. After Collette has contributed, I will come back to Bob.

Collette Stevenson (East Kilbride) (SNP): I completely agree with what Alexander said. It is a very sensitive subject. The fact that it is a pilot scheme and that this issue has cropped up means that it is an ideal situation to look at it.

Edward mentioned the notification. You could be dealing with somebody who has to go abroad to deal with a relative, so there could be time differences in addition to the need to go into hospital, so I whole-heartedly agree that we need to encompass that and deal in a respectful and dignified way with people who are dealing with relatives who are at the end of their lives.

The Convener: That is helpful. Bob, do you want to comment?

Bob Doris: In his initial comments, I think that Edward Mountain was saying that we should look to see what happens elsewhere—I am sorry if I have captured that inaccurately.

We talk about getting working conditions right in order for MSPs to be supported, but I have no idea what rights the wider parliamentary staff have when they face the exact same life circumstances. I do not know whether there is a role for us to play

in drawing to the Scottish Parliamentary Corporate Body's attention the fact that we are seeking to consolidate what we think should be key rights in the workplace for MSPs and that we wonder how that is mirrored with regard to the wider rights that are extended to staff in this place. They will not all be employed by the corporate body—there will be a variety of contractual arrangements—but I am conscious that we are not the only people working in this Parliament.

Edward Mountain: This is a really difficult issue, because no one wants to stop someone being next to a close relative when they are nearing the end of their life. I accept that, having lost both my mother and my father. I understand how important it is to be there, especially given the extended amount of time that I needed to spend with my father.

However, I want to understand what we mean by "close relative" and, therefore, how the Presiding Officer would be able to make that judgment. I really want people to be able to spend the amount of time that they need to spend, but I would like to understand that, because we are putting the Presiding Officer in a slightly difficult position by saying that they will decide who is a close relative.

The Convener: I will bring together some of the threads. We need to remember that we empowered the Presiding Officer to come up with the scheme so that it would work for her—well, not for the Presiding Officer but for the chamber. We empowered the Presiding Officer to have that flexibility, and rightly so. The scheme that has been created rests with the Presiding Officer, and the obligation on the Presiding Officer is to come back and consult with us, which speaks volumes about the evaluation of this pilot project.

I think that the committee always considered that it would be an iterative process. I certainly feel that the confidence that the chamber has shown in the Presiding Officer in creating the scheme should probably be echoed in the committee with regard to requests that she makes to us.

However, notwithstanding the request that has been made, that does not mean that we do not look at the consequences of the scheme. That relates to Bob Doris's point with regard to starting to reach out to find out what the situation is more widely. It would be valuable to capture the experiences of those who have been offered and exercised proxies.

09:45

As to how the Presiding Officer would make a determination on next of kin, you will recall the substantial evidence that we heard around people's caring situations. Those are not

necessarily defined by a family link; it might be a circumstance of fact. We entrusted the Presiding Officer with that.

As the PO is seeking clarification in the light of events, I would hope that we can support her proposed change. We can also use this exchange as the start of the evaluation process. We are in the second month of the proxy voting pilot and its use has certainly exceeded my expectations. I think that it would be useful to ask the clerks to start capturing the evidence of how the pilot is working, so that we can review it in due course.

Bob Doris: When we are looking at whether we should put structures, definitions or criteria around who qualifies as a close relative, it is relevant to note that we already have a precedent in adoptive and foster parents and kinship carers. The term “kinship” does not always mean a blood relative; it is a wider and looser term that acknowledges the relationship of love and care that people can have with someone else without defining it further.

I think that we have already taken a more permissive and flexible view, and I do not think that it would serve us well to define what a close relative is. I think that we either give discretion or we do not. We have given the Presiding Officer discretion and I have every faith that that will be exercised appropriately.

Collette Stevenson: I was literally going to make that same point about discretion. I have personal experience of when my brother died down south. Due to the complexity of the situation, it was three weeks before we could bury him. My employers at the time were fantastic and gave me three weeks off. Policies were in place—I know that local government has policies on the time that people can have off for particular relations, but there is an element of discretion. I would definitely veer towards allowing the Presiding Officer to use discretion. I note that things are very subjective.

The Convener: Do we agree to support the PO’s request for an amendment to the scheme, and to clarify the understanding with regard to the designation of a proxy, which is a valid question? Do we also agree to instruct the clerks to capture evidence for the evaluation that we, as a committee, must undertake?

Members indicated agreement.

Bob Doris: I apologise for what will be a bit of mission drift here. I know that we are looking at proxy voting, but we are considering one group of workers in the Parliament getting more flexible working to suit their personal circumstances in relation to an end-of-life situation and at the point of bereavement. There are whole groups of workers employed in the Parliament that we, as a committee, are not directly responsible for. However, it might be worth while drawing the

progressive nature of how we are seeking to support MSPs in such circumstances to the attention of the Scottish Parliamentary Corporate Body and asking it to reflect on that in relation to the wider workforce.

The Convener: I see no issue with doing that. We would be seeking input from the corporate body, as an entity, in our evaluation of proxy voting.

I am aware of a number of strands of correspondence that we have with the corporate body about a number of matters. However, I see no harm in writing to it and, if you are content, Bob, I am happy to do so, just to express where this comes from and what it is about and to ask for its thoughts. The employment and contractual relationships between the corporate body and members of staff do not fall directly within the committee’s remit, but I will reinforce the point that, as a Parliament, we are looking for a developmental and iterative approach to employment that is as widely supportive as possible, in order for us to get our jobs done.

Bob Doris: I agree with that, and I thank you for taking it forward on that basis. Sometimes, politicians as a class are not particularly seen as having self-awareness. Given the fact that, in effect, we are looking at our working conditions, we should show a degree of self-awareness as we take things forward.

The Convener: That is helpful.

Edward Mountain: Just before we leave this topic, I want to comment on the general way in which the proxy voting system has worked. First, I am delighted that it is being used so much, which shows why we needed it. The committee has done a good job in introducing it.

Secondly, it was interesting to watch the use of the system in the chamber in relation to one member. On short votes, at decision time, the member who was casting the vote said, “On behalf of X, I vote yes.” That is entirely right, and I encourage it, because it allows people who are watching to understand who the proxy vote is for.

However, in stage 3 debates in the chamber, that becomes very difficult. I just wonder whether, as the Presiding Officer allows the situation to evolve, it would be worth making the point at the outset that, during votes, there will be a proxy vote each time, on behalf of so and so, and that such and such a person will be exercising it. That would cut the time that the Presiding Officer spends in doing that.

Nevertheless, I stress that, for short votes at decision time on a normal evening, it is important that the member is named, so that his or her constituents can see that that person has made a

positive decision about the vote and so that they are seen to be participating in events.

The Convener: That is helpful. The discussion that was had about how we capture the proxy vote ended up in what we saw, certainly in the early stages of the first proxy vote: the giving of an explanation, the name of the member and the way that the vote was cast, so that that could be captured in the *Official Report*.

Again, it is an iterative approach. What you said about stage 3 is, no doubt, being looked at. It is helpful to start the capture of the evidence in order to consider how proxy voting goes forward, because there was that challenge at stage 3.

I do not know the correct answer, but the strong discussions that we had—about ensuring the capture of the vote and an explanation of why a different member is casting it—go to the heart of why it was so important to bring in proxy voting.

Collette Stevenson: I have a suggestion on the back of Edward Mountain's point. The use of the proxy vote was very repetitive at stage 3, so I wonder whether, initially, it could be said that someone is acting as proxy for another MSP and the constituency or region that that MSP covers, but, after that, we could maybe use a placard, for example, rather than having to constantly say something. It seemed very repetitive and it prolonged the voting process each time.

The Convener: You are absolutely right to raise that. I think that that should be part of the evaluation because, come the summer recess, the voting apparatus in the chamber will change—the committee will be cognisant of that. Because the proxy voting pilot already exists, I hope that there will be a way of using the new facilities to capture that, which might alleviate some of the time that is spent at stage 3 in particular.

Alexander Stewart: Those are sensible suggestions, convener.

At stage 3, we have groupings of amendments, so it might be advantageous to announce something at the beginning or end of each group to the effect that proxy voting will take place. That would cover all the votes in the group, which might alleviate the timescale issue. Such a suggestion could be thought about.

The Convener: Again, that is incredibly helpful. If we are in—*[Interruption.]*

I am sorry, Bob—I cut across you.

Bob Doris: Apologies. I am testing your patience this morning, convener.

I was holding back from saying this, but I cannot help but want to be part of the discussion. I apologise for that.

Mr Mountain is right. If it is not a stage 3 process and there is a limited number of votes, a clear declaration from the proxy openly and transparently in Parliament on how the vote has been cast is absolutely the way to do it. However, there must surely be an information technology solution once a clear statement has been made at the start of a period of voting. I will not say what my IT solution would be; we would be able to ask IT individuals to suggest what that should be. However, there must surely be such a solution.

We do not all have to do a roll call vote at stage 3, so why should an individual with a proxy vote be any different? Why should that be a roll call vote while everybody else's deliberative votes are not done in that way? Things should be done on an equitable basis after the initial declaration, and an IT solution would be the most effective way forward.

The Convener: I certainly think that framing the question that we want to ask in relation to the new equipment for voting is helpful.

We talked beforehand about unknown unknowns. Until we had the proxy pilot, I do not think that anyone really considered the situation at stage 3. People have a view of something when we talk about it. An iterative pilot approach allows us to say, "Oh, how will it work in this circumstance?" We can capture that and put something in place so that we will, I hope, have an answer on what a more formalised approach would look like towards the end of the pilot.

That is helpful. Do members agree to confirm to the Presiding Officer that we agree to the amendment that she seeks and to seek the additional information that we have requested?

Members indicated agreement.

The Convener: That concludes the public part of the meeting. We now move into private.

09:57

Meeting continued in private until 11:20.

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

