



OFFICIAL REPORT
AITHISG OIFIGEIL

Standards, Procedures and Public Appointments Committee

Thursday 18 November 2021

Session 6



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Thursday 18 November 2021

CONTENTS

DECISIONS ON TAKING BUSINESS IN PRIVATE	Col. 1
ELECTIONS BILL	2

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
8th 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:

Dr Catriona Burness (RNIB Scotland)

Dr Alistair Clark (Newcastle University)

Louise Edwards (Electoral Commission)

Dr Jess Garland (Electoral Reform Society)

Chris Highcock (Electoral Management Board for Scotland)

Pete Wildman (Scottish Assessors Association)

Ethan Young (Inclusion Scotland)

CLERK TO THE COMMITTEE

Katy Orr

LOCATION

The Sir Alexander Fleming Room (CR3)

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 18 November 2021

[The Convener opened the meeting at 09:00]

Decisions on Taking Business in Private

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

Our first agenda item is a decision on whether to take item 4, which is a discussion of the evidence that we will hear this morning, in private. Do members agree to take that item in private?

Members indicated agreement.

The Convener: Under agenda item 2, the committee is invited to agree to take in private at future meetings consideration of the evidence heard, and its draft report, on the Elections Bill. Is that agreed?

Members indicated agreement.

Elections Bill

09:00

The Convener: Item 3 is evidence taking on a piece of proposed United Kingdom Parliament legislation—the Elections Bill. I am grateful to those who join us to give evidence. Louise Edwards, who is director of regulation at the Electoral Commission in Scotland, joins us remotely, while Chris Highcock from the Electoral Management Board for Scotland, Dr Alistair Clark from Newcastle University and Pete Wildman from the Scottish Assessors Association join us in person.

We are quite tight for time today, so although you should feel free to answer any question, if you do not have anything to say in respect of the question that has been asked, you need not feel that you have to answer. Thank you all for joining us.

I hand over to Bob Doris, who has the first block of questions—questions 1 and 2 in our papers—although I realise that other members may want to come in.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): Good morning. Thank you for helping us with our scrutiny of the legislative consent memorandum on the Elections Bill.

The first thing that the committee wants to ascertain is whether there is a need for voter identification. Putting to one side the policy intent, on which I have strong views—I am opposed to the proposal—I see from our papers that only 0.7 per cent of people who work in polling stations believe that voter fraud or personation is an issue. What are your views on whether it is necessary to go down the road of voter ID for UK elections?

The Convener: Who would like to kick off?

Chris Highcock (Electoral Management Board for Scotland): I refer the committee to the written evidence that we have put in. I think that we have to leave the policy issue of whether there is a need for voter ID to the politicians. As Bob Doris has said, from the point of view of the scale of the issue, it is not a major problem that has been experienced in Scotland. Voter ID aims to address personation, whereby someone votes while claiming to be somebody else, which is not a significant problem at all in Scottish elections. However, as we have pointed out in our submission, a number of practical issues would arise from implementation of the voter ID proposal, and those need to be balanced.

It is a very small issue that is addressed by the proposal. As we have said in our submission, the measures that would be put in place through the

bill seem out of proportion to the scale of the problem that is faced. There would be practical implications for those of us who are responsible for delivering elections in applying what is proposed at the polling places and producing the material that would be used in identifying people. We say that requiring people to present ID would change the nature of the voting process. It would involve a different interaction between the voter and the official at the polling place, which would be a step change in how we operate elections in Scotland.

Louise Edwards (Electoral Commission): I will briefly mention some of the principles on the basis of which the Electoral Commission is looking at the voter ID policy.

First, there is an inherent risk with polling station voting in that, unlike with proxy and postal voting, there are no verification checks—there are no signature checks, for example—and there is a question about whether any form of voter ID would increase people's confidence in the integrity of the system. That is why one of the key principles that we are applying in looking at the plans is the principle of security. Would the introduction of any form of ID, whether photographic or otherwise, improve security?

The assessment is that it would, but there are two other principles that need to be looked at, the first of which is how easy voter ID would be to implement and deliver, not just for administrators and people in polling stations but for voters. Could they manage to bring photo ID when they voted?

That is where we get to the third principle, which is accessibility. One thing that has been talked about a lot in this debate is the UK Government's proposal for a voter card. We would very much like more detail of how that would work in practice to be brought out now to help parliamentarians in considering the bill, because we think that that is crucial. The accessibility point is one that needs to be thought through very carefully. A lot of the benefits for the security and integrity of the elections will hinge on that point about accessibility. That is what the commission is looking at very closely.

Bob Doris: Louise—

The Convener: Bob, I think that Alistair Clark wants to come in.

Dr Alistair Clark (Newcastle University): Yes, indeed. Thank you.

The study involving poll workers that Bob Doris referred to was conducted by me, along with Professor Toby James at the University of East Anglia. There is a bit more to it than what Bob Doris mentioned. It is absolutely right to mention that more than 99 per cent of polling station

workers saw no problems with personation or fraud. Most of that research has consisted of studies in England, but we carried out some work in Scotland and the results were basically the same, so we would expect polling station workers to have no such difficulties.

However, there are a couple of other things that I think we should point out from that research, the first of which is that we also asked about the nature of electoral law and how easy that was to apply in polling stations to begin with. That related to the situation pre voter ID, so the question did not refer to voter ID. Up to 19 per cent of polling station workers already found electoral law confusing to apply quickly when they needed to do so, if they were challenged in a polling station. I think that the introduction of what are obviously fairly complex measures would only increase that number of polling station workers who think that electoral law is confusing.

We found that the biggest problem in polling stations was people turning up who thought that they were registered but who were not properly registered—for instance, they had paid their council tax and thought that, as a consequence, they would be registered. That seemed to be a bigger problem than anyone being worried about voter ID and personation.

Bob Doris: I apologise for cutting across witnesses—I am conscious of the time constraints, but I do not want to constrain your ability to put matters on the record.

Dr Clark, I am sorry that I did not cite more of the research, but I want to talk about another aspect of your findings. I believe that, when some of the pilots were conducted in England, up to 30 per cent of voters were turned away at polling stations. In relation to the pressures on polling staff, you mentioned the complexity of electoral law for some polling staff, and additional burdens and pressures would be put on staff at polling stations if voter ID were brought in.

If any of the other witnesses would like to comment on the additional burdens that would be placed on electoral registration officers and any additional challenges, that would be helpful.

Dr Clark: Voter ID would inevitably slow down the process in polling stations. It would inevitably place the presiding officer in a position in which they would have to decide whether to accept a voter's ID. We know—not from UK research, but from research in America, where voter ID has been introduced—that, when it is introduced, there is variability in how polling station staff deal with the ID, which means that people are turned away in some locations who might not be turned away in other locations. Unfortunately, it is almost inevitable that an element of variability would be

introduced into the experience for voters. I stress that those are American findings, but I would be surprised if we did not find that after voter ID was introduced here.

In relation to the number of voters Bob Doris mentioned being turned away, I would throw in a couple of other figures. Information from the House of Commons library, which is based on the Government's pilot for voter ID in 2018-19, shows that between 0.1 and 0.7 per cent of voters who were turned away did not come back with ID—in other words, the non-returners made up between 0.1 and 0.7 per cent. In an average general election constituency, 0.1 per cent equals 73 voters; 0.7 per cent equals about 500 or so voters. The House of Commons library estimated that between 46,000 and 324,000 people might not return to vote if they were initially turned away.

There are various estimates. It is very difficult to know what would happen in a general election, for the simple reason that we have not tried such a system before, but that information is based on the UK Government's figures from its pilot.

The Convener: Thank you. Would anyone else like to come in?

Pete Wildman (Scottish Assessors Association): I would like to pick up on the issue of the electoral registration officer workload. We are talking about a significant new duty. To pick up on Louise Edwards's point about accessibility, we would need to make sure that people could access the voter ID and would be able to apply for it. In certain cases, proof or documentary evidence would be required. We know that, when we cannot verify people's identity in the normal registration process and we ask for documentary evidence, people do not always supply it. We get low response rates when we go to documentary evidence.

The other concern, as Alistair Clark picked up, relates to the fact that, in Scotland, voter ID would be likely to come in at a UK general election. UK general elections can happen at quite short notice, particularly with the repeal of the Fixed-term Parliaments Act 2011. We would have to make sure that the public understood what they had to do and what timescales they had to do it in. In my area, we do not know for certain how many people would apply for it. The estimate is about 2 per cent of the electorate. Even in my area, that would still mean between 4,000 and 5,000 people applying, and they would potentially do so in a short period of time.

We would have to make sure that we could turn it around and get the voter ID to people, and that we would not disenfranchise anybody through that process. We would need to scale up our resources to make sure that the process was as successful

as possible. I think that we are talking about the introduction of a significant new burden—an unknown burden, if you like—at an election time.

The Convener: On the issue of resources, have any estimates been made of what the burden would be or are we still at the stage at which, simply because of the numbers, we can say only that it would be an extensive resource requirement?

Pete Wildman: We are still at the stage where we do not know the full detail. In the bill, we have a high-level indication of what the voter ID process would be like, but that is where the secondary legislation and the detail come in.

The other challenge would be in ensuring that people did not apply who already had voter ID. They might not realise that the ID that they have is valid and might think that they need voter ID. I think that the extent of the resourcing that would be required will come when we have a better idea of the detail.

The Convener: I have a follow-up question, because there seems to be silence, certainly in what I have read, on the provision by somebody of a specific identity document that was outwith the quite substantial list of documents that are expected to be used. Is it intended that that would stand for just one election, or have you seen anything that says that that document could cover a number of elections?

Pete Wildman: I think that that will come out in the secondary legislation.

The Convener: Bob, do you want to come back in? I was going to open up the discussion, because I know that voter ID is the crucial area for a lot of committee members.

Bob Doris: I have a very brief question for Dr Clark.

You mentioned the 30 per cent turn-away rate for one of the pilots in England. Was there any evidence of conflict between people who were turned away and those who had to manage the integrity of the electoral system at polling stations during those pilots? I am a bit concerned about the potential for friction in the process, because at the moment there is a fantastic relationship between those who work in polling stations and those who vote.

09:15

Dr Clark: I think that it is almost inevitable that there is an aspect of the proposal that could lead to some degree of conflict in polling stations. As we know, in many ways, people are getting more assertive about their rights.

When I have observed elections, I have seen people who have not been able to vote being quite confrontational with the presiding officer and/or polling clerk. We should remember that the people who work as presiding officers and polling clerks are volunteers who have taken a day off work to perform that role. If such confrontation or conflict becomes almost institutionalised because of a policy of the sort that we are discussing, I would expect further difficulties to be experienced in recruiting people to those positions. I should note that there are already problems with that.

The Convener: Edward Mountain is next.

Edward Mountain (Highlands and Islands) (Con): My first point is really an observation. Many returning officers in polling stations are changing, and it is no longer possible to rely on their ability to identify everyone locally. Having carried an ID card around for many years, I observe that it is a bit of problem when you first get introduced to it, but it is relatively easy once you get used to it. There might be initial problems.

What evidence have you heard regarding problems with personation in England? Is there a problem there or are you saying that, because there is no problem in Scotland, it is not a problem across the UK?

Dr Clark: Quite simply, the figures from England suggest that there is not a problem there either. There were supposedly something like 33 polling station irregularities—that is not necessarily the same as personation—in the 2019 general election. How many voters cast votes? Thirty-two million people, so that is one per million voters having some form of irregularity. The irregularity might just be in turning up and not being correctly registered, which is very far from being personation.

Basically, the evidence—whether through academic research, convictions or, equally, allegations—suggests that there is not really anything to be worried about in that regard.

The Convener: Louise Edwards would like to comment.

Edward Mountain: Can I come back on that, convener?

The Convener: I will let Louise Edwards comment and then I will allow you to come back in.

Edward Mountain: Sorry. I will be quiet until Louise Edwards has finished.

Louise Edwards: I want to briefly come in on personation. Conviction rates and recorded rates of personation are very low, which has to be a good thing. The note of caution that I would sound is that personation is an identity crime and can be

very difficult to identify, but the key thing is that security is partly about genuine security—making the system more secure—and partly about confidence.

I will throw into the mix a figure from some research that we did after the most recent poll in Scotland, which suggested that something like 47 per cent of voters would feel more confident in the security if there was some kind of photo ID. However, I balance that by noting that 44 per cent said that they did not think that photo ID would make a difference to security, so the research shows that it is not a very straightforward picture. The number of recorded instances of personation is very low, but we have to think about the impact on confidence.

Edward Mountain: I want to make the very point that Louise Edwards has made. It is very difficult to prove whether somebody has voted on somebody else's behalf if no one in the polling station recognises that. The person could have cast their vote with a postal vote, then taken an electoral registration card down to the polling station, waved it at the presiding officer or poll clerk and been allowed to vote. It is really difficult to prove, as Louise Edwards has said—that is a fact. How do we have absolute confidence that the problem is not bigger than has already been suggested?

Chris Highcock: You cannot prove a negative such as that. It is true that it is an identity crime. You do not need a poll card to vote; you can turn up. When a voter attends a polling station, they are asked to confirm their name and address. They are orally giving an oath as to their identity, so we trust them and take their word that they are who they say they are. We cannot prove that they are lying; we rely on trust. Confidence is very important.

There is always a tension between integrity and accessibility, but what we are looking at here is the process and the practical steps that we must take in implementing what is in the legislation and what that will mean for us.

The Convener: Edward, have you lost the sound?

Edward Mountain: No, I heard that. I could not hear you, convener, but I am confident that I have heard the answers to my questions.

The Convener: Paul McLennan, do you want to ask a question?

Paul McLennan (East Lothian) (SNP): The only thing that I want to ask about is publicity, which I do not think is covered in the committee paper. Do you have any comments on that? I think that you are correct in saying that UK general elections can be called with a minimum of three

weeks' notice. It is unlikely that the notice period would be three weeks, but, if it were, that is not a lot of time. Some people do not differentiate between a UK general election and other elections, which might damage their ability to take part in the voting system. Do you have any comments on the publicity side of things?

Pete Wildman: That is absolutely key to making sure that the public understand what they need to do in order to vote and what they have to do by what timescales. The last thing that we want is people being disenfranchised because they have not done something or they have not understood.

Another challenge is in ensuring that the messaging is correct on social media. In the past, I have certainly seen messaging saying, "Oh, you are too late to register to vote, but you can still get a postal vote." That is not true, because if someone is not registered, they cannot get a postal vote. People do not always understand that and, sometimes, there is miscommunication, so a very clear communication strategy is needed. The longer lead-in there is to an election, the more chance there is of getting the message out and understood by people. With a short, snap election, it is harder to get the message out quickly.

The Convener: Pete Wildman, I want to ask about a scenario that came to mind for which I am not sure what the answer is. Due to differences in electoral systems, there is the possibility that we would have a UK-wide general election taking place under the rules that are proposed in the bill, as well as a Scottish election—most probably a local authority election. If a voter attended with some ID that the clerk declared to be false, they could not issue a vote in respect of the UK general election. What pressure would that put on the clerk to refuse the vote in the Scottish election?

Pete Wildman: As that question relates to polling stations, it is perhaps better for Chris Highcock to answer, rather than me.

The Convener: No problem.

Chris Highcock: That would be a difficult circumstance to deal with at a polling station. Two separate sets of legislation would be in force, with the presiding officer applying one set for one election and a separate set for the other election. If the elections were happening at the same time, they would not generally be formally combined. The polling stations would be separate, in different places or different rooms. The voter would have to move from place to place rather than receive two ballot papers that were issued at the same time, so that would preserve the difference between the two processes to an extent. It would be rare for both elections to be dealt with at the same polling station, because they are not formally combined. There would have to be a separate set-up.

The issue remains that, if separate legislation applies to separate elections, there could be a circumstance in which someone would be qualified to vote in one election because they held ID but they would not be qualified to vote in the second.

The Convener: My question is slightly more nuanced in the sense that, in this scenario, the voter's name would be registered to vote but one polling clerk would have made a decision that the evidence that was presented to them was such that the voter could not vote on that name in the UK election. What would happen about the Scottish election?

I will add another little problem: what if the voter had already cast their Scottish local authority election vote in one room but then a discussion happened at another table in relation to the UK-wide election? I presume that the polling official at the station would get involved in that decision—I do not think that it would rest exclusively with one of the two people sat at the table. What would happen with regard to the integrity of the two votes?

Chris Highcock: Each election has to be undertaken according to the rules that apply to that election, so the officials involved would have to apply those rules. It could potentially lead to some dispute and conflict at that point, as we have already discussed. The UK parliamentary register and the local government register are separate documents with separate lists of names, so there is a separation between the processes.

The Convener: Do you have confidence that the defence of it being, in essence, an entirely separate event—happening in the same venue, but not in the same place within the venue—would be sufficient to protect from subsequent accusations the individuals who would have to make very difficult on-the-spot decisions? I know that that is a hard question to answer.

Chris Highcock: It is a hard question. It might be tested by the courts, ultimately. The people who are responsible deliver the election according to the rules—that is all that they can be asked to do. Whether it would lead to difficulties in the conduct of the election at that place and time is separate from whether or not they did things according to the legislation, which is what their responsibility is.

The Convener: I will move on from voter ID to the implications of a strategy and policy statement for the Electoral Commission. At the heart of this sits my concern about the impact on the independence of the Electoral Commission of the proposed ability to provide a strategy and policy statement.

Louise Edwards: Having a strategy and policy statement, as proposed, is not compatible with the

independence of the commission. To explain that, I will take it back a step. We very much welcome scrutiny and we are always happy to come before committees of this Parliament or any other. As, I am sure, you know, we are formally accountable to all three of the UK's Parliaments—that is an important part of the way that we work. It is an important accountability for us as well.

We have two challenges with the strategy and policy statement. The first is that it is not solely about improving our accountability. The provisions that are set out in the UK bill go much further than that, as they go to the level of giving us guidance on the performance of our functions. That could be any function—it could be how we target voter registration campaigns or how we target enforcement action. The power that is set out in the bill at the moment is broad and sweeping.

The second and very fundamental challenge is what that means for our independence. We are quite an unusual—probably even a unique—regulator in that the laws that we regulate are set by the people whom we regulate. However, crucially, they are set by only a very small subset of the people whom we regulate. The laws apply to them but also to all their political competitors. That is why it is so important that those who campaign in elections—parties and campaigners—and those who vote in them know that there is an independent regulator that can take independent decisions about interpreting and applying the law. That is at the heart of it for us.

The commission's board, of course, wants to take into account the views of the UK Government, the Scottish Government, the Welsh Government and, indeed, all those who have an interest in our work and strategic approach. It wants to take those views into account, but it is very important that the board has the power and the independence to take decisions on our strategic approach. The strategy and policy statement would put one political party—in essence, it would be one political party—in a privileged position of influence above all others and above all its political competitors. That is the point at which it would impact on confidence and on the integrity of elections, because it would impact on our independence.

The Convener: Thank you. Alistair Clark has given evidence in which he states:

“This proposal has been widely criticised as eroding the independence of the Electoral Commission.”

Is there anything that you would like to add to that? I am thinking particularly about the lack of a voice for the devolved nations.

09:30

Dr Clark: Yes, I have written a piece at the invitation of the Committee on Standards in Public Life on the strategy and policy statement. I agree with what Louise Edwards said. Basically, the proposal very much seeks to direct the Electoral Commission; there is no place for that in an independent electoral regulator.

I will say two things. First of all, the proposal has been justified in terms of parliamentary accountability. There are ministers sitting on the Speaker's Committee on the Electoral Commission, which is part of the regulatory parliamentary accountability structure for the Electoral Commission. If it is really about parliamentary accountability, ministers should have no role on that committee.

My second concern about that committee is that it is dominated by a single party, which really is a difficulty. This is the first time that that has happened. There are clear issues about the membership of that committee. Notably, I have argued elsewhere that the committee in and of itself should be showing more independence. One way of doing that would be to appoint lay members to the Speaker's Committee on the Electoral Commission to represent the voters' voice, which is notably not represented in any of the parliamentary governance of the Electoral Commission.

On the devolved institutions, I understand that Scottish and Welsh ministers are to be consulted, but I am not sure that Scottish and Welsh ministers should be consulted. If we are talking about parliamentary accountability, the Scottish Parliamentary Corporate Body and the equivalent body in the Senedd should certainly be consulted and their opinions taken into account. I argue that that should be dealt with and accepted by the Speaker's Committee on the Electoral Commission. I would prefer proper separation of powers and for the matter really to be about parliamentary accountability, rather than there being Government representation on the committee.

The Convener: Thank you. Chris Highcock, in the EMBS's submissions you state:

“It is important that independence of political control is preserved and also that their current role in supporting and regulating elections across the different devolved governments is recognised.”

Is there anything that you would like to add?

Chris Highcock: There is nothing to add to that written statement or to what Louise Edwards and Alistair Clark have said. The Electoral Commission operates over all the devolved Administrations, so it is important to maintain accountability across all

of them. That is what we are saying in the submission.

Tess White (North East Scotland) (Con): Thank you. On digital imprints, how do the proposals sit with the requirements that are already in place?

Dr Clark: Thank you for the question. One of the better parts of the bill is that digital imprints are being looked at. As we know, there is a Scottish digital imprint regime for parliamentary elections and so on.

There are some difficulties with what is proposed, however. My understanding of what is being proposed is that the digital imprint would include anything that is paid for and is “political”. That is very different to the Scottish version of the digital imprint regime, which is about election material that is either paid for or not paid for.

A lot will depend on definitions, because “political” can have a very wide definition. The regime could quite conceivably catch charities, for example. Transparency is great—we should know who pays for various things, but imagine the hypothetical case of a homelessness charity that says something that the Government does not like. There is a sense that such charities could feel pressured into not saying things because they might be caught by the regime. The definition of what will be included in “political” will be crucial. I am not sure that we know what it means yet.

The Scottish version—election material that is paid for and not paid for—is, to my mind, clearer because it is analogous with what we have been doing with elections for many years now, although I can see arguments both ways. I think that the Scottish Government’s position, which is to deny legislative consent, is reasonable because these issues need to be teased out and gone into in much more depth than they will get in the debate about the bill and its legislative process.

Tess White: You gave the example of charities. Do any other examples spring to mind?

Dr Clark: Nothing else immediately springs to mind. All I will say is that “political” can be a very big category. To me, that is slightly worrying. Who knows? We might even see university lecturers being caught up because we have said something that is conceived in a particular way, for example. The definitions and how they are operationalised in practice will be absolutely crucial. My guess is that that will be left to secondary legislation, which is deeply worrying because there is less ability to scrutinise it. The Scottish Government’s refusing legislative consent is perfectly reasonable, so that the ideas can be teased out in order to develop a regime that is appropriate to Scottish circumstances.

Tess White: What is your view on enforcement of the new requirements?

Dr Clark: That is a difficult one because, to be honest, we do not know how that has worked until now in the Scottish regime. We need more analysis of how it has been implemented and reviewed. I do not think that we have that analysis at the moment, so this academic is saying that more research is required, unfortunately.

The Convener: Louise Edwards would like to come in.

Louise Edwards: Thank you. I will start by giving credit where it is due. The Scottish parliamentary elections were the first elections that were held in the UK in which digital imprints were in law. More research needs to be done about how that went. Our experience during the election campaign was that compliance by candidates, parties and campaigners was very high. A candidate survey that we did after the poll, for example, showed that nearly 90 per cent of candidates were very clear about the requirements on digital imprints, and that most of them found it quite straightforward to comply on the platforms that they used.

More needs to be done. For example, we have only very recently received the spending returns from the larger parties in that election. We need to prepare them for publication and we need to see whether the digital imprint regime helps to track spending for us, as the regulator, and for voters.

I want to briefly mention definitions. It is absolutely right that the law needs to be clear. The intention that is set out in the bill is that the commission will draft some sort of guidance to sit behind it to help campaigners to understand the requirements under the bill. However, no amount of carefully worded guidance will deal with poorly drafted law; the law is the absolutely fundamental thing that needs to be clear.

On the definition of “political”, I am in a slightly different place. We need to be very careful about distinguishing what counts as recorded campaign spending by campaigners. That is not changing, and the requirement on digital imprints under the bill will be slightly broader, but the bill will not require reporting of that spending. It will not require campaigners to notify us of, or to register, spending outside election periods. Inevitably, there is an increased burden through digital imprints being a broader category of material, but that is not the same as saying that the broader category somehow suddenly falls within the whole regime.

Tess White: I have a follow-up question. Dr Clark raises a point about literature or positions from charities making positive statements. What is your view on charities that are in receipt of grants from the Government deciding not to make

comments because they would be afraid of the consequences under the bill? That is a big concern. The question is for Louise Edwards, Dr Clark or Mr Wildman.

Dr Clark: That is one of the reasons why the matter needs to be debated further. There are potential issues to do with freedom of speech and denial of freedom of speech. We do not know the answer. Louise Edwards might have a view on this. It might be worth the committee's while to go back and look at how the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 has worked, because I think that some charities got caught by that. To put it simply, I can see such cases happening and charities deciding that they should remain silent on issues. If the issue were part of that charity's function, that would be a fairly regrettable position to land in.

Tess White: I think the freedom of speech issue is key. As Dr Clark said, that needs to be explored.

The Convener: Thank you, Tess. That almost takes us to your next question. Do you want to move on?

Tess White: Thank you. My next question is about there being different regimes in the UK, which might cause confusion. Do you have any thoughts on that?

The Convener: Do you mean in relation to regulated expenditure in the different systems in the UK?

Tess White: Yes.

Dr Clark: I am fairly relaxed about that; it is a natural outcome of devolution. Indeed, I have made the argument in the House of Commons that the House of Commons could learn from the Scottish experience in some such things. Louise Edwards is perhaps better placed than I am to answer the question.

Louise Edwards: I am happy to come in. To a significant extent, I agree. The fact that different regimes are in place is an inevitability of devolution and is a situation that has existed since devolution. What is fundamental is that we support campaigners, administrators and voters—everybody who is subject to the different regimes—with good public information to help them to understand the differences.

Tess White mentioned campaigner spending in particular. I am not sure which divergence Tess White was talking about, but obviously there will be a very clear need for our guidance to cover the rules for different types of elections. We structure guidance at the moment so that people can see very clearly which particular regime applies to their spending for an election. I am not sure which

particular area of campaigner spending Tess White was referring to.

Tess White: I mean in relation to organic materials and enforcement of the regime.

Louise Edwards: I understand. The Scottish regime covers unpaid for and virally spread organic online campaign material. An imprint would be required, so long as it was election material in the first place, but the UK regime is different. For a particular subset of campaigners who have not notified, and are not registered with, the commission and whose spending is therefore below a threshold, the UK regime would require no imprint for that political material.

Given that the commission is all about transparency, I doubt that it will be a surprise to hear me say that the Scottish regime, which has a more comprehensive approach to unpaid digital campaign material, has benefits for transparency for voters. There are a number of reasons for that. We have no way of knowing how many campaigners there are who spend below the registration thresholds, because they do not need to register. We could be talking about a significant amount of spending on influencing voters not being subject to the requirements for a digital imprint under the UK regime.

Explaining the differences is key. The commission worked very closely with Scottish Government officials, campaigners and Police Scotland before the 2021 elections to produce comprehensive guidance on the regime.

09:45

As I said, it is a little bit too early to see how that played out in practice because we have not yet analysed the bigger spending returns. There will have to be a learning process. I hope that we can feed back positive experiences and areas of learning—not just to the Scottish Government, but to the UK Government on its proposals. There is an intention under the Elections Bill that the commission will introduce UK-wide guidance on digital imprints. That should help to avoid confusion about what people need to do.

I will speak briefly about enforcement. We will be responsible for enforcing the regimes for parties and campaigners, and obviously the police will be responsible for doing so for candidates, but we do not enforce in order to catch people out. If somebody does their absolute best to comply but gets confused about the regime, we will help them and support them to get it right in the interests of bringing them into compliance and helping them and voters.

The Convener: I will pass over to Edward Mountain for questions on another area.

Edward Mountain: Thank you, convener. There is always a mad scramble just before elections to get postal votes in because people do not know when the elections will happen—except, of course, the Scottish parliamentary elections after a fixed term, which has, in the past, conflicted with UK elections, in particular. Would we not be better reviewing postal votes every three years and sending out reminders to people to update their postal votes, rather than just doing it at the last possible moment?

Pete Wildman: I should clarify initially that there are three types of postal vote. The first is for a one-off election, the second is for a particular period and the third is for what is, in effect, an indefinite period. Most electors go for an indefinite postal vote. At the previous Scottish Parliament election, the number of postal voters increased from about 16 per cent to just over 23 per cent. After the June register, and after having taken off the one-off postal votes, 22.5 per cent of the electorate had registered to vote by post in Scotland.

There is a mechanism; every five years the person has to refresh their signature. That is because people's signatures change over time, so we ask them to provide a fresh signature in order to keep it up to date. If the person does not provide a fresh signature, they lose their postal vote. In my area, we wrote out to about 4,000 electors in January; 98 per cent supplied a fresh signature, but 2 per cent did not. To do that every three years would increase frequency, and it would be a new application. Under the proposals, people will have to provide their date of birth as well as their signature; it will be a full new application. The process will happen every three years rather than every five years, as it is at the moment. That will be an additional burden on electoral registration officers and on the public because people will have to apply more frequently.

Edward Mountain: Yes—but they would not have to do it just before an election. The point that you made was that what you did was in January, which was in the build-up to the election. If registration for a postal vote was done every three years, the register would be more accurate and there would be less frenetic activity just before elections. That would allow people who are away on business or who know that they will be away for a few years—I am thinking about the armed services, of which I was a member—to renew their postal vote for when they know that they will not be there for an election. Surely there is some merit in that—or is it all just bad news?

Pete Wildman: The point to make about the three-year period is that election cycles are five-yearly. In Scotland there are the UK Parliament elections, Scottish Parliament elections and local

government elections, so three-yearly renewal will at some point fall in a January ahead of an election. In the first year that we do it we will write to 1 million electors across Scotland asking them to reapply for their postal vote. That is a significant volume of postal vote renewals to process in one period.

Edward Mountain: My only comment is that we are talking about UK elections here. The Scottish Parliament has fixed terms while the UK Parliament does not, although I understand that you want to push the two together.

My other question is about the limit on the number of postal votes that an individual can return in person. Do you think that people understand that family members can return more than non-family members? Is it complicated or is it easily understood?

Pete Wildman: If you are talking about handing in postal votes at a polling station, that is probably for Chris Highcock. I am not aware of a limit.

Chris Highcock: There is no limit currently, but the bill proposes limits on the handling of postal votes to try to prevent bulk deliveries at one time. That certainly could impact on confidence in the process. We say in our written submission that the issue is not only about postal votes, and that we have to look at postal vote applications. There is an issue about the input to the system and not just the handing in of postal votes. Another issue is that handing in a postal vote at the polling place is only one way of submitting a postal vote. There is nothing to prevent someone from posting a bundle of votes in a letterbox round the corner.

The Convener: To clarify, there are two aspects. In an earlier answer, Pete Wildman talked about applications for postal votes and renewal of signatures. We are now talking about is the situation where, on the day of an election, people take votes that have been cast but not put into the postal service, to a polling station to put into a box. My understanding—this is what I seek clarification on—is that, in Scotland, there is no limit to the number of votes that one person can present at a polling station, but the bill to which the LCM applies proposes a restriction on the total number that can be handed in. Is that your understanding, too?

Chris Highcock: Yes.

The Convener: Good. Thank you.

Edward, do you want to come back in on any aspects of that?

Edward Mountain: No, but I was going to move on to proxy voting.

The Convener: Before you do that, I have a question for Chris Highcock. On a day when two

elections are being run separately but in the same building, someone could present 25 postal votes for a local election, but could be refused for a UK-wide general election. Do you have confidence that that could be defended satisfactorily?

Chris Highcock: That is the implication of the legislation.

The Convener: I am inviting you to repeat what I thought was your view on an earlier matter—that you would have confidence that, from the point of view of the individual polling clerks, the votes could be accepted for the Scottish local election but refusal to take the votes for the UK-wide election could be defended.

Chris Highcock: Our position is that that could be defended under the rules. Whether that would allow people to defend themselves against a challenge in the place is different.

The Convener: Absolutely. I recognise that there is a difference between the events that happen on the day, face to face, and what is in legislation.

Edward Mountain: I have a question on proxy voting. There is a proposal to reduce the number of people for whom an individual person can be a proxy. In the past, I have been a proxy for all my children, and the bill would stop that. Is that a good thing or a bad thing? I am not asking whether the fact that I voted for my children, on their instructions, is a good or bad thing; I am asking whether the limit on proxies is a good or bad thing. The proposed limit of two would be quite minimal for a lot of families. I seek your opinion on that.

Louise Edwards: The fundamental principle has to be that, if somebody is entitled to vote, is eligible to vote and wants to vote, there needs to be a mechanism for them to do so. All the methods of voting that we have discussed, including proxy voting, are part of that picture. There is an argument that there are already safeguards in the proxy system, such as in the application for a proxy to be appointed, that need to be thought about carefully. You can see a circumstance in which reducing the number of proxy votes that one individual can cast might impact on whether somebody can vote who is otherwise entitled to do so.

That is part of the key thing for me. The proposal would tie eligibility to vote to the person who is a proxy and not to the person who wants to vote. There is quite a lot to think through here. The proposal was first mooted by the review that Sir Eric Pickles carried out. When we responded to that, we said that we were not sure that the benefits of reducing the number of proxies so severely would outweigh the potential

disadvantages. There are a lot of accessibility issues that need to be worked through.

The Convener: If no one else wants to comment, do you want to come back in, Edward?

Edward Mountain: Not on that, convener. I am wondering whether you will let me go on with my next question. I am not being impertinent—I am happy to move on.

The Convener: Absolutely. I just have a point about proxy votes. The memorandum that we are considering is silent on proxy votes, simply because the Government is indicating that no legislative consent would be required in that respect.

Edward Mountain: My next question is on the removal of the 15-year limit on overseas electors' ability to vote in UK parliamentary elections. Is that a problem administratively? It is a political issue, but I am not asking you to comment on the politics; I am asking whether it is an administrative burden.

Pete Wildman: The current verification of overseas electors is quite a slow administrative process, particularly once you go to the older registers. The registers for the past 10 years are often held digitally, so it is very quick to check whether somebody was previously registered in your area. Once you get to the older registers, it becomes a slower process and you have to physically get the hard copy of the register. Quite often, streets are moved into different areas, constituencies change and polling districts change.

In my office, after somebody had said that they were last registered in Stirling, we then went through all the Stirling registers for the previous 15 years and could not find the person. They then said, "Oh no—I think we were last living in Edinburgh." It can be quite a slow process. If the period is opened up indefinitely, you might have to go back to some quite historical registers to try to check that.

The other issue is that communication with overseas electors is not always easy. The application form encourages people to provide an email address or telephone number, but not everybody does so. A certain number of people do not provide those contact details, so we are left having to deal with the elector by mail, and post to various corners of the world can be quite slow. It is not necessarily a quick process. That is not to say that it cannot be done, but it is administratively harder.

The bill proposes that people who have not previously been registered can provide proof and declare that they were previously resident in an area, and that the ERO can refuse that if they are

not satisfied that there is sufficient evidence. There is a question about what sort of evidence somebody could provide to say that they were living somewhere 20 or 30 years ago. Would they still have it?

There are questions. I am not saying that it cannot be done; it is just that there will probably be a bit of an added administrative task.

The Convener: Would anyone else—

Edward Mountain: It is certainly arbitrary—sorry, convener.

The Convener: I was just wondering whether anyone wanted to come in before your response, Edward.

Dr Clark: I will just quickly say that it is nothing more than a symbolic change. It will not do anything to resolve the difficulties that overseas electors have with voting. Normally, the difficulties are to do with issues such as mail not getting out in time and not getting back in time. It is regrettable that the bill is a missed opportunity to consider other ways of doing overseas voting. That could be things such as consular voting, as some countries do, or ballot download, which could ease some of the postal pressures. I am afraid that the proposal in the bill is purely a symbolic change.

Edward Mountain: I am sorry, but that was a political answer, which is not what I was looking for. I think that it is quite arbitrary to say that, once someone has been overseas for 15 years, they can no longer vote in UK elections.

I am hearing that improvements could be made to the system. I heard from Pete Wildman that digital records could be used more often and that that will make the process easier as the age of electors increases. Is that correct, Pete?

10:00

Pete Wildman: You are right about digital. One of the challenges will be how long we hold on to digital copies of the register, because we get into data storage issues. However, you are right that, over time, more registers will be digital and searching will become easier, but that will require EROs to hold on to digital versions of the register, when they may previously have disposed of those records after 15 years.

Edward Mountain: That is all my questions. I make the comment that it is a political decision and there are ways of making the system better, but I am not saying that the change should not happen.

The Convener: We will move on to Paul McLennan.

Paul McLennan: I should have mentioned earlier my registered interest as a serving councillor, although that is not overly relevant.

My question is on undue influence and on electoral offences and the sanctions around them. Are there any views on the proposed change to the law on undue influence and the new sanctions for intimidatory behaviour? I will ask Chris Highcock first, and I know that Alistair Clark has made comments indirectly on the issue.

Chris Highcock: On the proposed new offences, we made the broad comment that there is an opportunity to simplify, consolidate and modernise electoral offences in general so that it is a lot easier to understand the problem and what particular crime might be committed. The issue of undue influence again comes down to definitions—we need to be clear about what is meant.

In relation to the proposal to make someone exempt from standing if they have been guilty of intimidation of various people who are involved in the election process, that would be a challenge. Anyone who stands for election makes a declaration that they are not excluded or exempt from standing. We very much put the ball in their court when it comes to declaring that they are not exempt. We take what is on the nomination paper as proof that they are exempt, but whether it is true is up to them.

The key thing that we have said—it is in line with the comments that Dr Clark and others have made—is that there is a need for a modern and more rational and simplified set of offences that everyone can understand.

Dr Clark: I have nothing much to add. Issues such as intimidation and harassment need to be looked at. The question before the committee is whether that should be looked at in the bill or left to future Scottish Government legislation. My general preference would be for Scottish legislation to take that forward to give a Scottish answer to a Scottish problem, if you like, although I do not feel strongly one way or the other about it. It is welcome that the issue is being discussed and that we are discussing ways forward on it.

Paul McLennan: Dr Clark, your research found that 7 per cent of polling station workers reported at least one case of intimidation, which seems high to me. I have been standing at polling stations for many years, and that seems quite high and is concerning. I can see the need for measures if one in 13 or 14 polling station workers reported voters being intimidated.

Dr Clark: Yes, but my colleague goes on to say in that piece of research that, as Chris Highcock said, definitions and how the issue plays out in perceptions are important. What party

campaigners might see as legitimate campaigning behaviour, some might see as a bit stronger than that. We need to be careful. We do not want to curtail legitimate campaigning behaviour—that would be a matter of regret.

To be clear, that figure was based on English evidence rather than Scottish evidence, and it was in a particular round of elections. However, I agree that it is a high figure. As I said, the fact that we are talking about a way forward on such issues is a good thing.

The Convener: I thank all the witnesses for attending. It has been an interesting and useful discussion.

There will now be a short suspension while the witnesses change over.

10:05

Meeting suspended.

10:08

On resuming—

The Convener: Our guests on our second panel are all joining us online. I welcome Jess Garland from the Electoral Reform Society, Dr Catriona Burness from the Royal National Institute of Blind People Scotland and Ethan Young from Inclusion Scotland.

Thank you for putting yourselves up today to submit evidence. In order to maximise the time that we have available to inquire about various subjects, we will move straight to questions. Please do not feel that everyone needs to answer every question. If you would like to contribute, please type the letter R in the chat function and we will know that you want to add something.

I will kick off with an open question, which I would like you all to respond to—just to contradict my previous statement. Will you give us a short statement about the barriers and challenges that are faced by people who want to vote?

Dr Jess Garland (Electoral Reform Society): Speaking on behalf of all voters, I note that we have a system where people have to register to vote, so people have to jump through a hoop to prove that they are eligible to vote. That does not happen automatically, as it does in other places. People are then ready to go and vote. Our concern is that the requirement for voter ID would put up an additional barrier to people who are legitimate voters accessing their vote. That is where our concern about the bill mainly lies.

The Convener: Can I push you on that point? Are you suggesting that some of the hurdles that exist at the moment are excessive and that to add

to them would cause problems or are you saying that we have enough hurdles at the moment?

Dr Garland: I am saying the former.

The Convener: Excellent—thank you. Catriona, as you represent RNIB Scotland, will you comment on the experience of those with sight loss and sight reduction?

Dr Catriona Burness (RNIB Scotland): I am very happy to do that. The right to vote independently and in secret is the cornerstone of our democracy. It is almost 150 years since the Ballot Act 1872, which guaranteed the right to vote in secret, but blind and partially sighted people face considerable barriers in exercising their democratic right to vote, in that they are likely to need assistance to cast their vote for the candidates that they choose. We have been campaigning on that issue for many years.

In relation to the Elections Bill, we are concerned that introducing the requirement for voter ID would add to the barriers that blind and partially sighted voters face. We are also concerned about the proposed alterations to the wording in the clause that enables the provision of equipment to assist blind and partially sighted people to vote without the need for assistance. We have campaigned on that.

The Convener: Thank you for that overview. Committee members will ask about the use of technology later in the meeting. I ask Ethan Young to comment on behalf on Inclusion Scotland.

Ethan Young (Inclusion Scotland): Disabled people face a multitude of barriers to accessing voting. Inclusion Scotland is concerned that the Elections Bill will increase those barriers rather than reduce them, and that it is discriminatory and will breach the UK Government's obligation under the United Nations Convention on the Rights of Persons with Disabilities to afford disabled people the same right to vote and access to voting as non-disabled people.

We also share the concerns of many civic society organisations about the potential negative impacts of the bill's proposals for the democratic process, particularly for third party campaigners. Our primary concern for disabled people's rights relates to the proposals on voter ID, which I am happy to go into further at any point.

The Convener: Thank you. I am sure that we will explore that later. I hand over to Paul McLennan.

Paul McLennan: Is there a danger that the bill will create a two-tier system with different requirements for UK and Scottish elections? What additional challenges would that create? I asked the previous panel about communication in that regard. The period ahead of a UK general election

will sometimes be only about three weeks. What challenges will that create for communication with the voters that you represent?

10:15

Ethan Young: It is a good question. There is certainly room for confusion. For example, if a disabled person does not have voter ID and has not voted in a UK election, they might think that they need voter ID when a Scottish election comes along, so they might not vote. It would cause confusion. I think that that would be the biggest impact. The bill could reduce the number of people, and particularly disabled people, who come out to vote.

Paul McLennan: Do you have any thoughts about how to communicate with the voters that you represent? As I said, the period could be as little as three weeks. That is unlikely, but it is possible. Are there particular challenges around communication?

Ethan Young: Absolutely. I am a disabled person, and one of the big things for disabled people is that we need time to plan. Often, we cannot react on the spur of the moment or as things come up in the way that people who face fewer barriers can. Disabled people need a certain lead-in time, especially when they rely on other people or on any number of other things in order to lead an independent life.

Communication is key to accessibility, and we need to do better on it. We need to ensure that what we communicate is available in easy read, large print, British Sign Language and Braille. If information is not available in those formats, we are excluding people, and if there is a short lead-in time, we limit people's ability to access it. It is all very well for people to say, "We can give you this information if you want," but if they say that in English—and not in plain English—how do individuals access that? How will they know that the information is there if people do not speak in a way that they can understand?

Communication is very important and we need to do better on it. We often say that information is available on request, but if we do not advertise that in an accessible way, how will people know that it is there for them to access? Communication is key, and so is time.

Dr Burness: I concur with what Ethan Young says about the need for accessible communication. We know that blind and partially sighted people have great difficulties in reading the campaigning materials and manifestos that political parties produce for elections, and in getting information at the same time as other people, which is key.

Communication about voter ID is another issue. RNIB Scotland estimates that about 40,000 blind and partially sighted voters do not have an acceptable form of voter ID, and communicating that ID would be required for UK-wide elections would be a challenge.

Paul McLennan: That comment about the 40,000 people is very concerning. Does Ethan Young or Jess Garland want to comment in that regard? Are other such figures available or could you provide them to the committee at some stage? If those 40,000 blind and partially sighted people do not have an acceptable form of voter ID, a real barrier will be put up to their being involved in elections.

Dr Garland: That statistic is backed up by research by both the Cabinet Office and the Electoral Commission, which has shown that people with disabilities are one of the biggest groups for not having the required photographic ID. They are one of the most vulnerable groups when it comes to not being able to access ID.

As the previous panel said, the failsafe for that in the bill is the voter card that local authorities are supposed to provide, but there are additional access issues in getting that, and we do not really have the detail on how it will apply. We know from evidence in the United States that lots of people find it difficult to access such cards because there are transport and cost implications to getting to the issuing offices. There are lots of overlapping problems that feed into each other, particularly for people with disabilities.

Tess White: I would like to ask an exploratory question on that point before we move on. In the past few years, a lot of work has been done on the issue of making constituency offices accessible to people with disabilities. All the parties in Parliament are trialling a new app to help with that. Technology is moving on quickly, so do you think that technology could play a part in improving this situation?

The Convener: Before anyone answers that, I will let Bob Doris ask the question that he wanted to ask, because I think that it will lead to the open discussion that Tess White is looking for and will allow the witnesses to contribute perhaps on a slightly wider point.

Bob Doris: Tess White makes an important point and, as I develop my questioning, that issue will be teased out a little bit.

If we look at the Representation of the People Act 1983—not something that I do very often, I have to say—and the Electoral Commission guidance ahead of the elections last May, we can see that the issue of what is prescribed to support accessibility in polling stations is pretty clear. I make no judgment on whether that is sufficient,

but there is a degree of reassurance even if it does not go far enough.

The list of what is prescribed to support accessibility includes tactile voting devices for blind or visually impaired people, large-print sample papers, help to cast votes and wheelchair-accessible booths, ramps and other adjustments for those living mobility barriers. The UK legislation would effectively take away certain prescribed supports and replace them with a test of reasonableness. I know that there is a lot of concern in relation to that and perhaps Dr Burness might want to take this opportunity to put some of those concerns on the record before I develop my line of questioning further.

Dr Burness: The law prescribes that every polling station should have tactile voting devices to assist voters to find the candidate and party that they wish to vote for. I have one here—you can see the embossed Braille numbering. You place the device over the ballot paper and, say you want to vote for the candidate in box 5, you lift up the flap and place your cross there—hopefully in the box and not in the margin of the ballot paper.

The tactile voting device has been found to be unlawful because of the need for assistance in using and the fact that it does not guarantee that a person with sight loss can independently review the candidates on the ballot paper or reliably find and mark their chosen candidate. The person with sight loss is not in sole control of secrecy.

I have just realised that my icon is telling me that I am muted. Have I been on mute?

Bob Doris: No, not at all. We can hear you.

Dr Burness: That is fine. I thought I had better check.

The tactile voting device was found to be unlawful in a case that was brought in 2019. RNIB has been working with the Cabinet Office to find a solution to the problem. We have specific concerns around the wording of the UK Elections Bill, which I mentioned. A clause in the current legislation, the Representation of the People Act 2000, talks about

“a device of such description as may be prescribed for enabling voters who are blind or partially-sighted to vote without any need for assistance from the presiding officer or any companion”

We want that wording to be reinstated or retained within the legislation because we think it important to maintain that provision. The alternative wording in the bill is

“such equipment as it is reasonable to provide”.

Who decides what it is reasonable to provide? Do individual returning officers decide, “It’s not reasonable for us to provide something like a

tactile voting device, so we will not necessarily do that”? It will mean that visually impaired voters will not necessarily know what interventions or assistance they may get at a polling station, so we have fairly significant concerns about that. We are interested in working with the Scottish Government and the UK Government on arriving at solutions that would make voting accessible, including more technological interventions such as online voting or telephone voting.

We have been trialling the use of an audio device along with the tactile voting device. The audio device is like a small book reader, which blind people are often familiar with as something that is used to listen to novels with. In this instance it reads not a novel but the list of candidates. Often, voters do not know what order candidates are appearing in until they get to the polling station and see the ballot paper. It would help visually impaired voters to prepare for voting if it was quite easy to know in what order candidates appear in the ballot paper in advance of going to the polling station, because then they would know which number they were aiming for on the ballot paper.

Single transferable vote elections present particular challenges because you have more than one vote and you may want to vote for up to four candidates or to number every candidate on the ballot paper in your order of preference. It is hard to retain in your head where each of the candidates is on the ballot paper. The audio device is intended to allow blind and partially sighted voters to listen to lists of candidates and use that to help them to place their vote.

We have been running trials of the audio device. It proved rather successful and popular in local elections in Norfolk in 2021. We carried out a trial in Falkirk in partnership with the Forth Valley Sensory Centre recently, which involved setting up a polling station with assistance from Falkirk Council, which provided polling booths and Scottish Parliament on. Twenty-seven people took part in an exercise whereby elected representatives were invited to wear sim specs and go into the polling booth with a tactile voting device and a fictitious ballot paper that had been prepared for the purpose of election trials, with made-up party names and candidates.

Of the 18 people with sight who carried out the exercise, four did not vote for the candidates they thought they had voted for. Of the nine people with sight loss, only five voted as they had intended to. They had all used the audio device to assist them to cast their vote. The group that faced the greatest difficulty were those who were registered blind, three of whom did not vote in the way that they intended to and thought they had. That was a discomfiting experience for a voter, to think, “I

know how to use this, but in fact I have not voted as I meant to. Where has my vote gone?"

That is an account of one of our trials. I have probably taken too much of your time, so I will hand over to others.

10:30

The Convener: No problem. Thank you for that. It is worrying that so many people, albeit in a small sample group, believed they had voted one way but would have been recorded as having voted differently.

Ethan Young, I think that you wanted to come in.

Ethan Young: If you will permit me, I might backtrack very slightly to talk about numbers. To our knowledge, surveys suggest that around one in 10 disabled people would be denied the right to vote because they do not have the necessary ID. That is over 1 million disabled people. A significantly higher proportion of disabled people do not have the necessary ID compared to non-disabled people, so, again, the proposal would breach the principle that the UK has signed up to in the UNCRPD, to reduce the barriers to participation rather than increase them.

I am a bit lost on what the questions were directly. There was a question about access to MSP offices—

The Convener: The question concerned the fact that the bill is moving away from a prescribed set of technology that should be available to assist people to cast their vote to a test of what it would be reasonable to provide. Do you think that that is an improvement or a detriment?

Ethan Young: I guess it is about how we define that what is reasonable. That is the issue. To me, what is reasonable is that everyone has the right to vote and everyone has the right to the same access to voting. Looking at what we have just heard about people with visual impairments and the challenges to voting in secret, I think that we need to get that right, because it is not right at the moment. People should be able to vote in secret. That is their right and we need to do everything we can to make that happen.

What one person might think is reasonable, another person might not. Cost always comes into play. It should not, because the right to vote is a human right, so, no matter what the cost, we should do whatever it takes to enable people to vote in a way that they want to.

I know that I have not answered the question directly, but we need more detail. That is the challenge. We do not have the detail and we cannot leave the detail until stage 2, for example.

The Convener: Thank you. It is important that you have put on record that the right to vote is a human right, so it applies to all humans. Before Catriona Burness responds, I will let Bob Doris ask a follow-up question for you.

Bob Doris: Dr Burness, I apologise if my question seems a little process driven, but I think that it relates directly to the concerns. My initial question to you was whether there would be any degree of comfort in having something specified in the bill. That might need to be changed to something more appropriate than the reasonableness test, which could, in theory, be interpreted 32 times across Scotland and goodness knows how many times across the UK. I would hope that the Electoral Management Board for Scotland would do a good job on that—I am sure that it would—but that is not the point.

The issue is whether RNIB Scotland, Inclusion Scotland and others believe that a series of minimum standards that everyone should expect should be specified in the bill or in secondary legislation. Changes could be made speedily through secondary legislation after consultation with the various groups. Is it important to have something specified, as opposed to there being local interpretation of "reasonableness"? I apologise for the process-driven question, convener, but it is important to know whether something should be spelled out in statute or whether it should be open to local interpretation.

Dr Burness: The wording that is being proposed is such—[*Interruption.*]

The Convener: I think that we have lost Catriona Burness. We will give it a couple of seconds to see whether the feed comes back on.

I guess that it has not. We appear to have lost her, but I am sure that she will try to come back in. Does Ethan Young want to comment on that question?

Ethan Young: We absolutely need to benchmark what "reasonable" is, because that level for some people might be lower than it is for others. It would be useful and helpful to have that level of detail, because it would give us a level of comfort as to exactly what we are talking about when we mention the word "reasonable".

The Convener: Tess White will ask a question. If Catriona Burness can make it back to the meeting, we will come back for her response.

Tess White: This seems like an easy question, but it is quite a tough one. If the witnesses could have one ask—one thing that needs to change to make electoral events open and accessible to all voters—what would it be?

The Convener: It is a simple but always challenging question.

Dr Garland: My change was proposed during the committee stage of the Elections Bill in the House of Commons. It is that voters should be registered automatically, as happens in a number of other countries. That is based on evidence, to which Dr Clark referred earlier, that the biggest problem that polling staff experience on elections day is not personation but, instead, people who are not registered wanting to vote. That change seems very straightforward. Indeed, the Electoral Commission has done a feasibility study that looked at a number of ways of doing it. There could be full automation or voter registration could be a bit more automatic—people might be registered when they engage with other Government services. That change would probably have the most immediate and obvious impact on people being able to access their vote.

The Convener: Ethan Young, what would your ask be?

Ethan Young: It would be for a full and proper accessibility audit of the whole process from signing up to vote to going to vote or voting by post. That audit needs to be informed by and run by disabled people. Disabled people are the experts on the barriers that they face, so they are the experts in helping policy makers to find the solutions. When I speak at other events, I often say that you would not hire a baker to build a bridge, so why do non-disabled people make policy that impacts disabled people, often without really having the understanding or the lived experience to solve the problem that we face?

The Convener: I will move on to voter ID, which everyone has raised as an issue. I see that Catriona Burness has joined us again. The witnesses have been clear about the impact that voter ID has on certain groups. Does Jess Garland have any comments on the impact on any socioeconomic groups that have not been mentioned? What are the challenges with regard to voter ID for them?

Dr Garland: The form of voter ID that is in the Elections Bill is photographic ID. The two most common forms of that are passports and driving licences, both of which come with a cost, so it is not surprising that all the research, including the Cabinet Office's recent research and the Electoral Commission's research, shows that the groups that are most likely not to have the right forms of photographic ID are people who are unemployed, people who live in local authority accommodation and, of course, people with a disability, as I mentioned earlier. Those groups are clearly vulnerable to losing out on their vote, and we definitely do not want them to.

The worry for us is that, in some of that same research, 42 per cent of people who said that they did not have one of the required forms of ID said

that they would be very unlikely or unlikely to go to get a voter card. Earlier, I mentioned some of the problems that people can experience in that regard, such as the cost of paying for a bus to get to the issuing office. We are really concerned that the policy will have a chilling effect on turnout and that it will, in some cases, prevent legitimate voters from voting.

We saw that in the pilots in English local authorities in 2018 and 2019. I will share some of the figures. There were pilots in five local authorities in the 2018 local elections in England. Across those five areas, 1,000 people turned up without their ID, 350 of whom then failed to return to vote. In the 2019 pilot, which involved 10 local authority areas, 2,000 people turned up without their ID, 750 of whom failed to return to vote. Across those 15 areas, more than 1,000 people were, in effect, denied their vote. That provides a much stronger evidence base and involves much bigger numbers than those relating to personation. As we heard earlier, the numbers of such cases are vanishingly small. We are really concerned about the impact that the policy will have on people, particularly those from certain groups, being able to access their vote.

The Convener: I would like to push you on your experience and knowledge of that and to turn the question around slightly. I have two questions. First, what confidence is there in those groups that the Government, the local authority or the election officer will provide that specified ID if a person does not have a passport or a driving licence? What is the confidence level in those groups that that will happen?

Dr Garland: I do not know about their confidence. We know that people are quite confident in the process as it stands. Eighty-seven per cent of people think that voting in general is safe, and 90 per cent of people think that voting in polling stations is safe. Therefore, I do not think that the argument that we will increase voter confidence by asking people to provide extra ID stands up.

We do not have a lot of detail about how local authorities will provide those cards, whether there will be an online version, whether people will have to turn up in person, or how often the issuing office will be open. I will take an example from the US. There is one area in a US state in which the issuing office for the voter ID card is open every fifth Wednesday of the month. There are not a lot of months with a fifth Wednesday in them. Members can see how, in some circumstances, those things can be particularly restrictive and, indeed, weaponised to be so. We do not know about voter ID—

The Convener: I am sorry; I do not mean to cut across you, but I will ask my second question. Is

there any evidence about whether people having voter ID, rather than its provision, increases the confidence of groups about elections?

Dr Garland: There is very limited evidence on that. There is some evidence from the pilots on whether people feel that elections are secure, but there is no evidence on a change of people's behaviour, for example. Of course, limited questions were asked in those pilots about who might have turned up and who did not turn up. There is limited evidence from the pilots on whether people were put off.

10:45

Paul McLennan: I have a supplementary question. We have heard about voters with disabilities, and the convener mentioned socioeconomic groups. I have questions for Jess Garland about ethnic minority groups, voter registration and ID. Has any research been done on ethnic minority groups? I am concerned that we have not touched on them with regard to voter ID. Are there concerns about their registration and their ID if they have registered?

Dr Garland: We were very concerned that ethnic minority groups would be impacted by the policy. There are different messages from different research. Some research says that those groups are most affected by voter ID; other evidence suggests that that is not so much of a problem, particularly when it comes to accessing the ID. However, a lot of black and minority ethnic groups have said to us that it is not just about the possession of ID; it is also about the environment that the person is in. Do people feel encouraged to vote? Do they feel welcome to vote? That case has been made by Operation Black Vote, in particular. It has spent decades encouraging black citizens to vote, and it has said that that could impact on people's sense of feeling welcomed and encouraged into the system. That is its position.

On registration, the groups that are most likely to be underregistered are those that move house more frequently, such as people in private rented accommodation, younger people, and people who move around a lot more. Of course, a significant number of people in the black and minority ethnic community are in those groups. Those groups suffer most from underregistration. There is probably a crossover. People who move around a lot more will have more trouble getting to the polling station.

The Convener: I ask Catriona Burness to come back in after the unfortunate experience with the information technology. You were asked about your confidence in the "reasonable" provision being put into the bill rather than a set of technologies that would assist.

Dr Burness: Yes. I want to check that you can hear me, because my little box has been telling me that I am muted.

The Convener: We can hear you.

Dr Burness: The proposed wording in the bill is:

"such equipment as it is reasonable to provide for the purposes of enabling, or making it easier for, relevant persons".

The "relevant persons" are voters who are disabled, blind or partially sighted.

We think that the new wording would weaken the guarantees for blind and partially sighted people in two ways. It would mean that individual returning officers, instead of the Government, would make a decision on what to provide and that there could be a postcode lottery of provision. It would also mean that blind and partially sighted voters would not know what to expect at polling stations or what they were entitled to.

I mentioned earlier that a returning officer might decide, for whatever reasons, that they do not think that the provision of a tactile voting device or other such equipment to enable an independent vote is reasonable. We are very concerned not to lose the words

"without any need for assistance"

because, if they are lost, there will be less clarity that a right to an independent and secret vote is being afforded to blind and partially sighted people. The current legislation does not specify precisely what is prescribed, but it establishes that there is a right to vote

"without any need for assistance".

I emphasise that we want to preserve that in the bill.

I will pause, because members might have supplementary questions. I am conscious that I missed about five or six minutes of the deliberations.

The Convener: My apologies for your experience with the IT, which is not unique. Thank you for that contribution. That answer to Bob Doris's question about the bill is very important, and it is very helpful to have it on the record.

I am conscious of the time. On behalf of the committee, I extend my deep thanks to the witnesses for attending the meeting. I know that the clerks will be in touch with them about whether there are any other items that they would like us to consider before our report is drawn together.

That ends the public part of the meeting.

10:50

Meeting continued in private until 11:22.

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