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**Standards, Procedures and Public Appointments
Committee**
**Comataidh Inbhean, Dòighean-obrach is Cur-an-dreuchd
Poblach**

**Scottish General Election
(Coronavirus) Bill**



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Standards, Procedures and Public Appointments Committee

The remit of the Standards, Procedures and Public Appointments Committee is to consider and report on—

- (a) the practice and procedures of the Parliament in relation to its business;
- (ab) a proposal for a Bill relating to the arrangements for financial assistance to non-Government political parties represented in the Parliament;
- (b) whether a member's conduct is in accordance with these Rules and any Code of Conduct for members, matters relating to members interests, and any other matters relating to the conduct of members in carrying out their Parliamentary duties;
- (c) the adoption, amendment and application of any Code of Conduct for members; and
- (d) matters relating to public appointments in Scotland;
- (e) matters relating to the regulation of lobbying; and
- (f) matters relating to Scottish general elections falling within the responsibility of the Cabinet Secretary for Government Business and Constitutional Relations.



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The Committee's conclusions and recommendations

Committee view on Postal voting arrangements for 2021 election

The Committee's first priority is to ensure that no voter is unable to vote at the next election. While it understands that the changing position with Coronavirus makes it hard to estimate the final take-up of postal voting, it seeks a reassurance from the Government that sufficient resources are made available so that it is possible to meet the demand for postal votes.

The Committee is concerned that this work is based on a working assumption of a 40% uptake of postal voting applications, which remains uncertain. We would like to see greater contingency built in in order to respond to a greater uptake.

Within this context, the Committee recognises that bringing forward the deadline for the registration of postal votes may be a necessary step to ensure that electoral administrators can provide a postal vote for all who seek one. However, the Committee notes that the earlier deadline restricts the time available for voters to register for a postal vote.

The Committee believes that a precondition for this step is the early and widespread promotion of the opportunity to register for a postal vote will be crucial to ensuring take up by all who wish to vote in this way. The Government, the electoral community and political parties each have a role to play in the promotion of postal voting. The Committee wishes to be kept informed about the measures taken to promote registration for postal votes.

The Committee further recommends that measures to educate, encourage and simplify take-up – such as “how to” advertisements and a freepost address for registering - are also put in place.

While the Committee views the promotion of registration for postal votes as a critical factor in protecting the legitimacy of the next election, it recognises that some voters will prefer to vote in person and that in-person voting is more accessible for some.

We believe it is the promotion of that choice, and the achievement of a balance

between postal and in-person voting which will maximise turnout and secure confidence in the poll. A proactive, multi media campaign including direct mail, online and broadcast media will be required.

We are concerned that the suggestion in the Policy Memorandum that targeted messaging to vulnerable categories of voters will not be enough to achieve widespread public awareness of the need for early registration of postal voting.

With regard to resources, the Scottish Government must ensure that additional financial resource is available to ensure that people can be trained to support the process of registering postal votes and to allow for widespread public information campaigns on postal voting. The Committee believes that it is crucial that voters should be supported to participate in the election and that lack of resource should not be allowed to inhibit either the postal-voting system or the safety of polling places. Where the legitimacy and integrity of the election is concerned, the Committee considers it better to over-allocate resource, rather than a shortage of resource restricting participation.

The Committee would appreciate regular updates about the level of uptake of registrations for postal votes in advance of the Scottish Ministers' responsibility under Section 4 of the Bill to report on uptake after the April deadline.

We urge the Scottish Government to consider the issue of postal votes arriving in time for overseas posted Scottish Armed Forces voters. Armed forces personnel must not be disenfranchised due to an impractical timescale for the return of postal votes.

The Committee recognises that the provision at Section 5 for Ministers to decide that the 2021 poll is to be held by an all-postal vote is a measure of last resort and one which, the Committee believes, must be led by public health considerations. We believe that Parliamentary scrutiny and approval of such a move is necessary and ask the Government to bring forward measures to ensure this.

Committee view on Other arrangements for 2021 election

The Committee recognises that constituents cannot be expected to differentiate between the roles of candidate and MSP during the campaign period and will, understandably, expect to receive support from their sitting MSP. We are concerned that a refusal to assist could have electoral consequences for the sitting MSP who is also a candidate. By the same token, a sitting MSP could gain favour with potential voters by continuing to assist constituents, an opportunity

not afforded to other candidates.

The Committee believes that the guidance being developed by the SPCB for the pre-election period will be crucial in maintaining, as far as possible, a level playing field between candidates, regardless of their status. This must include clear guidance on constituency casework and be informed by the principle that parliamentary resources and public support should not be available to sitting MSPs and provide them with an electoral advantage.

The Committee is conscious that the contents of the SPCB's guidance for the pre-election period will impact on MSPs' staff. We therefore urge the SPCB to ensure that MSPs' staff have the opportunity to give their views on these issues directly if they wish, rather than via the Members employing them.

The Committee recognises the general preference is for polling to take place over a single day, in line with normal practice. This will be facilitated by an increased take up of postal votes.

The Committee wishes to be kept informed about any developments that might lead to a decision by Ministers to hold polling over more than one day.

Should there be a need to hold elections over more than one day they should be consecutive days, chosen so as to support participation.

The Committee is not comfortable that the power to decide that the 2021 poll will take place over additional days rests solely with Ministers. We believe that parliamentary scrutiny of such a move is desirable. The Committee asks the Government to bring forward a means of providing parliamentary scrutiny of this decision.

Committee view on Arrangements for new Parliament

The Committee welcomes the flexibility provided at Sections 9 and 10 of the Bill and agrees that this leeway will allow the new Parliament to convene safely and build time for new members to acquaint themselves with virtual and hybrid ways of working.

Committee view on Reserve power of Presiding Officer to postpone 2021 election

The Committee recognises that the provision at Section 11 for the Presiding Officer to postpone 2021 election is a measure of last resort. If the Presiding Officer wishes to postpone for a reason related to coronavirus, he must be satisfied that the Parliament could not meet safely to legislate to change the date of the Poll. As such we recognise that the provision is unlikely to be invoked given the ability for the Parliament to meet virtually.

Committee view on the Bill overall

While we recognise the pressing need for certainty and the need to legislate to provide that certainty, the Committee regrets the extremely limited amount of time it has had to scrutinise legislation which may affect millions of voters.

The Committee wishes to emphasise that providing certainty and clarity to the electoral community and to the electorate and political parties at the earliest possible point is paramount.

The Committee urges the Government to continue its dialogue with the electoral community and to consider whether key dates (such as additional polling days) could be included in the Bill in order to deliver the certainty and advanced notice sought by stakeholders.

Given the truncated passage of this Bill and the very brief period afforded for evidence gathering at Stage 1, the Committee reserves the right, as evidence emerges, to bring forward new issues at later Stages and would appreciate the Minister's reassurance that he would not resist amendments on that basis that the issue had not been raised earlier in the Bill's passage. ¹

Committee views on Delegated Powers Provisions

As stated earlier in this report, the Committee shares the DPLR Committee's concerns and asks the Government to bring forward plans for sections 5 and 8 to be subject to formal scrutiny using the negative procedure.

Furthermore, with regard to Section 8, the Committee agrees with the DPLR Committee that consideration should be given to whether the power should be reviewed ahead of Stage 2. We would welcome an amendment to provide that any additional days should be on consecutive days unless there are reasons to provide otherwise.

Introduction

1. The Scottish Government is proposing changes to the laws on general elections in Scotland in order to ensure that the Scottish Parliament election on 6 May 2021 can take place if at all possible in the context of the Coronavirus pandemic. The Bill does not seek to make any permanent changes to electoral law but creates a range of contingency options for holding the next Scottish general election safely. The Scottish Government has stated that its aim is to ensure the election is held on 6 May 2021 as scheduled if virus conditions allow. Its plan is to facilitate in-person voting with social distancing in polling places and increased postal voting.
2. Planning for the 2021 election has been undertaken by the Scottish Government in conjunction with electoral administrators, the Electoral Commission, officials of the Scottish Parliament and representatives of each political party currently represented at the Scottish Parliament.
3. The administrative challenge of running an election is significant. It is important, therefore, that electoral administrators have clarity on the rules for any election in good time to run the election as smoothly as possible. The Gould Principle states that legislation should be in place six months prior to any electoral event and that no new legislation should be introduced in this six-month period. The period of six months before the planned 2021 Scottish General election would be early November 2020. It is now past that point and this Bill is being scrutinised on an expedited timetable.
4. The Government's proposals are set out in the Scottish General Election (Coronavirus) Bill. The Bill was published on 17 November 2020.² The Scottish Parliament Information Centre (SPICe) has published a briefing on the Bill.³
5. The Standards, Procedures and Public Appointments Committee is the lead committee which has been examining the Bill at Stage 1 of the legislative process. Stage 1 is for the Parliament to consider the general principles of the Bill and decide whether or not to agree to them.
6. This report sets out the Committee's views on the general principles of the Scottish General Election (Coronavirus) Bill. The first part of the report discusses the specific proposals in the Bill.
7. The Committee thanks those who took the time to give evidence to the Committee on the Bill in person and who provided written submissions. They are listed in Annexe B.

The proposals in the Bill

Postal voting arrangements for the 2021 election

Closing date for application to vote by post or amend existing absent vote arrangements

8. The Bill moves the deadline for applications to vote by post from 20 April forward to 6 April 2021 in order to allow processing of the anticipated increased volume of postal vote applications. Each application is processed by Electoral Registration Officers (EROs) and Returning Officers (ROs) then issue a ballot. If most applications are received at the deadline, additional time will be needed to allow processing. Recent Electoral Commission research on Scottish voters' attitudes conducted in August found that 38% of respondents said they would prefer to cast their vote by post.
9. Ahead of the 2014 referendum on Scottish independence, 50% of new applications for postal votes arrived in the last few weeks with a peak on the final day. These applications for a postal vote represented under 3% of electors at the 2014 referendum. The Scottish Government notes in the Bill's Policy Memorandum that ahead of the 2021 election there could be a 20% increase in those requesting postal votes (from a figure of 18% in the 2016 Scottish General Election).
10. The Policy Memorandum notes that "targeting messaging will be employed to promote postal voting - with a particular focus on people in vulnerable categories" but it concludes that it is likely that the majority of postal vote applications will arrive close to the application deadline.
11. In the same period, Electoral Registration Officers (EROs) and their teams will also have to deal with people who may wish to cancel their postal vote or register a change of address.
12. The Electoral Commission research with Scottish voters also found that 20% of those who generally vote at a polling place would prefer to vote by post. While this research should not be taken as a reliable prediction of behaviour in May 2021, it indicates the potential for approximately 350,000 people who would have voted at a polling station instead opting to vote by post. ⁴

Views

13. Pete Wildman, Electoral Registration Committee, Scottish Assessors Association admitted that the number of those wishing to register for postal voting was hard to predict. Although a slight increase in registrations was being observed, he noted that there was still some time to go before the election and the majority of registrations for postal voting typically come in just before the deadline. He said that the Electoral Commission's research formed the basis for planning at this point in time and that further surveys would be conducted as the election approached.
14. Malcolm Burr, Convener of the Electoral Management Board for Scotland agreed that rates of postal registration were difficult to estimate. Data from recent by-

elections suggested that rates had not increased significantly. He emphasized the importance of messaging during the pre-election period in order to ensure that voters are aware of their options. He confirmed that the Electoral Management Board intends to provide a high level of capacity to cope with a range of demand.

15. The Committee wished to understand the factors which limit the capacity for registration for postal voting and whether this depended on financial resources, staffing or printing of postal registration packs.
16. Malcolm Burr pointed out that planning had to take into account not just the predicted and actual number of applications but also at what point applications are made. He said that while capacity was being planned to cope with 40% of the electorate registering for a postal vote, it would also be “critical that those applications are spread over the longest possible time” and that “if a large volume of applications came in late, that could overwhelm the system.”⁵ Andy Hunter, Association of Electoral Administrators, Scotland and Northern Ireland Branch, reiterated the importance of pre-empting a last-minute peak in demand and to use messaging and information campaigns to flatten the curve.
17. Pete Wildman explained that moving the deadline for applications from 11 to 21 days preceding the election had been requested by the electoral community as it would allow sufficient contingency to process applications based on the estimated 40% maximum likely take-up.
18. Andy Hunter confirmed that the production of postal voting packs was not a limiting factor but, “It is getting the information to the printers to enable them to print the packs that could potentially be a problem if there was a spike at the end.”⁶
19. The Committee probed the 40% working assumption for the predicted maximum level of postal registrations.
20. Ailsa Irvine, Director of Electoral Administration and Guidance, the Electoral Commission, agreed that it was challenging to predict the eventual take-up of postal voting accurately. She confirmed that more recent, as yet unpublished, research implied that people's views about postal voting had not changed since the previous polling in August. She agreed that public awareness would be important to ensure voters are aware of their options for voting and to encourage them to register early if they wished to use a postal ballot and that EROs, ROs and Local Authorities - as the electoral community - collectively had a role to play.
21. Reference was made in evidence to the likelihood that there will be many among the electorate who prefer to cast their vote in person regardless of the prevailing Coronavirus conditions on polling day. Andy O'Neill, Head of Electoral Commission, Scotland told the committee that the Electoral Commission's research indicated that 77% of people feel polling places are safe and “54 per cent told us in our research that they want to vote in person, and our job is to ensure that they understand all the options available.”⁷
22. He added—

” “We understand the problem of the spike and that is why the Scottish Government and others have been working with the EROs to build capacity, and we, as part of our national campaign, will do our usual television, booklets and digital stuff about how to register and how to vote on the day. We are also producing resources and working with lots of stakeholders to understand the various ways of voting, including understanding apps and voting. We are working with COSLA and local authority resettlement officers, the Scottish Refugee Council, the Parliament, Education Scotland, black and minority ethnic groups and disability groups, so we are seeking to get those messages out.”⁸

23. Dr Alistair Clark and Professor Toby James argued in their written evidence for the reestablishment of the original deadline for the registration of postal votes (so that voters are not disadvantaged and caught out) as well as an increase in resources for electoral administrators and a “massive and sustained public education campaign”. They added that “this is not the time to be parsimonious with election funding.”⁹

24. The Committee sought views on whether a freepost address for registering for a postal vote would encourage take up. While witnesses from the Electoral Commission agreed that this might encourage take up, funding would need to be found to allow EROs to provide it.

25. In its written evidence, the Army Families Federation indicated that it had no issue with the deadline for applications for postal voting to being brought forward but said—

” “...evidence from families highlights the difficulty in [voting while overseas] ... In our 2017 survey, the majority of families stated they would like to vote via postal vote but cited issue with postal voting forms arriving too late or not all.”

26. They explained that this was because—

” “... Returning Officers are unable to send out postal votes until after the close of nominations, which is set at 19 days before polling day for a General Election. In addition, although local authorities are instructed to prioritise overseas voters when dispatching ballot papers, registration to vote closes only a few days before an election. This can result in an overseas voter being eligible to vote, but insufficient time left for them to receive their ballot papers.”¹⁰

27. Sight Scotland stressed the importance of blind and partially sighted people receiving information about postal voting ahead of the election in accessible formats, including braille, audio and large print, and that ballots themselves will be available in braille and large print.¹¹

28. The Committee sought assurances from the Minister for Parliamentary Business and Veterans that the Government was in a position to react to the uncertainty inherent in estimating the take up of postal voting.

29. The Minister described elements of the Bill as—

” ...bits of a jigsaw. The postal vote element is part of that, as is polling day itself. The question is how, between the two approaches, we ensure that the election is conducted safely and appropriately.”¹²

30. He emphasised the importance of public and end of year information campaigns conducted in conjunction with the Electoral Commission to raise awareness and encourage the take up of postal voting so that the bulk of registration did not occur close to the deadline. He reassured the Committee that capacity would be there to expand postal voting to 40% of the electorate and “perhaps beyond” in advance of polling day, but pointed out that some individuals and sectors of the community have concerns about postal voting and that it was therefore important to include information campaigns about the safety of in-person voting to maximise turnout overall and cater to voters’ preferences.
31. The Minister pointed out that capacity-planning for a postal vote must be seen in the context of a total turnout at the last election of 55% of the electorate. He said that, if required, additional resources would be provided to allow take up of a postal ballot by approaching 50% of the electorate.¹³ Some proactive work – such as writing to all those on the shielding list – was planned both to raise awareness about the option of postal voting and to encourage early take up. He said—

”there is a plan to launch a public awareness campaign around the turn of the year, in conjunction with the Electoral Commission. It would be used to raise awareness of the availability of postal votes and perhaps to advise people that they might want to think about it at that point, as we want to ensure that we do not have a deluge of postal vote applications closer to the day of the planned poll”.¹⁴

32. The Committee was concerned that, even if capacity to handle a large volume of postal registrations was provided, there could still be voters who find that they are unable to vote because they were caught out by the earlier deadline and thought they were able to register but can't.
33. The Minister said that proxy voting was available to deal with last minute scenarios – such as self-isolation – that occurred after the registration deadline.
34. The Minister agreed to consider the provision of a freepost address for applications to register for a postal ballot as a means of maximising turnout.

View of the Committee

The Committee's first priority is to ensure that no voter is unable to vote at the next election. While it understands that the changing position with Coronavirus makes it hard to estimate the final take-up of postal voting, it seeks a reassurance from the Government that sufficient resources are made available so that it is possible to meet the demand for postal votes.

The Committee is concerned that this work is based on a working assumption of

a 40% uptake of postal voting applications, which remains uncertain. We would like to see greater contingency built in in order to respond to a greater uptake.

Within this context, the Committee recognises that bringing forward the deadline for the registration of postal votes may be a necessary step to ensure that electoral administrators can provide a postal vote for all who seek one. However, the Committee notes that the earlier deadline restricts the time available for voters to register for a postal vote.

The Committee believes that a precondition for this step is the early and widespread promotion of the opportunity to register for a postal vote, which will be crucial to ensuring take up by all who wish to vote in this way. The Government, the electoral community and political parties each have a role to play in the promotion of postal voting. The Committee wishes to be kept informed about the measures taken to promote registration for postal votes.

The Committee further recommends that measures to educate, encourage and simplify take-up – such as “how to” advertisements and a freepost address for registering - are also put in place.

While the Committee views the promotion of registration for postal votes as a critical factor in protecting the legitimacy of the next election, it recognises that some voters will prefer to vote in person and that in-person voting is more accessible for some.

We believe it is the promotion of that choice, and the achievement of a balance between postal and in-person voting which will maximise turnout and secure confidence in the poll. A proactive, multi media campaign including direct mail, online and broadcast media will be required.

We are concerned that the suggestion in the Policy Memorandum that targeted messaging to vulnerable categories of voters will not be enough to achieve widespread public awareness of the need for early registration of postal voting.

With regard to resources, the Scottish Government must ensure that additional financial resource is available to ensure that people can be trained to support the process of registering postal votes and to allow for widespread public information campaigns on postal voting. The Committee believes that it is crucial that voters should be supported to participate in the election and that lack of resource

should not be allowed to inhibit either the postal-voting system or the safety of polling places. Where the legitimacy and integrity of the election is concerned, the Committee considers it better to over-allocate resource, rather than a shortage of resource restricting participation.

The Committee would appreciate regular updates about the level of uptake of registrations for postal votes in advance of the Scottish Ministers' responsibility under Section 4 of the Bill to report on uptake after the April deadline.

We urge the Scottish Government to consider the issue of postal votes arriving in time for overseas posted Scottish Armed Forces voters. Armed Forces personnel must not be disenfranchised due to an impractical timescale for the return of postal votes.

Power to provide for an all-postal vote

35. The Bill allows Ministers to make changes to legislation to permit an all-postal election (and requires them to consult the Presiding Officer, the Electoral Commission, the convener of the Electoral Management Board for Scotland and the Chief Medical Officer of the Scottish Administration). The existing law contains a number of references to voting in person and to handing in a postal vote at a polling station that would need to be amended in the event of an all-postal election. This is a contingent measure in the event of an in-person election proving impossible in the long term. It is not considered that an all postal election can be arranged in time for May 2021.
36. The policy memorandum to the Bill notes that an all postal voter election would necessitate a six-month delay to polling day.
37. Although further legislation could negate the need for electors to apply for a postal vote, instead allowing returning officers to send ballots to all electors, this would bypass the signature verification stage which is a part of the application process, the result being a significantly increased risk of fraud. As such, if an all-postal vote election were to be held, all electors would need to be provided with a postal voter application form and follow up reminders to apply thereby engaging the signature verification process and protecting the poll from potential fraud.
38. Based on average return rates across Scotland for Invitations to Register and Household Enquiry Forms the Electoral Management Board has identified a risk that between 646,000-1.5 million forms would not be returned, effectively disenfranchising those voters.
39. Administrators may also face challenges outside of their direct control such as printing or postal delays in the event of a significant change in virus conditions. There are also the usual challenges around postal votes but on a larger scale – for example the need for replacement papers if ballots are accidentally spoilt.

Views

Time required to organise an all-postal ballot

40. Pete Wildman and Malcolm Burr confirmed that, due to the necessary verification processes to prevent fraud, it would take more than six months to get from the current position (where approximately 17% of the electorate are registered for a postal ballot) to full postal registration.

Risk of disenfranchisement and integrity of the result of an all-postal ballot

41. Malcolm Burr explained that administrative capacity was not the only limiting factor and that electors would need assistance to make a proper application because of a lack of familiarity with the process. He viewed an all-postal ballot as a “measure of last resort”. Pointing out that it would result in disenfranchisement of some voters who could not or chose not to engage with the process. Nevertheless, he agreed with the provision in case it was necessary to ensure an election could go ahead safely.

42. Malcolm Burr did not have concerns about fraud provided current verification processes continued to be employed.

43. The Committee explored how the risks of disenfranchisement linked to an all-postal ballot could be mitigated. Ailsa Irvine spoke of the importance of effective publicity campaigns and work by the electoral community to reduce the risk that applications were completed incorrectly. She regretted that—

” “There is a law of diminishing returns when you try to contact electors and ask them to do something. We saw that when we made the transition to the individual electoral registration system. Households were required to reply. There was a rump of people who just did not respond to every round of reminders that the EROs sent.”¹⁵

44. Andy O'Neill felt that the more time allowed for education and awareness raising before proceeding with an all-postal ballot, the more robust the outcome. He added that some people do not trust postal voting and would not apply for a postal vote.¹⁶

45. Dame Susan Bruce was concerned that—

” “...there is...the risk of excluding people from an all-postal ballot—people who have never done it before and who are reluctant, people who have language or literacy issues, and people who are reluctant to declare themselves openly, so there are a number of reasons why an all-postal ballot might disadvantage people who are furthest away from casting their vote in the first place.”¹⁷

46. Ailsa Irvine agreed there was a potential to disenfranchise people and pointed to the complexities of the process of registration which involved identifiers of signature and date of birth which are checked against signed postal votes. She felt that—

” “...the number of electors from whom we would need to get those details before we could send them a postal ballot pack would be around 3.4 million, and there is the potential for some to be disenfranchised as part of that process.”¹⁸

47. She described these measures as “the integrity safeguard” and was concerned that public confidence issues could emerge if people became confused and made errors when returning their postal ballot pack and were consequently unable to take part or cast their vote as intended.

Administration of an all-postal ballot

48. The Committee sought reassurances that an all-postal election which was necessitated by severe Coronavirus levels could be managed given that administrative staff would be impacted by Coronavirus restrictions and possibly unable to go to work. Pete Wildman explained that blended working in the office and from home reduced the risk of large numbers of absences. He added that the use of remote scanning by Electoral Registration Officers meant that operations could continue from home.¹⁹

Placing the power to hold an all-postal in the hands of Ministers

49. The Committee wished to explore the Bill's provision (at Section 5) to place the power to call an all-postal election in the hands of Ministers (albeit with a requirement to consult) and questioned whether it should not be subject to a parliamentary procedure or require the consent of the Presiding Officer.
50. Andy O'Neill envisaged a parliamentary debate taking place before Ministers invoked this power. He explained—

” “...because other things would be occurring; for instance, as we referred to earlier, spending limits might need to be changed. It depends when you do it, but I would expect a parliamentary debate, which would cover all those things and would seem more transparent to us.”²⁰

51. Pointing out that the provision as drafted, allows Ministers to act swiftly, the Minister assured the Committee that pursuing this option—

” “... must be as transparent as possible. There is a separation between what is required and what would happen in practice.”²¹

52. Ailsa Irvine told the Committee that—

” “Transparency is important...so that the public can have confidence in the rationale behind the decision and in those who have reached it.”²²

53. Dr Alistair Clark and Professor Toby James put forward evidence that “all-postal elections can generate higher turnout” but regretted the absence of Parliamentary oversight of the decision. They were concerned that “consultations with the Presiding Officer, Electoral Management Board for Scotland and Electoral Commission may be appropriate, but risk crowding out other voices and views.”²³

54. The Minister recognised that if the Parliament was coming back to vote on the decision to postpone the election, there might be an argument for it to vote on a proposal to have an all-postal ballot. However, he pointed out that the Government is required to consult and might have to deal with a range of views from the Chief Medical Officer, the Electoral Management Board, the Presiding Officer and the Electoral Commission. He stated that he would wish to engage with political parties if the situation did arise.²⁴

View of the Committee

The Committee recognises that the provision at Section 5 for Ministers to decide that the 2021 poll is to be held by an all-postal vote is a measure of last resort and one which, the Committee believes, must be led by public health considerations. We believe that Parliamentary scrutiny and approval of such a move is necessary and ask the Government to bring forward measures to ensure this.

Other arrangements for the 2021 election

Modification of the dissolution period

55. The Bill modifies the dissolution period for the Scottish Parliament from 25 March to 5 May 2020 and anticipates that Parliament will go into recess until the election instead, replicating many aspects of a normal dissolution period. This change would permit the Parliament to legislate in April for a new polling date (if required) and ensures that the Parliament can continue to meet in the event of a postponement of the election. If dissolution occurred on 25 March as currently scheduled, the Parliament would not be able to resume meeting²⁵ in the event of a delay to the election arranged after that date (e.g. if the Presiding Officer were provided with an extended power to recommend a delay to the poll).
56. The Committee examined the financial and administrative impact of this change.

Views

Financial implications

57. David McGill, Clerk/Chief Executive, Scottish Parliament confirmed that the Financial Memorandum accurately reflected the costs that would be incurred if there was a delay to dissolution. He explained that the main costs for the Scottish Parliamentary Corporate Body (SPCB) were due to the modification of the dissolution period and the need to continue to pay MSPs who are standing down and their staff who may stay on for the additional six weeks. He explained—

” “that equates to an extra six weeks or so of salary costs for those members who, in normal circumstances, would have stood down at the end of March 2021, but who will now not do so until 5 May 2021”

58. A minor increase in the cost of resettlement grants would also occur because they would now be paid in the new financial year and subject to an uplift.²⁶ With

reference to the provisions allowing for a postponement of the election David McGill added—

” “We do not foresee any additional costs if the election were delayed, because the costs that would be incurred are costs that would be incurred anyway”.²⁷

Dual status as MSP and candidate

59. The movement of the dissolution date to the day before the election means that current MSPs who are standing again will have a dual role as both candidate and sitting MSP in the campaign period leading up to the election. The Committee explored the implications of this.

60. David McGill told the Committee that the guidance for MSPs issued during normal dissolution periods was being adjusted to reflect the dual status of MSPs who are also candidates. He explained that, as far as possible, the pre-election recess period would mirror a normal election period in order to provide a level playing field for all candidates. He said—

” “...the situation that the corporate body wants to replicate would amount to our saying, “Notwithstanding the fact that you are still an MSP, we can’t support you.” That is because the corporate body does not want public money to be used to give any candidate at an election an advantage over other candidates.”²⁸

61. This would mean that MSPs will not be able to access Parliamentary resources (such as SPICe) reflecting the principle that public money must not be used to give any candidate an advantage. The Holyrood campus would be closed to MSPs and all MSPs would be required to vacate their offices.

62. The Code of Conduct requires MSPs to take on constituents’ cases but during dissolution, because they are no longer MSPs, they are not expected to take on new casework. However, the impact of Coronavirus means that urgent casework is likely to continue. This raises concerns about a sitting MSP gaining an advantage over other candidates by offering support to constituents or facing criticism and a disadvantage if they decline.

63. With regard to complaints under the Code of Conduct about use of Parliamentary resources, David McGill admitted that there was no easy solution. While sanctions can be brought against a sitting MSP, it is not possible to sanction an MSP who breached the provisions of the Code but was not returned. He indicated that the SPCB would be considering guidance for MSPs and is—

” “... being guided by the underlying principle that nothing should be done during an election campaign that could be seen to prejudice the outcome of that election. The corporate body’s starting point is that the use of parliamentary resources has the ability to give one candidate an advantage over another candidate.”²⁹

Views of the Committee

The Committee recognises that constituents cannot be expected to differentiate between the roles of candidate and MSP during the campaign period and will, understandably, expect to receive support from their sitting MSP. We are concerned that a refusal to assist could have electoral consequences for the sitting MSP who is also a candidate. By the same token, a sitting MSP could gain favour with potential voters by continuing to assist constituents, an opportunity not afforded to other candidates.

The Committee believes that the guidance being developed by the SPCB for the pre-election period will be crucial in maintaining, as far as possible, a level playing field between candidates, regardless of their status. This must include clear guidance on constituency casework and be informed by the principle that parliamentary resources and public support should not be available to sitting MSPs and provide them with an electoral advantage.

The Committee is conscious that the contents of the SPCB's guidance for the pre-election period will impact on MSPs' staff. We therefore urge the SPCB to ensure that MSPs' staff have the opportunity to give their views on these issues directly if they wish, rather than via the Members employing them.

Parliamentary business, scrutiny and the pre-election period

64. During a normal dissolution period, civil servants must be politically impartial, preventing the Government from making announcements and new policy initiatives. This pre-election period is sometimes known as "purdah". The Committee wished to understand what activity was envisaged during the proposed pre-election recess in relation to the Scottish Government.
65. David McGill reassured the Committee that—
- ” “The Government is obviously covered by purdah arrangements before an election period.”³⁰
66. He added that consideration was being given to a scenario where the election is to be delayed for a significant period of time and the Government turned to matters other than Coronavirus. His position was that –
- ” “If the Government is freed from purdah restrictions, the Parliament needs to be able to scrutinise the Government and hold it to account for what it is doing during that longer period of time.”
67. The Parliamentary Bureau was still to agree final arrangements for this period in relation to parliamentary business. David McGill stated that the Bureau—

” ... has an interest in what happens to parliamentary questions and motions, bills that fall at dissolution, and whether committees can meet during what would be a period of recess rather than a period of dissolution. Our hope is that the bureau will take a similar stance, whereby, to all intents and purposes, the period in question will be treated as a period of dissolution, and that none of the things that could happen because MSPs are retaining their status should happen.”³¹

68. Notwithstanding such restrictions, there would still be some capacity for the Parliament to be able to hold the Government to account during this period and to scrutinise revisions to Coronavirus restrictions. David McGill said—

” ... the process would be similar to what happened in summer recess this year; we had a period of recess, but we had planned recalls to allow the Parliament to hold the Government to account.”³²

69. The Minister confirmed that he envisaged the usual purdah restrictions would apply during the pre-election recess—

”Purdah is purdah. We are in the same situation whether we go down this route or the standard run-up to the election. The same rules would apply. The Parliament is looking to re-set the provisions for MSPs and how they conduct themselves in that period, but essentially the same rules will apply.”³³

70. He further reassured the Committee that—

”The reality is that the Parliament would not be recalled for anything other than very significant issues, for which I am positive that Opposition parties would want it to be recalled as well. In such a scenario, we are not looking at anything that would be of the nature of an electoral gain”³⁴

71. On the question of Committees continuing to meet during the pre-election period the Minister said—

”I cannot see a scenario where most of the MSPs are working during that period. We have to be careful to ensure that there is not an advantage to individuals of being MSPs but also that there is not a disadvantage—an MSP whose time is spent engaged in committee work to the detriment of their opportunity to gain re-election, for example.”³⁵

72. He did not envisage that MSPs would be able to lodge motions and parliamentary questions during this period but said it was a matter for the Parliament to decide.³⁶

View of the Committee

The Committee is of the view that the pre-election recess period must mirror a normal pre-election dissolution period. This means that the Government is subject to normal purdah restrictions. We seek clarity from the Government on how it intends to ensure the normal restrictions of purdah are respected during

the Coronavirus pandemic.

The Committee recognises that the parliamentary authorities have recently changed the procedures for Coronavirus scrutiny and we recommend that these changes be further reviewed to consider what, if any, parliamentary scrutiny would be able to take place during the campaign without compromising the level playing field principle between sitting MSPs and other candidates.

Power to provide for polling on additional days

73. The Bill introduces (at Section 8) a power for Ministers acting by regulations to permit physical polling over multiple days, if required, with Thursday 6 May the first day of polling. There is a requirement to consult Scottish Ministers, the Electoral Management Board for Scotland, the Chief Medical Officer and the Electoral Commission before making such regulations. This measure is designed to cope with social distancing restrictions making it necessary to reduce footfall at polling stations.
74. The Bill does not give any certainty over whether polling over multiple days will be in operation at the 2021 election but provides for that option. Voting must start on polling day but could be extended to allow polling over multiple days. These additional voting days can only be in the eight days immediately following on from polling day. They do not, however, require to be successive days.
75. The Bill provides that it is the date fixed for polling day which is relevant in terms of calculating an individual's eligibility to vote. For example, an individual would have to be 16 by polling day to be eligible to vote. Therefore, if a voter's 16th birthday was the day after polling day, and polling was taking place across four days, they would not be entitled to vote.
76. Sub-section 8(4) provides that regulations can specify particular days or times on particular days when particular categories of electors may vote. This would allow Ministers to set specific days and/or times on which, for example, only people in a particular age group could vote.
77. The Bill also disapplies the Scotland Act provision that the new Parliament must meet within seven day of the election and provides that it should meet as soon as is reasonably practicable. This shift recognises that polling may take longer, as may the count.
78. The Bill does not specify the parameters for decision making around delaying the poll. Relevant factors could relate to the availability of staff due to infections and isolations, polling staff being drawn usually from older and therefore higher risk groups and the suitability of polling places to accommodate social distancing and suitable ventilation.

Views

79. The Committee explored issues around the need for certainty. On the timing of a decision to hold polling over multiple days, Malcolm Burr advised—

” “The decision should be taken as early as possible, but it is recognised that we are in a situation that changes week by week. Those decisions should not be taken any earlier than they have to be. However, when they are taken, that must be done quickly” ³⁷

80. He spoke of the good working relationship between the Electoral Management Board for Scotland and the civil service and ministers. And added—

” “I am confident in and content with what is in the bill at present, provided that decisions are taken when they are needed.” ³⁸

81. Witnesses preferred that multiple polling days took place on consecutive days. Malcolm Burr said—

” “I think that using consecutive days is essential. At the moment, the board is not envisaging using a greater number of days than two” ³⁹

82. Andy Hunter stressed the importance of an early decision to allow time to plan and prepare. ⁴⁰ Malcolm Burr confirmed that the preference of the electoral community “would always be for one day”. ⁴¹ Dame Susan Bruce agreed—

” “Polling over non-consecutive days would potentially be more confusing for members of the public, particularly given that publicity and awareness raising about the election usually takes place in the long run-up to the event itself and any published material would need to reflect the decisions about the actuality of the days of voting.”

83. Dame Susan Bruce also emphasised the importance of early planning to support the integrity of the result, she said—

” “... if the poll was split over non-consecutive days. That would introduce another risk into the system. Ballots already cast would need to be kept somewhere secure while the non-consecutive days were lined up.” ⁴²

84. Sight Scotland favoured holding the poll over multiple days, stating that—

” “... physical distancing at polling stations increases the likelihood of people having to queue to vote, and this presents another potential barrier to participation in the election for blind and partially sighted people. Visually impaired people cannot observe how far they are away from someone else or follow signs indicating one-way systems to facilitate social distancing, making this challenging or impossible for them. If polling stations are less busy as a result of voting taking place over multiple days this makes it easier for blind and partially sighted people to cope with social distancing arrangements and gives polling clerks more time to provide assistance to them.” ⁴³

85. The Minister recognised the demand among electoral professionals, the public and political parties for certainty. He added that modelling carried out by Electoral

Registration Officers would inform a decision on whether the election should be held over multiple days and, if this is advised, he would consider amending the Bill accordingly in order to provide certainty.⁴⁴

86. The idea of holding the election over the weekend is unpopular because of religious observance on these days, although it was noted that this applies to Fridays too.⁴⁵

87. The Committee sought reassurances about scenarios such as local outbreaks making in-person voting inaccessible and a point when it was too late to register for a postal vote and inappropriate to use a proxy because of the same safety concerns. The Minister said—

” “Any returning officer has contingencies for a polling station, for example. The plan is for this to be a national election. We would not deploy an extension to the postal vote deadline for one small part of that national election.”⁴⁶

88. Iain Hockenhill added that, “there is provision to obtain a proxy vote reasonably close to the election and there is provision already for emergency proxies”⁴⁷

89. The Committee wished to know whether the circumstances that might trigger a delay to the election would be made public so that there was an awareness of how the situation was developing. The Minister assured the Committee that proactive engagement with the electoral community was taking place and undertook to engage formally with the Committee following the passage of the bill.⁴⁸

Other polling day mitigations

90. Witnesses were not supportive of the provision (at Section 8(4)) that regulations may specify particular days or times when certain descriptions or categories of persons eligible to vote in person may do so.⁴⁹ Dr Alistair Clark and Professor Toby James warned that “that voters do not pay sufficiently close attention to electoral matters to avoid potential problems which risk de-franchising those who get it wrong”.⁵⁰ Age Scotland agreed that it would “likely cause confusion” and noted that unpaid carers who would normally support an older person to vote and who may not be able to vote at the same time.⁵¹

View of the Committee

The Committee recognises the general preference is for polling to take place over a single day, in line with normal practice. This will be facilitated by an increased take up of postal votes.

The Committee wishes to be kept informed about any developments that might lead to a decision by Ministers to hold polling over more than one day.

Should there be a need to hold elections over more than one day they should be

consecutive days, chosen so as to support participation.

The Committee is not comfortable that the power to decide that the 2021 poll will take place over additional days rests solely with Ministers. We believe that parliamentary scrutiny of such a move is desirable. The Committee asks the Government to bring forward a means of providing parliamentary scrutiny of this decision.

Arrangements for new Parliament

91. The Scotland Act 1998 requires that within seven days of polling day, the Scottish Parliament must meet. The Bill adjusts the arrangements for convening the new Parliament and electing the new Presiding Officer in case it is necessary to accommodate a longer voting period and prolonged count due to physical distancing.⁵² It provides for the Presiding Officer to fix a day for the first meeting of the Session 6 Parliament (consulting with the Electoral Commission and the convener of the Electoral Management Board for Scotland) as soon as reasonably practicable after the election.
92. The Committee sought detail on the practical implications of these measures.

Views

93. David McGill welcomed the flexibility in the Bill for the date of the first meeting of the Parliament to be later than the statutory seven days explaining—

” ... so much needs to be done in that period—we need to register and induct members. If we are still in the current circumstances, we will also have the additional burden, which we have not had before, of inducting new members in virtual and hybrid ways of working, remote voting and all of that.”⁵³

94. He added that—

”The corporate body ... is very concerned about new members coming in and having to familiarise themselves with the building and colleagues and get to know how the place works either remotely or in a hybrid way. Therefore, its preference is very much for those early days to be as physical as they can be, in the building.”⁵⁴

View of the Committee

The Committee welcomes the flexibility provided at Sections 9 and 10 of the Bill and agrees that this leeway will allow the new Parliament to convene safely and build time for new members to acquaint themselves with virtual and hybrid ways of working.

Reserve power of Presiding Officer to postpone 2021 election

95. The Bill extends the existing power of the Presiding Officer⁵⁵ to recommend postponement of the election nationally for a period of up to six months in total, with a requirement to consult Scottish Ministers, the Electoral Management Board for Scotland, the Chief Medical Officer and the Electoral Commission. Moving the dissolution date at Section 6 (see above) means that Parliament would be able to legislate itself for a delay, but this reserve power will be necessary if the Parliament cannot safely meet. The Presiding Officer may only exercise the power if he is satisfied that the Parliament cannot meet safely. The Presiding Officer can exercise this power an unlimited number of times if necessary.
96. Malcolm Burr assured the Committee that in-person polling would be possible even in an area under Coronavirus protection level 4 but accepted that if there were concerns over turnout because voters did not feel safe then this could lead to questions about the legitimacy of the poll and, as a country-wide poll was very much the preferred route, a postponement would be preferable. He said—
- ” “Delaying the poll in some areas but not in others would not support a consistent national contest, and results being available in some areas but not in others would give rise to difficulties. That is not a route down which we should go.”⁵⁶
97. Given the increased complexities inherent in arranging a poll under current conditions, witnesses expressed the need for certainty about any postponement far in advance as possible.
98. The Electoral Commission broadly welcomed the provision noting that, “while the pandemic is still with us, it is an unknown quantity, and it is sensible to have a provision for the delay of the election.”⁵⁷
99. The Committee wished to explore the consequences of postponing the election once the short campaign⁵⁸ had commenced.
100. Andy O'Neill explained—
- ” “... the candidature of the candidates continues, so if the postponement was for six months, there would be a substantially longer short campaign. A 50 per cent increase [of the spending limit for candidates] might be enough for that.”⁵⁹
101. He added that discussions were ongoing between the Electoral Commission and the Scottish Government regarding party spending limits.⁶⁰

View of the Committee

The Committee recognises that the provision at Section 11 for the Presiding Officer to postpone 2021 election is a measure of last resort. If the Presiding

Officer wishes to postpone for a reason related to Coronavirus, he must be satisfied that the Parliament could not meet safely to legislate to change the date of the Poll. As such we recognise that the provision is unlikely to be invoked given the ability for the Parliament to meet virtually.

Comments on the Bill overall

102. An overarching theme which emerged from the evidence gathered was the need for certainty as far in advance of a poll as possible. The Gould Principle states that legislation should be in place six months prior to any electoral event and that no new legislation should be introduced in this six-month period.
103. The Bill provides for contingencies which may or may not be required (for example an all-postal ballot and the power of the PO to delay the election). The Scottish Government has also acknowledged that more legislation may be required and that the Parliament may need to meet to consider this and therefore, under the Bill, dissolution will not occur until the day prior to polling day.

Views

104. The Electoral Commission, in its written submission, stated, “While we understand the desire for flexibility in the face of a shifting pandemic, late changes to the conduct rules risk causing confusion for voters, campaigners and electoral administrators, and could undermine confidence in the election.” For this reason, the Electoral Commission argued that “all legislation for a May 2021 election should be clear by the end of this year. In particular, the specific day or days of polling should be clearly set out in this legislation when passed by Parliament”.⁶¹
105. Ailsa Irvine recognised that unpredictable circumstances need flexibility and welcomed the Scottish Government’s approach to consultation on the Bill. She noted however that the closer changes occur to a poll, the greater the risk that conflicting messages undermine public confidence in the process. She underlined the importance that observers - whether party agents or accredited observers - could still attend counts.
106. Andy O’Neill said—
- ” “The booklet for the Scottish Parliament election will go out earlier because of the moving of the postal vote deadline into March. We need to know the days of poll by then. As I said, administrators need to know about polling places. Therefore, we believe that we need to include that information in the bill, otherwise we will not be able to administer the election, or to prepare for it.”⁶²
107. Sight Scotland emphasised that—
- ” “The new timescale for the election must allow for necessary preparations for polling arrangements to be accessible for people with sight loss.”⁶³
108. Dr Alistair Clark and Professor Toby James regretted that this legislation was not brought forward sooner, observing that—



“... since the date of these elections has been fixed and well known, the speed at which this legislation is being considered by parliament is regrettable and limits scrutiny of important electoral legislation. This could have been legislated for earlier, thereby permitting more detailed scrutiny. Lack of scrutiny can often cause later difficulties in electoral processes.”

64

Views of the Committee

While we recognise the pressing need for certainty and the need to legislate to provide that certainty, the Committee regrets the extremely limited amount of time it has had to scrutinise legislation which may affect millions of voters.

The Committee wishes to emphasise that providing certainty and clarity to the electoral community and to the electorate and political parties at the earliest possible point is paramount.

The Committee urges the Government to continue its dialogue with the electoral community and to consider whether key dates (such as additional polling days) could be included in the Bill in order to deliver the certainty and advanced notice sought by stakeholders.

Given the truncated passage of this Bill and the very brief period afforded for evidence gathering at Stage 1, the Committee reserves the right, as evidence emerges, to bring forward new issues at later Stages and would appreciate the Minister's reassurance that he would not resist amendments on that basis that the issue had not been raised earlier in the Bill's passage.⁶⁵

Delegated powers and accompanying documents

Delegated Powers Provisions

109. The Delegated Powers and Law Reform (DPLR) Committee considered the delegated powers in the Bill. It highlighted the fact that none of the powers to make regulations conferred on the Scottish Ministers are subject to any scrutiny by the Scottish Parliament and remarked that this is highly unusual and of particular importance given the nature and significance of the powers.
110. The DPLR Committee noted the Scottish Government's justification that the Parliament may not be able to meet because of recess or Coronavirus but considered that there could be other options for the exercise of at least some of the powers being subject to scrutiny since the Parliament is now also able to meet virtually and can meet during recess if required.
111. The DPLR Committee considered that further consideration must be given to the need for regulations under sections 5 (Power to provide for an all-postal vote) and 8 (Power to provide for polling on additional days) to be subject to formal scrutiny using the negative procedure.

As stated earlier in this report, the Committee shares the DPLR Committee's concerns and asks the Government to bring forward plans for sections 5 and 8 to be subject to formal scrutiny using the negative procedure.

Furthermore, with regard to Section 8, the Committee agrees with the DPLR Committee that consideration should be given to whether the power should be reviewed ahead of Stage 2. We would welcome an amendment to provide that any additional days should be on consecutive days unless there are reasons to provide otherwise.

112. The Committee thanks the DPLR Committee for its [report](#) on the Bill.

Policy Memorandum

113. The Committee is satisfied that the Policy Memorandum accurately describes the policy objectives of the Bill. The Committee notes the Memorandum's section on equal opportunities and human rights and wishes to draw the Government's attention to the specific concerns expressed by Sight Scotland and Age Scotland earlier in this report.

Financial Memorandum

114. The timetabling of the Bill did not provide sufficient time for the Finance and Constitution Committee to undertake meaningful scrutiny of the Bill's [Financial Memorandum](#) and it is not in any case required to consider and report on all Financial Memoranda.
115. In considering the Financial Memorandum, the Committee has noted earlier in this report that the additional costs of MSPs salaries for the dissolution period were established in consultation with the Scottish Parliament and we were reassured that the Scottish Parliament's Chief Executive confirmed that the Financial Memorandum accurately reflected the anticipated costs.
116. The Committee recognises that the potential cost of the election in 2021 is substantially higher than a "normal" election would have cost, with an approximate range of £29.35 to £33.75 million, compared to a "normal" cost of around £19.35 to £19.4 million. The Committee is of the view that it is necessary to foresee adequate additional resource being allocated to the election in order that there is high public confidence in the methods of voting available, and the integrity of the process and the count.
117. The Committee notes that the Financial Memorandum states that the "cost of a postponed election is tied to the point at which it is postponed"⁶⁶ and that the "later the decision is taken, then the higher the costs are likely to be."⁶⁷ However, the Financial Memorandum does not include the cost of postponement in the table of costs associated with the Bill on the basis that the "Financial Memorandum for any Bill postponing the election will set out the costs associated with the rearrangement and will be able to assess the costs incurred at the point of any postponement."⁶⁸ Nevertheless, the Committee requests that the Scottish Government should provide a range of costs in its response to the Committee's Stage 1 report to inform a better understanding of the potential financial implications of a decision to postpone the election.

The general principles of the Bill

118. At Stage 1, the lead committee's role is to consider and report to the Parliament on the general principles of the Bill – that is, on the principal purposes of the Bill, rather than the fine detail.
119. The Committee's view is that the principal purpose of the Scottish General Election (Coronavirus) Bill is to make a range of changes relating to protection against coronavirus to apply to the ordinary general election for membership of the Scottish Parliament due to be held on 6 May 2021.
120. As this report sets out, these proposed changes have been broadly welcomed. On that basis, the Committee is content to recommend that the general principles of the Bill be agreed to.

Annex A: Extract from minutes

21st Meeting, 2020 (Session 5), Thursday 19 November 2020

Scottish General Election (Coronavirus) Bill: The Committee took evidence on the Bill at Stage 1 from—

Andy Hunter, Chair, AEA Scotland and Northern Ireland Branch;

Malcolm Burr, Convener, Electoral Management Board for Scotland;

Pete Wildman, Chair, Electoral Registration Committee, Scottish Assessors Association;

Dame Susan Bruce, Electoral Commissioner, Scotland, Ailsa Irvine, Director of Electoral Administration and Guidance, and Andy O'Neill, Head of Electoral Commission, Scotland, Electoral Commission, Scotland;

David McGill, Chief Executive, and Huw Williams, Head of Chief Executive's Office, Scottish Parliament;

Graeme Dey, Minister for Parliamentary Business and Veterans;

Colin Brown, Senior Principal Legal Officer, and Iain Hockenhull, Bill Team Leader, Scottish Government.

Scottish General Election (Coronavirus) Bill (in private): The Committee considered the evidence heard earlier in the meeting.

22nd Meeting, 2020 (Session 5), Thursday 26 November 2020

Scottish General Election (Coronavirus) Bill (in private): The Committee agreed its draft Stage 1 report.

Annex B: Evidence

Oral Evidence

- [Meeting on 19 November 2020](#)

Written evidence

- [Written submissions are available on Citizen Space](#)

- 1 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 54.
- 2 Available at: <https://beta.parliament.scot/-/media/files/legislation/bills/current-bills/scottish-general-election-coronavirus-bill/introduced/bill-as-introduced-scottish-general-election-coronavirus-bill.pdf>
- 3 Available at: <https://digitalpublications.parliament.scot/ResearchBriefings/Report/2020/11/17/Scottish-General-Election--Coronavirus--Bill-1#>
- 4 Electoral Commission, written submission.
- 5 Malcolm Burr. Standards, Procedures and Public Appointments Committee. *Official Report*, Col 3.
- 6 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 6.
- 7 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 26.
- 8 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 26.
- 9 Dr Alistair Clark and Professor Toby James, written submission.
- 10 Army Families Federation, written submission.
- 11 Sight Scotland, written submission.
- 12 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 42.
- 13 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 43.
- 14 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 42.
- 15 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 27.
- 16 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 29.
- 17 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 19.
- 18 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 19.
- 19 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 10.
- 20 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 29.
- 21 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 46.
- 22 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 28.
- 23 Dr Alistair Clark and Professor Toby James, written submission.
- 24 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 49.

- 25 Section 13 of the Scotland Act 1998 (the “1998 Act”) provides that each MSP’s term of office ends with the dissolution of the Parliament. Accordingly it is impossible for Parliament to reconvene after dissolution has occurred. This has significant negative impacts - for example, a delay to polling day by six months arranged after dissolution (and which would itself require legislation, perhaps via an extension to the existing power of the Presiding Officer) would mean that there would be no sitting Parliament from the end of March until November.
- 26 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 33.
- 27 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 33.
- 28 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 34.
- 29 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 37.
- 30 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 38.
- 31 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 35.
- 32 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 35.
- 33 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 52.
- 34 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 52.
- 35 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 53.
- 36 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 53.
- 37 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 10.
- 38 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 10.
- 39 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 11.
- 40 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 11.
- 41 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 12.
- 42 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 21.
- 43 Sight Scotland, written submission.
- 44 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 47.
- 45 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 48.
- 46 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 50.
- 47 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 51.
- 48 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 51.
- 49 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 11.

- 50 Dr Alistair Clark and Professor Toby James, written submission.
- 51 Age Scotland, written submission.
- 52 Section 2(3)(b) of the 1998 Act requires Parliament to meet within the period of seven days beginning immediately after the day of the poll.
- 53 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 39.
- 54 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 39.
- 55 Under section 2(5) of the 1998 Act the Presiding Officer can ask Her Majesty to postpone the election for 1 month.
- 56 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 13.
- 57 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 18.
- 58 There are, in effect, two regulated periods for candidates contesting seats at the Scottish Parliament, known as the 'long campaign' and the 'short campaign'. The long campaign period is the period during which pre-candidacy election expenses are regulated. This starts four months prior to polling day (6 January 2021 based on a poll on 6 May. The short campaign period is the period when a candidate's election expenses are regulated. This period begins on the day a person legally becomes a candidate. The short campaign is expected to begin on 26 March 2021.
- 59 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 20.
- 60 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 20.
- 61 Electoral Commission, written evidence
- 62 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 22.
- 63 Sight Scotland, written submission.
- 64 Dr Alistair Clark and Professor Toby James, written submission.
- 65 Standards, Procedures and Public Appointments Committee. *Official Report*, Col 54.
- 66 Financial Memorandum, Para 17. Available at <https://beta.parliament.scot/-/media/files/legislation/bills/current-bills/scottish-general-election-coronavirus-bill/introduced/financial-memorandum-scottish-general-election-coronavirus-bill.pdf>
- 67 Financial Memorandum, Para 18. Available at <https://beta.parliament.scot/-/media/files/legislation/bills/current-bills/scottish-general-election-coronavirus-bill/introduced/financial-memorandum-scottish-general-election-coronavirus-bill.pdf>
- 68 Financial Memorandum, Para 19. Available at <https://beta.parliament.scot/-/media/files/legislation/bills/current-bills/scottish-general-election-coronavirus-bill/introduced/financial-memorandum-scottish-general-election-coronavirus-bill.pdf>

