The Education and Culture Committee recently discussed the procedures for consideration of legislation at the Parliament in the context of your current Inquiry.

We have a number of comments relating to the key questions included in your call for evidence and these are set out below.

**Public bill process – overview**

We believe that there should be greater flexibility in the gap between Stages 2 and 3, and that the gap should be dictated by the Bill’s complexity and degree to which it is controversial.

The Committee felt that in the recent example of the Children and Young People (Scotland) Bill, insufficient time had initially been timetabled between Stages 2 and 3 for a Bill of such a complex and controversial nature (over 400 amendments were lodged at Stage 2 with a further 200 at Stage 3). The gap – the minimum time allowed by Standing Orders – constrained our ability to assess the substantial Stage 2 discussions, to hold meetings with the Scottish Ministers to agree the form of certain proposals at Stage 3 (arising from commitments made at Stage 2), and to consider our own policy proposals for Stage 3. These difficulties were later acknowledged by the Parliament and the gap between the Stages was extended.

**Accompanying documents**

We have some concerns about the quality of the accompanying documents. In particular, we regard financial memoranda to be the weakest of the accompanying documents. For example, in relation to the Children and Young People (Scotland) Bill, the Finance Committee’s concerns about the robustness of the estimates and assumptions upon which the FM was predicated received substantial comment during our evidence sessions. We do, however, recognise the difficulties in estimating cost implications and defining margins of uncertainty into the future and this can make financial memoranda difficult to prepare.

**Amendment Stages**

Having recently scrutinised a large Bill and disposed of over 400 amendments across four meetings, we have a good understanding of the amendment process. Although it is a complex process, it generally works well in practice.

However, Members are concerned that the amendment process lacks transparency. While MSPs have developed an understanding of it, we question whether members of the public find it accessible and easy to follow.
We also have some specific comments in relation to Stage 3 proceedings. Stage 3 is critical; it is the last chance to scrutinise legislation before it is passed. As such, we would like to see more flexibility built into the timings for disposing of amendments to allow full and unlimited scrutiny of all amendments. In our discussion, Members referred to occasions when the time to consider amendments has been too restrictive and, as a result, MSPs’ contributions had been limited to as little as 30 seconds or even precluded altogether. More flexibility in the timings would ensure that every MSP who wanted to contribute to a debate on an amendment would be able to do so.

Members also felt that the time available for consideration of amendments should not be limited by the debate that follows. The consideration of amendments at Stage 3 is the crucial part of the Stage and sufficient time should be allowed for it. If this means holding the debate on the Bill on a later date (as is already allowed by Standing Orders) then we would welcome this. Aside from the timing issue, there is also an argument for having the debate on a later date as it would allow MSPs more time to digest the impact of amendments passed or not passed. This could result in a more in-depth and worthwhile debate.

Finally, the Committee welcomes the expert assistance and support provided by the Parliament’s Legislation Team in the drafting and preparation of amendments.

Role of secondary committees

We believe that the involvement of secondary committees works well at Stage 1. We question, however, whether there is sufficient opportunity for secondary committees to scrutinise changes made to Bills at Stage 2, before consideration at Stage 3 begins. The Committee has reflected on the recent experience of the Children and Young People (Scotland) Bill where a number of amendments passed at Stage 2 had substantial cost implications and required the publication of a Supplementary Financial Memorandum. The Parliamentary timetable allowed little time for the Finance Committee to examine the new costs before Stage 3.

I hope our comments provide a useful contribution to your Committee’s Inquiry.

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CONVENER
EDUCATION AND CULTURE COMMITTEE
SCOTTISH PARLIAMENT
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