



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

Thursday 17 September 2015

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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
13th Meeting 2015, Session 4

CONVENER

*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

DEPUTY CONVENER

*Mary Fee (West Scotland) (Lab)

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)

*Cameron Buchanan (Lothian) (Con)

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab)

Gil Paterson (Clydebank and Milngavie) (SNP)

*Dave Thompson (Skye, Lochaber and Badenoch) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Graham Fisher (Scottish Government)

Joe FitzPatrick (Minister for Parliamentary Business)

Mark Griffin (Central Scotland) (Lab) (Committee Substitute)

Steven MacGregor (Scottish Government)

CLERK TO THE COMMITTEE

Gillian Baxendine

Alison Walker

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 17 September 2015

[The Convener opened the meeting at 09:30]

Decision on Taking Business in Private

The Convener (Stewart Stevenson): Welcome to the 13th meeting in 2015 of the Standards, Procedures and Public Appointments Committee. As usual, I remind everyone to switch off mobile phones, as they might affect the broadcasting system.

We have received apologies from Patricia Ferguson and Dave Thompson. I welcome Mark Griffin, who is substituting for Patricia Ferguson.

Under agenda item 1, I ask the committee to agree to take item 3 in private. Item 3 is consideration of the evidence that we are about to take on consolidation bills. Do we agree to do so?

Members *indicated agreement.*

Consolidation Bills

09:31

The Convener: Under agenda item 2, we will take evidence from the Minister for Parliamentary Business on consolidation bills. The minister, Joe FitzPatrick, is accompanied by Steven McGregor, the head of the Parliament and legislation unit in the Cabinet, Parliament and governance division of the Scottish Government; and by Graham Fraser, who might introduce himself, since he is not on our list.

Graham Fisher (Scottish Government): My name is Graham Fisher, actually. I am from the Scottish Government's legal directorate.

The Convener: Welcome to the meeting.

Members will recall that the minister wrote to the committee in June this year to ask us to consider the rules on consolidation bills. At our meeting last week, we decided to discuss the letter further with the minister.

Minister, do you wish to make any opening remarks?

The Minister for Parliamentary Business (Joe FitzPatrick): We are proposing a minor change to the rules that follows on from the changes that have been made to the practices of the Delegated Powers and Law Reform Committee around the Scottish Law Commission bills. We think that it makes the most of the particular technical expertise that that committee is developing.

The Convener: Right, colleagues. Let us ask questions.

Is it envisaged that there will be much in the way of consolidation bills being brought forward?

Joe FitzPatrick: There is the bankruptcy consolidation bill that was in the programme for government. Now is absolutely the right time for us to be doing that consolidation. The changes to the policy have been made, so this is a purely technical piece of consolidation legislation.

In an ideal world, we would do a lot more consolidation than we have managed to achieve. In the entire period of the Scottish Parliament, there has been just one consolidation bill, so the time between consolidation bills will be longer than we would have hoped.

The Convener: In the particular case of the bankruptcy consolidation bill, we have just legislated on the subject in the last 12 months, so there is no substantial suggestion that there would be any risk that there would be a need to change policy as part of the consolidation.

Joe FitzPatrick: Definitely not. This is absolutely the right time for consolidation—right after the policy changes. By their nature, consolidation bills should not contain any major policy changes; technical adjustments can be made on the suggestion of the Scottish Law Commission, but those should be only minor.

Cameron Buchanan (Lothian) (Con): I read that we might need to have a separate committee for the consolidation bill. Do you think that that is unnecessary? What was the reasoning behind that thought?

Joe FitzPatrick: The original reasoning behind having an ad hoc committee—obviously I was not a member of the Scottish Parliament when the standing orders were drawn up—might have been that, among the parliamentary committees at the time, there may not have been any committee that had expertise across the piece, so that it was perhaps unclear where such a bill should go. That situation has changed. The DPLR Committee has developed its technical skills and expertise and is now the natural home for the consideration of such technical bills.

Cameron Buchanan: That committee was not formed beforehand, was it? It was not formed at the beginning of the Parliament.

Joe FitzPatrick: It was a different committee and was not able to take on the Law Commission bills. It did not have that role.

The Convener: It is worth making the point that the DPLR Committee, including in its predecessor form as the Subordinate Legislation Committee, is required by the Scotland Act 1998.

Cameron Buchanan: Ah. Thank you.

The Convener: It is a required committee.

Mary Fee (West Scotland) (Lab): The concern has been raised that, if the DPLR Committee scrutinises these bills, the links between the subject committees and consolidation bills will be lost. How do you foresee that difficulty being overcome?

Joe FitzPatrick: There are a number of ways to overcome that. The DPLR Committee could invite the subject committee to send a representative. That would mimic the current situation with the ad hoc committee rules. However, I am not certain that it would be entirely satisfactory to have just one member from the subject committee expressing a view. It might be better and more flexible for the DPLR Committee to invite the subject committee to offer a view on the bill. The whole subject committee would be able to consider the bill and say, "This is entirely technical," or whatever. Allowing the whole committee to offer a view in that way might be a more flexible way forward. Additionally, any

member can attend any committee and, if there was a feeling that there was a need for the voice of a subject committee to be heard at the DPLR Committee, the rules would already allow for that.

The Convener: In looking at the changes to standing orders that would be necessary to give effect to the proposal if we were to accept it—I stress that we have not discussed the matter at this stage—we have the option either to replace the existing provisions with a referral to the DPLR Committee or to create the option for the Parliamentary Bureau to refer a bill to the DPLR Committee while leaving the existing provisions in the standing orders. The latter would ensure that, on a case-by-case basis, if it were felt that there was a strong need for policy involvement, things could be done differently. How do you feel about that?

Joe FitzPatrick: Flexibility within the standing orders is always useful. I cannot envisage how a consolidation bill would have significant policy content, because it would not then be a consolidation bill, but I am relaxed about the committee's view on how you want to frame the matter in the standing orders.

The Convener: When I looked at the options, it appeared that providing the option of referral rather than replacing the current provisions might address the committee's concerns about removing those provisions. However, we have not come to a conclusion on the matter and will need to discuss it.

Joe FitzPatrick: That option does not exist just now, so the bureau has to create an ad hoc committee. That gives rise to the difficulty of having to pull together members as the timetables of their other committee commitments allow rather than on the basis of expertise, which we have in the DPLR Committee.

The Convener: Do committee members have any further questions, or does the minister have anything further that he wishes to say to us?

Joe FitzPatrick: No. Thank you for taking the time to discuss the matter.

The Convener: Thank you very much, minister. I am sorry to drag you here for such a relatively brief time, but it is important to get things on the record. It is an important matter of procedure, and we hope to do more consolidation in the future.

Cameron Buchanan: The proposal is a good idea because, otherwise, members would have to be pulled together from other committees for an ad hoc committee and those with the relevant expertise might not be available.

Joe FitzPatrick: That is certainly one of my concerns.

Cameron Buchanan: Okay. Got that. Thank you.

09:39

Meeting continued in private until 09:43.

The Convener: I thank the minister and his officials for attending. We move into private session.

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.

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