



OFFICIAL REPORT
AITHISG OIFIGEIL

Standards, Procedures and Public Appointments Committee

Thursday 12 September 2019

Session 5



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Pàrlamaid na h-Alba

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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
13th Meeting 2019, Session 5

CONVENER

*Bill Kidd (Glasgow Anniesland) (SNP)

DEPUTY CONVENER

*Mark Ruskell (Mid Scotland and Fife) (Green)

COMMITTEE MEMBERS

*Neil Findlay (Lothian) (Lab)

*Jamie Halcro Johnston (Highlands and Islands) (Con)

*Tom Mason (North East Scotland) (Con)

Gil Paterson (Clydebank and Milngavie) (SNP)

*Maureen Watt (Aberdeen South and North Kincardine) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jen Ang (JustRight Scotland)

Lorna Gledhill (Scottish Refugee Council)

Andy Knox (Lanarkshire Community Law Centre)

CLERK TO THE COMMITTEE

Katy Orr

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament
Standards, Procedures and
Public Appointments Committee

Thursday 12 September 2019

[The Convener opened the meeting at 09:32]

Interests

The Convener (Bill Kidd): I welcome members to the 13th meeting in 2019 of the Standards, Procedures and Public Appointments Committee.

Before we take agenda item 1, I invite Neil Findlay to declare any relevant interests.

Neil Findlay (Lothian) (Lab): I have nothing to declare.

The Convener: Neil is replacing Elaine Smith on the committee. I put on record the committee's sincere thanks to Elaine for all her hard work during the time that she served on the committee.

Decision on Taking Business in
Private

09:34

The Convener: Under agenda item 1, the committee is invited to agree to take items 3 and 4 in private. Item 3 is consideration of the committee's work programme, and item 4 is consideration of our approach to the Representation of the People Act 1983 Remedial (Scotland) Order 2019. Do members agree to take those items in private?

Members indicated agreement.

Scottish Elections (Franchise and Representation) Bill: Stage 1

09:35

The Convener: Agenda item 2 is evidence taking on the Scottish Elections (Franchise and Representation) Bill. I am pleased to say that we are joined by Jen Ang, partner/director of JustRight Scotland; Andy Knox, principal solicitor and director at Lanarkshire Community Law Centre; and Lorna Gledhill, policy officer at the Scottish Refugee Council. We have some questions for you, but if there is something that you would like to say other than in response to a specific question, just give me a nod and I will bring you in.

I will kick off with the first question. What is your view on the extent to which the bill's provisions will support and empower the engagement in elections of people from other countries who live in Scotland?

Jen Ang (JustRight Scotland): Thank you so much for inviting JustRight Scotland to come and give evidence. I am here on behalf of our rethinking citizenship project, which is about building a broad and inclusive idea of citizenship in Scotland. We welcome initiatives such as the one that is described in the policy memorandum to the bill, because it is about supporting and empowering the engagement in elections of people who have chosen to make Scotland their home.

It is clear to us that people who choose to make Scotland their home and who contribute to our society as valued members should have a say on the laws that govern us all. Recognising that by extending the right to vote and the right to serve as elected members in our political institutions is a key way of empowering voices that we know have previously been marginalised and underrepresented.

There are some areas in which we feel that the bill could have gone further in meeting that goal, but maybe you would like me to keep that for later.

The Convener: You can say a wee bit about that now and we will probably come back to it later. Perhaps you could give us a small taster of what you intend to say.

Jen Ang: Of course. I will highlight just two areas, the first of which relates to the restriction on the right to stand for election with respect to people who have indefinite leave to remain. I would like to share some examples of how that could be rethought or how some of the reasons for the restriction might be dealt with in other ways. The second area, which my colleague Lorna

Gledhill will probably say more about, relates to the fact that the bill stops short of extending the franchise to asylum seekers. I would like to give a little more information in order to clarify the reasoning behind and the consistency of that position.

The Convener: Thank you. We will come on to those issues, but it is useful to have an idea of the direction of your thinking.

Would anyone else like to respond to my question about the extent to which the bill will support and empower engagement in elections?

Andy Knox (Lanarkshire Community Law Centre): I thank the committee very much for inviting me along.

Lanarkshire Community Law Centre receives funding via Citizens Advice Scotland to assist European Union citizens in Scotland in applying for settlement to regularise their immigration status in the country. It is against the background of that scheme that I am giving evidence today.

I broadly welcome the bill—I should point out that I am speaking for Lanarkshire Community Law Centre, not CAS—which I think is a way to strengthen migrants' franchise purchase in Scotland. I have some more detailed comments to make on certain technical aspects of the bill, but I might reserve those for later.

Lorna Gledhill (Scottish Refugee Council): Thank you—that is your third “thank you”—for having us here. I am from the Scottish Refugee Council. We work to support people who are seeking asylum and refugees who find themselves here in Scotland in rebuilding their lives.

Much like Jen Ang and Andy Knox, we wholeheartedly welcome the proposed legislation. It addresses a long-standing democratic deficit, whereby long-term residents in Scotland do not have a say on the areas that matter to them. They are long-standing members of the community; they should be able to participate in elections like the rest of us. As a baseline, we are very supportive of the bill.

However, there are areas in which we, like Jen Ang, thought that the bill could go a bit further. We have questions about the explicit exclusion from the franchise of people who are in the asylum process. We also have broader questions about whether the funding associated with the bill for political education and awareness raising on voting rights, as set out in the financial memorandum, will be sufficient to achieve the bill's overarching aim to fully empower and engage new communities in voting and standing for election.

The Convener: So you are looking at the significance of the bill in terms of citizenship and

bringing the population together on these important issues.

Neil Findlay: I want to pick up on your point about voting education, which is critical. When I was a councillor in West Lothian, we had a team that was involved in voting education in the run-up to any election. The team won various awards for its work, particularly on youth engagement in schools and with young people in colleges. However, all such teams have gone in the cull of local government jobs. Have you found that, around the country, that type of work, which was part of the youth work or community education work that local government did, no longer exists?

Lorna Gledhill: I can speak only about the sector in which I work. The organisations that support people who are refugees or in the asylum system are chronically underfunded. There is much more need than there is support available, which is an issue in Scotland and the rest of the United Kingdom. Things that sit around the edges of people's lives and which are not considered to be super-critical, such as voting or political education, fall to the side.

However, with this really exciting, forward-thinking, leading piece of proposed legislation, the moment of enfranchisement and involving people in political systems that they have previously been actively excluded from is the critical point at which to talk to people about the democratic systems in Scotland, how they can register to vote and what their vote means.

Particularly for people who have gone through the asylum system or who are refugees, there might be additional reasons why they are not so keen on political structures. Their experiences in their countries of origin, of flight and of the asylum system here in the UK can give people reasons to not necessarily trust the structures and systems around them. Not only is there a broad need for political education and for work on information and education about voting rights and registration across the whole population of people who would be newly enfranchised, but there is targeted need in certain communities. That is the case not exclusively for asylum seekers and refugees but for groups that might have felt marginalised in the past.

Mark Ruskell (Mid Scotland and Fife) (Green): Are there particular areas of Scotland in which there are well-developed partnership approaches between non-governmental organisations and councils to working with asylum seekers, or are there serious gaps?

Lorna Gledhill: Due to the way in which asylum dispersal works, the large majority of people who have come through the asylum system are in Glasgow, and the way in which the sector, local

authorities, elected members and others work together in Glasgow is great.

When looking at particular aspects of the franchise, there is good learning that could be taken from other countries. Doing some quick Google searches, we can find some really great and accessible information about how voting rights work in New Zealand. There are downloadable, freely accessible educational resources for people to talk young people or adults in education through what voting looks like there. Other countries have expanded the franchise in that way, so it might be interesting to look at examples from elsewhere.

I do not know whether other members of the panel have broader experiences of Scotland beyond Glasgow.

Jen Ang: The Scottish Refugee Council's focus is very much on asylum seekers and refugees, who are a subset of the larger group of people who migrate to Scotland. What is being looked at is extending the franchise to all people who are lawfully resident in Scotland and retaining the promise of the franchise that the European citizens already hold.

09:45

I support Lorna Gledhill's proposal that the extension should come with a programme of education; I see this as a positive opportunity to refresh education for all our voters by rewriting it along the lines of inclusivity that New Zealand has taken. Putting that out through communities and local electoral registration officers would create a more cohesive sense of who participates in democracy at local level.

There is a large proportion of migrants—including European citizens and people who are lawfully resident—in areas that are not traditionally inhabited by asylum seekers, such as Aberdeen, Inverness, Dundee, Stirling and Edinburgh. We know that there is tension there, with European citizens feeling left out of the political processes, so the timing of the extension and the training around it could be a positive message both for the individuals who gain the franchise and for the local authorities that will take in the message as they have to adjust their processes.

Andy Knox: I think that the policy memorandum says that 65,000 nationals who are currently not entitled would have the franchise. I reaffirm Jen Ang's observations about the spread of support throughout the country; 50 per cent of EU nationals are in Glasgow, Edinburgh, Aberdeen and Dundee. Those who are in Aberdeen, Dundee and Inverness do not have the access to legal advice that is available much more so in Glasgow and, to a large extent, in Edinburgh; it is needed in

the north-east and the Highlands and Islands, and funding should be directed to those areas.

The Convener: Thank you for those insightful comments.

Maureen Watt (Aberdeen South and North Kincardine) (SNP): I take your point that there is not the same access to legal advice, although citizens advice bureaux are pretty good in Aberdeen—I cannot speak for Inverness. What is the need for legal advice with regard to the bill?

Andy Knox: The need is for advice about entitlement to register to vote. Sometimes, migrants fear engagement about the franchise and distrust the system. The bill will give an opportunity to people who have not been able to vote or even stand before. Also, it is important that advice is available so that people understand their rights.

Maureen Watt: Okay; we will come back to that, I think.

Tom Mason (North East Scotland) (Con): I welcome the panel. The bill takes a radical approach with regard to giving voting rights for residency as opposed to citizenship and extending that right across the board to all comers, which goes way beyond the present Commonwealth and EU citizens. What are the panel's views about that approach? What are the downsides? The witnesses from the refugee side have been very positive, but there are some negatives in there. There are always unintended consequences.

Jen Ang: You are right in thinking that, because of the context in which we work, I see the bill as overwhelmingly positive. It is important to remember that there is international precedent in extending the franchise in regional and national elections. I see it as a really positive statement on the part of the Scottish Parliament that it is using its powers to extend the franchise in this way. The fact that it has not been done before in the UK does not indicate that it is a terrible idea.

As a lawyer, I understand that there might be some uneasiness. In Scotland, we think about the distinction between reserved and devolved matters, and this feels uneasy because it is something new and different. However, the bill falls firmly within the devolved powers, and it moves Scotland ahead; the provisions are in line with the position that has been taken in countries such as Ireland and New Zealand.

The bill is about empowering people to vote and stand for election when they choose to make Scotland their home. Scotland does not have the power to confer legal residence or citizenship on people in the UK, but it has power over how it treats people who choose to come here. It exercises that in other areas, too. We have a

slightly different approach to access to the national health service and a slightly different, broader and more generous approach to how we educate children. The extension of the franchise is consistent with other differences between Scotland and England.

People might think that there is a downside. I suppose that the criticism might be that we have done something different from what is happening in the other nations of the United Kingdom. However, what we have done is only to exercise our devolved powers, which is no different from a city or a local authority introducing a local programme because it feels that its citizens should benefit or be assessed in a different way. I am not sure that that squarely answers your question, but that is how I would explain it to someone if they were thinking about it critically.

Andy Knox: From a purely technical perspective, there is an inherent tension between the provisions in the bill that seek to ensure that EU citizens will continue to have rights post-Brexit, if Brexit happens, and the EU settlement scheme. If the scheme works out as planned over the two-year period, EU citizens who do not register with it will lose their free movement rights. There will come a point when they will not have leave to remain in the UK.

Tom Mason: Do you see a difference between the franchise at local government level and the franchise at national level? Local government is a creature of statute of the Scottish Government, and the bill could result in quite substantial changes in the law at national level, which may or may not affect the local government level.

Andy Knox: I could not comment on that. Jen?

Jen Ang: I suppose that I do not see a difference. Obviously, different powers are exercised between those levels, but there is a role in giving people a voice at both levels. If we think about how migrant communities might have common interests across Scotland, just as they might have common interests in a local authority, we can see that it is consistent to extend the franchise at the national level. As Lorna Gledhill said, there is a high concentration of asylum seekers and refugees in Glasgow, but that is not to say that there are not—because there definitely are—asylum seekers and refugees dispersed in small numbers across other parts of Scotland, for example in the very far north or the east. It is important to have that strong voice participating in national government.

I know that one of the questions that the committee looked at was about retaining and future proofing the franchise for European Union citizens. Andy Knox pointed out that the continuing uncertainty around Brexit and the rights of

European citizens raises a question about how the system will operate. This is a very arcane area of law—we are very excited about it, even if not many other people are—but the drafting that extends the franchise to Commonwealth citizens is very similar to that which extends it to European Union citizens. There are perceived difficulties relating to how the status of individuals might change following decisions that are made elsewhere by the Home Office and Westminster, but the dynamic already exists. As far as I can tell, it has not been a serious issue thus far; it has not come to our attention. It is right to point out the tension, but we should not be too cautious or concerned, because that is how the system already operates.

All that we are doing is levelling an inequality. The franchise is available to British citizens, Commonwealth citizens and European citizens who are lawfully resident. The only people who are not covered are people from other countries, such as the United States—Canadians are covered, but not Americans. The bill has been drafted to make the system more equal.

The Convener: Thank you very much for that good explanation.

Maureen Watt has a couple of questions on the number of people who will be enfranchised by the bill's provisions.

Maureen Watt: Andy Knox mentioned the figure of 65,000 but, according to the 2011 census, the figure is 55,000. Given Brexit and everything else, we are not sure exactly what the figure is. What is your estimate of the figure? Is it a good figure to base things on?

Andy Knox: I do not know, because I do not have any empirical data. I think that the latest national reported figures that we have come from the 2011 census. As an indication for the committee, prior to the introduction of the EU settlement scheme, it was estimated that approximately 20,000 EU citizens were resident in Scotland, but approximately 30,000 EU citizens have registered through the scheme—that is an overshoot of 10,000.

Maureen Watt: Will it make a big difference if we base the number on the 2011 census? Do we need a more up-to-date figure?

Andy Knox: It would be useful to have a more up-to-date figure.

Lorna Gledhill: To clarify, my understanding is that the estimate in the bill documentation is 55,000 newly enfranchised voters, which would not necessarily include EU nationals, because they are already entitled to vote. The bill is about ensuring that that right continues.

The figure of 55,000 newly enfranchised voters is probably lower than what the number is in reality. Since the 2011 census, a bunch of folk have arrived, including the 2,500 resettled refugees. It would be ideal to have a more accurate number, but whether such a number exists is another question. However, the number is likely to be a bit higher than 55,000.

Andy Knox: The data could be sourced from the Secretary of State for the Home Department. The Home Office will have figures for the number of people resident in Scotland who have temporary leave to remain. I suppose that we could not account for people moving within the United Kingdom, but the Home Office might be a good place to start looking for the figures.

Maureen Watt: I suppose that we are saying that other sources of data could be used to bring a 2011 figure up to date, prior to the next census in 2021.

Andy Knox: Yes.

The Convener: Tom Mason's second question has partly been answered, but I invite him to ask it.

10:00

Tom Mason: I think that I have covered the second one. It was to do with the extension of the franchise beyond EU and Commonwealth citizens and the general process of extending the franchise. I think that I got the answers.

The Convener: Thank you very much for covering that already.

We will move on. Mark Ruskell has questions on outstanding asylum claims and so on.

Mark Ruskell: I would like to ask about evidence of how extending the franchise helps with integration, particularly for marginalised people such as asylum seekers and refugees, for whom there are considerable challenges. What evidence is there that extending the franchise has a beneficial effect?

Lorna Gledhill: Political integration is a core element of a broader strategy around integration. It sits well with the positive and welcoming approach that Scotland has already taken with strategies on integrating refugees and asylum seekers.

The core principle of the new Scots strategy is the idea of integration from a person's day of arrival and not from the day on which they are granted status. Granting voting rights to people who are in the asylum system should not necessarily be linked to their getting leave to remain. If the logic is that a person's integration starts on their day of arrival, and if we see political participation and integration as part of that, a

person's voting rights should not be delayed until they are granted leave to remain in the country.

The flipside is that if people in the asylum system are excluded from voting, it is another moment of social disenfranchisement—it is another thing that they are not able to do. As part of our preparations for our written evidence and for today's evidence session, I went around and spoke to different refugee communities, including people who are still in the asylum system and people who have leave to remain. They told me of their sense that when they are in the asylum system, day-to-day life is full of exclusions: things that they cannot do, things that they are unable to do and things that they feel that they are not welcome to take part in. Specific exclusion from the franchise would be just another form of that.

As I said, the legislation is positive and progressive and has the potential to enfranchise that group. We would like to think a bit more about whether that is possible within the remit of the legislation. I recognise that I did not give the committee empirical evidence, but that is how we see political participation within the broader world of integration.

Jen Ang: I will take Lorna Gledhill's example and draw it back to our common experience. The provisions for Commonwealth and European citizens that have operated for some time have meant that a number of European citizens who were entitled to arrive in the UK as students or workers registered to vote soon after they arrived and went on to become long-term members of our communities, including standing for election and serving ably in local and national government. Perhaps a piece of empirical work has not been done on that in Scotland.

We can look at the example as a positive one in which the system has worked up until now, and we can reflect on whether it has positively contributed to the inclusion of those communities in our work, particularly in relation to the stronger voices of those politicians who have been more forceful in bringing the experiences of migrant communities to public functions.

Mark Ruskell: Is there evidence of those benefits from other countries that have extended the franchise? Has that been studied?

Lorna Gledhill: A country that has extended the franchise to include people who are still in the asylum system is Ireland, where, for both voting and standing in local elections, the only test is whether a person is ordinarily resident in Ireland. I am not aware of any in-depth analysis of the impact that that has had. However, from informal conversations with colleagues over there, I get the sense that people think that it just works.

There has been no real criticism from within the broader communities of people living in Ireland. A handful of folk in the asylum system stood for public office in the most recent elections, which, if I remember rightly, were this year. None of them was successful but it was a powerful thing for the community of people in the asylum system in Ireland. There was a sense of being seen, recognised and heard.

Although we do not have written academic evidence on this, it is obvious that if people are seen to be taking office or seen to be participating in political systems, that is an indication of being present and being part of something, rather than being excluded.

To go back to what people are telling me here in Scotland, they see that the right to vote is a way for them to indicate that they are here, that they mean to be here and that they want to be part of the community. There is softer evidence there.

Andy Knox: Perhaps I can offer a brief legal analysis. As a matter of law, provided that the UK remains a signatory to the European convention on human rights, an individual's article 8 right to a private and family life will be intrinsically strengthened by engaging with the voting process. When consideration is being given to whether people should be granted indefinite leave to remain or further leave to remain, their position will be stronger as a matter of law if they are engaging with the voting process.

Mark Ruskell: Do you see any practical challenges for voter registration, particularly for refugees, around what might be envisaged in terms of documentation and that side of things?

Lorna Gledhill: The documentation that accompanies the bill envisages that there will be no significant changes to voter registration as a consequence of the legislation. The existing procedures will carry through and people who are newly enfranchised will be expected to follow those procedures to register to vote.

It has been a long time since I registered, but my understanding is that registering to vote is a declaratory process—you say X, Y and Z and then it is up to the electoral registration officers to ask you for further information if there are things that they need to clarify. If you cannot provide certain things, such as proof of nationality, a national insurance number or proof of address, it makes it more likely that the officers will come back to you for further evidence. That is where we can foresee some difficulties, particularly for refugees who have been newly granted residency in Scotland. There have been reports from the Red Cross about delays to people receiving their biometric residence card, which has their national insurance number on it, after they get their leave to remain. If

someone does not have that when they register to vote, they might be asked by the electoral registration officer to give more information.

Similarly, if someone is in temporary accommodation, for example, and does not have proof of address, that might make it slightly more difficult to register. However, some really good work has been done on supporting people who are homeless to register to vote. There is a different registration form for people who do not have a permanent address, which is a really positive move.

We would ask the Parliament and the Government to consider the additional barriers that the newly enfranchised communities, including people who are refugees, might face when registering to vote and to consider whether a piece of work—similar to the work that has been done with homeless people—needs to be done on that.

We would also advise that we are open to working with local government to help electoral registration officers understand what kind of documentation people might have, so that we can pre-empt those barriers and help people to overcome them, rather than wait for them to arise. That is something that we are hoping that we can do if the legislation becomes law.

Mark Ruskell: Have there been any early discussions with the Convention of Scottish Local Authorities or electoral registration officers—or whoever governs them—on how this might work, or is it still early days?

Lorna Gledhill: It is still early days. There are considerations about how people who are still in the asylum system would register to vote—if the legislation is interpreted expansively to include those people, as we would like—because they will not have a national insurance number. We would have to work that through. I am not suggesting that it would be an insurmountable barrier, but it would be a different process. However, we have had productive and positive meetings with the bill team and COSLA and we have talked about working with electoral registration officers, which would happen if and when the legislation becomes law.

Mark Ruskell: I have a final question, which you have probably already partly answered. Are there any circumstances under which people should be required to have lived in Scotland for a certain period before they are allowed to vote? Lorna Gledhill said that enfranchisement in society should be from day one.

Lorna Gledhill: Yes, for sure.

Mark Ruskell: Can you see any circumstances in which there should be a residency requirement?

Jen Ang: We discussed that. It is more a practical question than one of principle. We also thought that perhaps, in practice, it does not pose a difficulty. Again, that is based on looking at how the franchise operates at the moment. The questions should be: “Would you impose a residency requirement? If so, why would you? On what basis would we set a limit?”

Some core timescales are built into the process. In order to be eligible to vote in the next election, people need to have registered by a set time before that. Beyond that, the practical problem of imposing a timescale is that you push the burden back to the registration authority to request evidence and assess it. Given that, at the moment, as Lorna Gledhill set out, it is a declaratory process, on what basis would we do that? In requiring people to declare, we already require them, on their honour, to tell us their nationality and that they believe they are eligible to vote.

A package of voter education, extending to a good discussion with electoral registration officers about eligibility requirements, along with the declaratory process, should be sufficient. Otherwise, it would become unnecessarily complicated. If you were to complicate it, you would need to ask why. What would be the benefit of that extra period?

Andy Knox: I direct the committee to paragraph 46 of the policy memorandum, on page 9, which sets out the intention. It states:

“Newly enfranchised individuals under this policy would be required, as is currently the case for all voters, to prove residency in a particular local authority area in order to register to vote in Scotland. This will ensure that, in most cases, only those with a permanent address in Scotland will be able to vote and that temporary visitors and tourists will not be able to register. EROs will assess residence as they do at present for existing voters.”

On the face of it, a person with temporary leave as a visitor or tourist would have the right to vote. However, we would hope that EROs would have sufficient training to establish that such people did not have a permanent address in the country and that therefore registration would not be appropriate.

Tom Mason: To follow on from that, if we were to extend the franchise, I would be worried about the nature of the responsibilities and obligations on the people who got the franchise. Otherwise, we would have two classes of citizens—those who had voting rights who were just residents, and those who had voting rights who were nationals. They would have different responsibilities and obligations.

10:15

Jen Ang: If we were to extend the franchise, the sole responsibility would be to exercise the vote responsibly—to vote in an informed way.

Let us stand back and think about rights and obligations and the state and citizenship. At the moment, people who are not British citizens and come to Scotland have, by virtue of being here, a range of obligations to Scotland. For one thing, they are subject to our laws. Simply by appearing in our jurisdiction, they have obligations around standards of behaviour and conduct, regardless of whether they understand or are informed by them. The franchise—the right to vote—is the extension of an additional right to people who are already obeying our laws.

Another way of thinking about the right to vote is that many of those people might be working and paying taxes, and thereby contributing to economic production in the country, without having the right to have a say on the conduct of matters. Equally, they might be providing their time and resource in our communities by volunteering—for example, they might be keeping the street tidy or carrying out caring responsibilities in our communities—without having the right to vote. It is not really a case of thinking about what additional obligations there would be if we were to extend the right to vote, because people who contribute to our communities are already under obligations.

There is an inconsistency. Some individuals already have the right to vote by virtue of their nationality—they might happen to be British or Commonwealth citizens, or Europeans. It is a case of levelling things up and addressing the inequality for those who do not have that right. The simple proposal is that the rights and obligations should be rebalanced.

The Convener: Is that okay, Tom?

Tom Mason: Not entirely, but I will leave it there.

The Convener: Neil Findlay wants to come in.

Neil Findlay: This is probably more relevant to the UK Parliament, but let us look at the tiny majorities that some politicians are sitting on. Is there an opportunity for the system to be manipulated, even temporarily, in order to manipulate the results in particular seats? It would take only a couple of people registering temporarily in North East Fife for the incumbent not to be there any longer.

Andy Knox: That is an interesting point. I guess that the potential for exploiting that already exists. I do not think that it would be any easier for non-British citizens—

Neil Findlay: I am not saying that at all; I am just talking about the principle of being able to register without there being a residency qualification of a particular period of time that has to be met.

Lorna Gledhill: That is already the case for lots of nationals. I agree that there is probably no more reason for there to be manipulation as a consequence of extending the franchise in this way than there is at the moment. It would be sad not to do something so positive just to avoid that very unlikely scenario.

Andy Knox: The Electoral Commission would, we hope, be all over that.

Tom Mason: Hope is a poor bedfellow. *[Laughter.]*

The Convener: We have covered a great deal of ground on the issue of support for new voters, particularly those who have recently arrived in Scotland. This might be one of the practicalities that will have to be dealt with once the bill has been passed, but what about people who do not have a working knowledge of English? I am thinking about explanations of how to go about registering and so on. Does anything require to be done by way of planning in that respect?

Lorna Gledhill: The baseline is that any documentation that is produced to support the extension of the franchise must be made accessible—and I mean that in its broadest sense. It is not just a language issue; it is also about where the information is made available. There are two stages, the first of which is broader political education, which is about how particular systems work in Scotland, what vote for X means and what vote for Y means, and about getting an understanding of the different political parties. Then there is getting an understanding of how to register to vote and how to go about voting.

The bill will give a one-off opportunity when it becomes law, when a bunch of folk will be enfranchised overnight. A longer-term piece of work then needs to be embedded in the other things that we do in schools, adult education and the SRC's broader integration work.

All those interventions need to be accessible. For example, information needs to be translated into relevant languages and meetings need to be held where people are based. Over the past couple of weeks, communities have said to me a lot that although documentation is great, face-to-face conversations are the best, which means going into communities and speaking directly to people. Peer education also has a role; in our case, that includes working in refugee community organisations, upskilling their representatives on how the system works and how to register to vote

and supporting them to go out into their communities to help people engage.

That work needs resource, funding and support, and, unfortunately, those things are not necessarily budgeted for in the bill. The work needs to be a core part of how we make the legislation meaningful to people. The worst-case scenario would be to enfranchise a bunch of people without that really having any effect. Language is one consideration, but other things should be considered.

The Convener: I think that I have hijacked the beginning of a question from Maureen Watt, but she might want to go a wee bit further on that.

Maureen Watt: What has been said is key to making sure that the bill is not just a piece of legislation and that people get engaged in the political system. Will material need to be written in various languages?

I liked Lorna Gledhill's idea of peer support. I will draw a comparison with getting people from ethnic communities to go on the organ donation register, which was very much about training up peers to speak to their communities. Not everybody will engage with the Scottish Refugee Council, so it is about involving a whole bunch of organisations that come together—at melas, for example. The mela in Aberdeen a week past Sunday was great, with thousands of people attending—I do not know whether Tom Mason was there. There could be a stand at such events where people who might not engage with other organisations come together. However, their peers have to be on the stand. Organisations should get funding to have a stall at a mela to spread the word that people are welcome and that they are part of the electoral system. As has been said, they might not engage with official organisations because of cultural issues.

Lorna Gledhill: There is a role for everyone in making this exciting legislation work in practice—that view has come from communities as well. They have a sense that it is their responsibility to get their heads around the issue and organisations including ours would support them to do that. Lots of other people can provide educational opportunities around the process and registering to vote. I take your point that there are other collaborative spaces in which such interventions can be meaningful. I think that we are in agreement on that, to an extent.

My point is that, at the moment, there is no consideration of where the necessary money will come from—or where it will go. We would like to have that conversation, not so that we take all the money for ourselves but so that it is put in the places where it is most necessary.

Maureen Watt: I do not know how the budgeting was done for the figure that was arrived at, although a quarter of a million pounds seems a hell of a lot of money. However, we are talking about encouraging 55,000, or even 60,000-plus, people to vote. It would be a case of organisations, such as community groups from different cultures, rather than big and well-established organisations such as yours—no offence intended—getting the money to put the message across.

Another issue is that the people who meet voters on the doorstep are, in the main, representatives of political parties. We are the ones who knock on doors and encourage people to vote. We are the ones on the front line, so what education should there be for political parties and their activists about getting the message across?

Lorna Gledhill: There is a step before people open their door and have a conversation with somebody on their doorstep, as they first need to have a decent understanding about how the structures work. However, I take your point that some collaborative work will need to be done with politicians, who will be engaging with what is, in effect, a new community of voters. Perhaps some of the information about accessibility and documentation might be helpful for elected members when they are door-knocking and canvassing.

Maureen Watt: It seems to me that, across the parties, we will need to get in touch with local community groups.

Mark Ruskell: It is a challenge. I was recently door-knocking in Clackmannanshire and came across a Syrian family. There were lots of smiles all around, but it was difficult for us to engage with one another, so there is clearly more work to be done.

Should there be financial support for candidates from particularly vulnerable refugee or asylum seeker communities to stand for election? We see that kind of support for candidates with disabilities to stand in elections. Could there be a similar approach here—perhaps to help with language needs or political education—to level the playing field?

Jen Ang: *[Interruption.]* I was about to defer to Lorna. I want to raise one point, then she might have further comments to make about additional funding.

To the extent that there are programmes to promote participation in our political processes by encouraging candidates to stand, which is about redressing inequalities, I absolutely support that.

One of the disappointing aspects of the drafting of the bill, which I mentioned at the start of the

meeting—I realise that we are about to finish—is that the only people who would have the right to stand are individuals with indefinite leave to remain, which excludes refugees and asylum seekers. As the bill is drafted, someone from the Syrian refugee family that has received the promise that they can live here for five years and then apply for indefinite leave to remain, could not stand for election. I will be happy to follow up my point in writing, if that would be helpful. I queried the consistency of and the reasoning for that, and it came back to, “I’m not sure why we did that.” My understanding is that there is a concern that if someone had a limited period of leave—let us say that their leave was going to expire in a year and the period to which they could be elected would be a two-year term—there would be something inconsistent or odd about allowing them to be elected for a period longer than that for which they might lawfully be in the UK.

I point out, however, that, as immigration lawyers know, aside from refugee status, the longest period for which the Home Office now grants leave is two and a half years, and that is unusual. However, people will have their two and a half years of leave to remain renewed for a period of up to 10 years, at which point they achieve the right to stay here permanently. People might have lived here lawfully for seven or nine years and have every intention of settling here—and we, as immigration lawyers, would agree that they are highly likely to do so—but if the right to stand for election is confined to those who are already permanently resident, that former group of people would be excluded from participating.

I wonder how principled that is. I thought that it would be simpler to say that if someone was in office and became unlawfully resident, they would be required to resign on that basis. Just as there are other life events that cause people who are elected to not be able to continue in office, becoming unlawfully resident could just disqualify them from holding office.

Someone asked what would happen when a person’s leave expired and they were waiting for further leave. Technically, if your leave expires and you apply for further leave, you are still lawfully resident—you can continue to stay. You can continue to work, for example. That is how it works in employment law. The bill thus creates inconsistency with how employment law works.

Someone being required to stop an office for a period then come back is no different from a period of illness or maternity leave. If we think about it like that, some of the concerns that have been raised are unfounded. That was a long answer to your question, but I wanted to make it clear that if you leave the bill as it is, refugees will not be entitled to stand.

10:30

Mark Ruskell: Do you mean in the event of a by-election when there was only one year left of a council term?

Jen Ang: The prohibition applies if you have limited leave; it is not consistent with the treatment of European candidates, either. Under European freedom of movement law, there is no period of leave, so all the European citizens currently in office are not prohibited. However, parallel provisions have not been applied in the non-European context.

The Convener: We move on to the financial memorandum.

Neil Findlay: I used to teach modern studies, and the Scottish electoral system is so complex that I would hesitate to ask the panel to explain it concisely because you might ask us to explain it concisely and we would probably also flounder. I agree 100 per cent with Lorna Gledhill that face-to-face engagement is really important. It means that people can ask questions—you do not get that from an information sheet.

There is a £280,000 one-off payment to the electoral commission, of which £200,000 will be for public awareness. That is only £6,000 per local authority. If we take it to the level of each voter, and the target is 55,000 voters, we are talking about just over three quid a voter, which ain’t a big amount. Is this a well-meaning announcement that will flounder on the basis that not enough money is being put behind it to engage the people who we allegedly want to engage?

Lorna Gledhill: That is a concern that we have already talked about. We have had a conversation about adequate funding, but there is also the issue of available resources. That is why I would direct the committee to look at what New Zealand has produced. Although it is not a face-to-face intervention, resources are provided to facilitate face-to-face interventions. There are downloadable session plans for working with communities on how voting systems work in that country. Financially, that is quite a light touch intervention that could quite easily be used by smaller community groups to work face to face with individuals.

We do not think that the £200,000 for awareness raising is sufficient, but there are interventions that could be made that are not hugely expensive but that would facilitate conversations about political education and voting rights. In the long term, we would like political education like this to be embedded elsewhere in work and interventions already happening in certain communities. There are ways that we can pull that into existing interactions that we have with refugee communities and people in the asylum

system. Additionality costs a bit of money, though. That is speaking not just for us but for other people who will be engaging with those communities.

That £200,000 is for the Electoral Commission to do information and awareness-raising work. I would be interested to know what that will be. It is not loads of money, but it can be used in different ways. I would be slightly worried if all the money was used on paper resources or online interventions. I would be interested to hear the Electoral Commission's pitch for engaging new voters.

Neil Findlay: I am new to the committee, so I am picking up on a number of points. Will any of the money that is proposed be allocated to local government, or will it all go to the Electoral Commission?

Lorna Gledhill: There is some money in the financial memorandum that will go to local government, but my understanding is that that money is not for awareness-raising work; it is more to help with the practicalities of administering new voters through voter registration and on voting day.

Neil Findlay: You have mentioned downloadable resources and such like. I think that it is inevitable that there will be a piecemeal and patchy approach. That might work for some organisations in some areas but, given the list of priorities that councils have, I think that doing that work will fall way down the list. I am concerned that, if the objectives are to be achieved, the financing just ain't going to cut it.

The Convener: Do I see agreement coming from the panel?

Andy Knox: I am not saying that the sum is sufficient—I give that caveat—but, putting to one side Mark Ruskell's example of the Syrian family in Clackmannanshire, we can consider people in Scotland with temporary leave to remain who are not asylum seekers or here with humanitarian protection. Given the structure of UK immigration law, such migrants are often highly educated people who might be engaged in the political process and not need assistance. From my experience, I do not think that we will need to inform that group of people of their rights, because they will know. Therefore, the funding should definitely be targeted at the groups that committee members have spoken about.

The Convener: We move on to the right of EU citizens to be granted leave to remain.

Mark Ruskell: The obvious question is: can we be sure that all EU citizens will be granted the right to remain in the UK?

Jen Ang: No, we cannot be sure of that, because the proposal that has come from the political settlement in Westminster is a system whereby European citizens require to apply to secure their right to remain here. There is an end date to that entitlement, so there is an end date to the application process. People who do not apply for, or successfully receive, the leave to remain beyond the end date will become illegally resident and subject to the hostile environment. That is the current proposal.

Mark Ruskell: We received evidence that 50,000 EU citizens have applied through the settled status scheme, but that that is only a quarter of the number of EU citizens who probably live in Scotland. How do we ensure that all EU citizens continue to have an uninterrupted right to vote?

Andy Knox: That will be very difficult, because the Secretary of State for the Home Department has broad powers to introduce statutory instruments that could substantially change the "Immigration Rules Appendix EU". Just 48 hours ago, a statement of substantial changes was tabled. Such changes do not need to be made through primary legislation, so they do not require parliamentary scrutiny. The parameters of when somebody should be granted leave to remain, or when they will qualify for indefinite leave to remain, can be subject to change at quite short notice. The Scottish Government's powers in that regard are pretty limited, because it is a reserved matter.

Jen Ang: Again, to highlight those reserved versus devolved areas of work, the Scottish Government has been vocal in articulating to European people in Scotland its intention to continue to welcome Europeans to Scotland. As you will be aware—I think that it was announced again in the latest programme for Government—the Scottish Government puts money towards information and advice to assist the European citizens who are here now to engage with the settlement scheme process. The Scottish Government also engages with Westminster on the future rules for settlement.

That money has funded the European citizens' rights project; it has funded some of the outreach through the citizens advice bureaux, to which Andy Knox's project is linked. To come back to Maureen Watt's point, I continue to advocate for that money to go to local community organisations outside the central belt in particular and to organisations that work primarily with European citizens such as the Polish and Spanish organisations. It is all about getting people the face-to-face support that they need to complete the application process that has been mandated by the Westminster Government.

We cannot make guarantees, but the Scottish Government will be carrying out work in the next two years to ensure that where rights are available, people get the support that they need in order to achieve those rights, particularly the more vulnerable and at-risk European citizens.

The Convener: Thank you. For the benefit of the *Official Report*, I acknowledge that committee member Jamie Halcro Johnston has arrived. Jamie informed us that he would be delayed but he is with us now.

I am mindful of the short time that we have left. Do the guests have any other views on the proposal to allow foreign nationals with an indefinite right to remain in the UK to stand as candidates in Scottish elections and hold office following those elections? Is there anything specific that you want to add to what you have already given us?

Jen Ang: I thought that we had to finish earlier, so I think that I managed to cover that point earlier—

The Convener: Yes, you covered it pretty well.

Jen Ang: I think that it is inconsistent. I understand that the immigration rules in this interaction are very arcane. I would be more than happy to explain objectively what I mean another time, by providing examples of where it seems inconsistent.

The Convener: That is very helpful. I thank all three of our guests—Jen Ang, Lorna Gledhill and Andy Knox—for coming along. You engaged well with the committee.

That brings us to the end of the public part of the meeting.

10:43

Meeting continued in private until 10:59.

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

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

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