



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

Thursday 8 October 2015

Thursday 8 October 2015

CONTENTS

	Col.
DECISIONS ON TAKING BUSINESS IN PRIVATE	1
COMMITTEE REFORM	2

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
16th 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:

John Finnie (Highlands and Islands) (Ind)

Joe FitzPatrick (Minister for Parliamentary Business)

James Kelly (Rutherglen) (Lab)

John Lamont (Ettrick, Roxburgh and Berwickshire) (Con)

Alison McInnes (North East Scotland) (LD)

CLERK TO THE COMMITTEE

Gillian Baxendine

Alison Walker

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 8 October 2015

[The Convener opened the meeting at 09:30]

Decisions on Taking Business in Private

The Convener (Stewart Stevenson): I welcome members to the Standards, Procedures and Public Appointments Committee's 16th meeting in 2016. As ever, I remind everybody to switch off mobile phones, as they may affect the broadcasting system.

We have received apologies from Mary Fee, who cannot be with us.

Item 1 is a decision on whether to take items 4, 5 and 6 in private. Item 4 is consideration of the committee's approach to the scrutiny of the forthcoming lobbying bill at stage 1, item 5 is draft standing order changes on consolidation bills and item 6 is a paper on the Scotland Bill. Do members agree to take those items in private?

Members indicated agreement.

The Convener: Item 2 is a decision on whether to take in private at future meetings a draft report on our inquiry into committee reform and issues papers on members' interests, the Scotland Bill and committee reform. Do we agree to take those in private?

Members indicated agreement.

Committee Reform

09:31

The Convener: Item 3 is our inquiry into committee reform. Today, we will take evidence from the business managers, so we are joined by John Finnie, the business manager for the Independent and Green group; Alison McInnes, the business manager for the Scottish Liberal Democrats and a nominee for committee member of the year at *The Herald* awards—it will be particularly interesting to hear what she has to say—Joe FitzPatrick, the Minister for Parliamentary Business in the Scottish Government; James Kelly, the business manager for Scottish Labour; and John Lamont, the business manager for the Scottish Conservative and Unionist Party. I thank them all for coming and assisting us with our inquiry.

I will ask for questions from committee members, but I will exercise my privilege and first ask a question on a matter that has engaged committee members as we have gone through the inquiry: the churn of membership on committees. We have the guilty parties in front of us and would be interested to hear from them what considerations are in each of their minds when they think about making or changing appointments on committees. To make things hard, I will start with the minister.

Joe FitzPatrick (Minister for Parliamentary Business): Thank you for the opportunity to speak to the committee on the issue. It is important that the Parliament routinely takes the opportunity to examine its procedures, so it is appropriate that the inquiry is happening.

On committee churn, there has been a reasonable time of stability across all the parties. There was perhaps some churn early on, but it has not continued. In making decisions, all business managers consider the talents, experience, qualities and interests of members to try to place them in the committees where they will be most effective.

The Convener: I noted what you said, minister. You did not mention the effective operation of committees in your reply. Would you care to expand on it?

Joe FitzPatrick: Committees clearly operate more effectively if they have members who have an interest in a subject area and are able to exercise expertise in it. The two things go side by side.

The Convener: Let us get a sense of what everybody else on the panel thinks. Nobody gets off the hook on this.

James Kelly (Rutherglen) (Lab): Good morning and thank you for the invitation to come before the committee.

First and foremost, in placing members on a committee, we are thinking about the skill set that is required for the committee and trying to match it up with a member, because that serves well not only the committee but the member. If members are placed on a committee whose subject they do not have much knowledge about, or on which they do not have much experience, they might struggle to make a positive contribution. Therefore, we seek as far as possible to make a match, although I emphasise that that is not always possible.

It is best to try to minimise churn, because a member who has limited knowledge and experience of the subject matter of a committee of which they are made a member might build up such knowledge and experience over a period. If we then take that person off the committee and put on someone else who has limited knowledge or experience, we disrupt not only the members but the committee. Therefore, we seek to minimise churn.

Moves can be driven by a change of leader, of which Labour has experienced a number, and the consequential shadow ministerial reshuffles. Those mean a reorganisation of committees, which can be quite problematic because it involves a jigsaw.

Although we seek to match members' experience to committees and to minimise churn, political events sometimes drive the need for change in memberships, which business managers are not always in control of.

The Convener: Indeed.

Mr Lamont, perhaps you might address the issues that arise in a slightly smaller group, albeit that they will not be as extreme as for other groups.

John Lamont (Ettrick, Roxburgh and Berwickshire) (Con): Thank you for inviting me to participate. I share James Kelly's views, particularly about the fact that the change of leaders in parties can be an important trigger for the change to personnel on committees.

The particular pressure that we face as a smaller party is competing workloads. If a member has to deal with a particularly meaty bill that is going through the Parliament, it may be necessary to change his or her committee commitments to allow him or her to devote the time that is required to deal with the bill. Being a smaller group with fewer than 20 members presents additional challenges.

Alison McInnes (North East Scotland) (LD): I agree that, in some respects, it is regrettable that

each reshuffle of ministers or the shadow cabinet tends to result in a reorganisation of committee memberships. I point out that there were three changes to the nine-member Justice Committee during the 18 months between that committee publishing its stage 1 report on the Criminal Justice (Scotland) Bill and the beginning of stage 2. Although that bill was unusual in spanning such a length of time, that highlights one of the problems.

I am a great believer in the benefits of having a lasting committee membership. As the business manager of a small group—there are only five of us and we do not have representation on every committee—I thought that it was important that we kept some continuity so, although we have changed spokespersonships around a little bit, our committee memberships have not changed. We have benefited from that in being able to pursue particular issues over a long period. We need to consider how we best allow such expertise to develop in the wider Parliament.

John Finnie (Highlands and Islands) (Ind): Likewise, I thank the committee for the opportunity to share our views, which are varied and many, as you will understand.

I align myself with many of the comments by my colleague Alison McInnes. To turn the question round a bit, there is not a post and person specification and the public rightly expect to have rounded parliamentarians who have knowledge of all committees. It can be challenging if we become, for want of a better phrase, pigeonholed with certain issues, because there is an expectation that we have detailed knowledge of the other committees.

If there was a requirement for change in our group, we would discuss it collectively, seek a volunteer and, thereafter, if there were competing demands, make a decision among the group.

In the absence of a post and person specification, a member's knowledge can be time limited. People refer to me as a former police officer but, every day that passes, my knowledge of operational policing changes. That will be the same for individuals in different fields.

The Convener: You specifically raised the issue of the lack of a job description. Are you implicitly suggesting that we should pick up that issue?

John Finnie: Not entirely. We are trying to align committee membership with the workload that is to be dealt with and to analyse how that is to be done and the skill factors that are required. In any other walk of life, there would be a post and person specification, with essential criteria to be fit and desirable. That approach might be very formulaic, and I suspect that it just would not work in the Parliament. As my colleague Alison McInnes has

said, we strive for continuity, particularly on legislation, over a prolonged period.

Cameron Buchanan (Lothian) (Con): Good morning. I am really concerned about the size of the committees, particularly for the small groups. Should all committees have the same number of members, or could some committees be smaller so that the load could be spread more evenly?

Alison McInnes: If you are particularly interested in smaller groups, I will go first. At this point, I am not speaking for my group because, as you know, we have not yet come to an agreed view on that matter and there are different views in my group.

Personally, I would prefer larger committees. I think that there is a benefit for the smaller groups in their members being able to be on one or two of the larger committees, with the proviso that they break down into smaller sub-groups. I have had the benefit of being on the Justice Sub-Committee on Policing for almost the past three years. I think that it is the Parliament's first sub-committee—I am sure that Mr Stevenson will be able to correct me on that. It has certainly met frequently and been very effective, and it is not comprised of members in the same way that the main committee is. It has six members, it does not have a Government majority, and it has not had a vote on anything, but it has been an extremely effective scrutiny committee. I wonder whether there are things to learn from that.

Dave Thompson (Skye, Lochaber and Badenoch) (SNP): Good morning to our panellists. I want to follow on from that issue. The larger groups have members who are on two or even three committees, of course. The approach is proportionate, although I find it rather bizarre that anybody could expect an MSP to be on three committees, deal with cross-party groups, all their constituency issues and everything else, and still have time to hold the Government to account, which is one of the aims of committees.

Given that we have a set number of MSPs, reducing the number of committee members to seven, let us say, would free up some time for MSPs and allow them more ably to hold the Government to account. The alternative, of course, is to increase the number of MSPs marginally—by maybe adding two to each of the lists in Scotland to give us an extra 16. With the new powers that are coming our way with the Scotland Bill, that might be a way forward to give us a little bit of extra capacity and allow us to do our job properly.

The Convener: Are you coming to a question?

Dave Thompson: Will the panellists comment on that?

Joe FitzPatrick: With due respect to Mr Thompson, who has consistently banged the drum for more members for some time, I am not certain that there is a huge appetite for more members across Scotland.

The Parliament needs to be flexible on committee sizes, and it is horses for courses in some cases. For instance, the Parliamentary Bureau agreed to make the Delegated Powers and Law Reform Committee a smaller committee. The subject is very technical, so a small committee does that work, and that works for it. However, as Alison McInnes said, there is a wider interest in justice, so we need a bigger committee to deal with it. We need to be flexible in our approach.

One issue is that there were two significant mid-session committee additions, which I think was the first time that that had happened. The Welfare Reform Committee and the Referendum (Scotland) Bill Committee, which became the Devolution (Further Powers) Committee, were new committees. I think that all the business managers felt that it was important that those committees had all the voices of the Parliament on them. In order to achieve that, as Alison McInnes said, they had to be bigger committees. We were not in a position to adjust the rest of the committee system, which meant that a large number of extra places required to be filled.

09:45

John Finnie: I will pick up the use of the word "appetite". There may be an appetite for more members, but if you asked the public whether they wanted more politicians, I think that we know the likely answer to that. However, we know that there was an appetite for additional powers; we also know that the perception is that insufficient scrutiny takes place in here.

To pick up on Dave Thompson's point, in any other workplace you would analyse the workload and see what would be required to service it. That means one of two things. It could mean that we have people who are working under capacity, but I doubt that anyone will say that—for example, I am on three committees. Alternatively, it means that we have to stop doing something. Therefore, I do not think that we should discount that notion. The additional powers are going to be far-reaching, and we want a situation where the Government is held to account, which is a prerequisite in this Parliament, where we have a unicameral set-up. This discussion may perhaps be seen from outwith as a bit of navel-gazing. There is a role for outside examination by civil society, rather than the matter just being looked at by ourselves.

The Convener: Before I move on, you said that we could “stop doing something”. Do you have anything specific in mind?

John Finnie: I am certainly not suggesting that we stop doing something. I would like to do a lot more.

The Convener: Do you mean here, in this Parliament?

John Finnie: Yes.

The Convener: Okay—that is fine.

James Kelly: The job of committees is to hold the Government to account, to scrutinise legislation and to flag up other issues of relevance to the Parliament, possibly via inquiries. I agree with others that we should not have a one-size-fits-all approach. In some situations, there will be a case for small committees; in other situations, there will be a case for larger committees.

To address Dave Thompson’s point, the issue is the number of committee places. As we have had more committees, the membership has become stretched, as Joe FitzPatrick pointed out. In some cases, we do not have the experience or the resource to properly service the committees. Therefore, there may be a case for looking at a structure that reduces the number of committee places, so that we can ensure that properly skilled people are on appropriate committees and can give appropriate time to serve the job properly.

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab): An area on which there has been sizeable consensus from our previous witnesses is the inability of committees to be able to do post-legislative scrutiny or committee bills. How might that be improved? Clearly, all the issues tie together—it is a bit like unscrambling a jigsaw and finding that one part is missing when you try to put it back together again. Have any of the business managers given any thought to how we can do it better? Is it a question of increasing the size of the committees? Is it a question of having the committees meet more often? Is there a solution that would allow the committees to perform those two roles, which a number of our witnesses have suggested are almost as important as scrutinising the legislation that comes in?

John Finnie: That is a challenge. This is a law-making building, and an important function of that is to test the effectiveness of any law. The capacity of some committees is perhaps greater than that of others. I sit on the Justice Committee, the Justice Sub-Committee on Policing and the Equal Opportunities Committee. The Justice Committee has done only one very short inquiry. It would be difficult to imagine where we could fit in such business. I am afraid that I do not have a solution for you.

Joe FitzPatrick: This committee held an inquiry on post-legislative scrutiny. In summary, its conclusion was that flexibility in the system is needed to allow committees to do that work when they see it as appropriate. The Government agreed with the committee’s views on that inquiry, in which the committee spent some time considering one topic and came to what we think was the correct conclusion on flexibility.

It is appropriate that we continue to look at how committees manage their time, but it would be wrong for the Government to say that committees should operate in one way or another.

Patricia Ferguson: The issue is that committees are unable to manage their time because of the pressure of legislation, which usually comes from the Government. One of the suggestions that has come in, on which I would welcome colleagues’ views, is that after a certain period of time the Government should be required to do its own post-legislative scrutiny and to report on that to the committee, which could interrogate it further. Do colleagues think that that might be a helpful option, given that we have a finite number of members, a finite number of committees and a finite number of opportunities for committees to meet?

Joe FitzPatrick: The committee considered that and the conclusion that it reached was that there should be a flexible approach. My understanding is that that approach has been taken at Westminster, but it has not had the effect that people thought that it would have. It has got to the point where committees are saying, “Stop—we’re getting too much.”

If the Government had to do work on every bill that is enacted, for instance, that would use public money. Government resources do not come out of the ether. It is appropriate that post-legislative scrutiny happens and that the committees decide when it happens, but given the size of Scotland’s Parliament and Government, a mechanism that said that it should happen all the time would probably not tally with this committee’s conclusion—that was not the committee’s conclusion when you looked at this issue in detail.

Alison McInnes: The problem is capacity. I agree entirely that we should do post-legislative scrutiny and it is disappointing that we have not been able to. The general problem is with capacity for all the committees that we will have to set up, given the new powers.

Rather than saying that we need to be able to sit while Parliament is in plenary session—which is one simple answer—we could suggest that in order to kick-start legislative scrutiny, Parliament should agree once a year which legislation it would like to scrutinise, which would go to the

appropriate committee, and the Parliamentary Bureau would be asked to consider giving up parliamentary time for that. I do not mean that that would happen in the plenary session, but that, rather than having a plenary session one Thursday afternoon for a particular period, the committee would be able to sit and carry out that scrutiny quite thoroughly. We can all think of times when we have debated in the chamber issues that were perhaps not as important as some of the post-legislative scrutiny that we should be doing. Perhaps committees ought to be able to bid to the bureau for some of that time and to make the case for it.

James Kelly: Patricia Ferguson made some good points about post-legislative scrutiny. A practical point is that committees could consider slotting in appropriate topics such as post-legislative scrutiny when the work programme is set for the coming year. My experience as a committee member is that in some cases the work programme can very much get driven by the convener and the clerks. In some cases, that results in the convener's/clerks' pet issues being in the work programme. If it was set out that post-legislative scrutiny should be prioritised in the work programme, that might help to address some of the issues that Patricia Ferguson outlined.

The Convener: Three committee members have signalled to me that they want in—Cameron Buchanan, Gil Paterson and George Adam. Do you all want in on this subject, or on new topics?

Gil Paterson (Clydebank and Milngavie) (SNP): It is on something that has already been raised, but I would like to come back in now.

The Convener: In that case, I will let Gil in now, then Cameron, then George.

Gil Paterson: Alison McInnes raised the issue of committees meeting at the same time as a meeting in the chamber. Do the other panel members have any comment on that?

John Lamont: From a staffing perspective—from my party's perspective—I would struggle to ensure that I had enough bodies to staff the chamber and do their committee work. It would present significant challenges to a party with 20 or fewer members.

James Kelly: I understand the issue that you outline. It is the practicalities of it that are problematic. How would we prescribe when a committee would sit at the same time as the chamber? Depending on their political interests, members will argue that a debate that is taking place in the chamber is important to their party or their own political interests and they would not want it to be undermined by a committee meeting being held at the same time. The suggestion is a

reasonable one, but I am not sure how the process would operate in practice.

The Convener: The minister will comment next and will be followed by John Finnie.

Joe FitzPatrick: We need to remain flexible. In my time on the bureau, there has been at least one occasion on which a committee has said that it may require to go over the time and overlap with the start of general questions on a Thursday. I think that we approved that for one committee.

The best approach to take is that, if a committee feels that it needs to meet at that time, we should look at its demand and at what the chamber business is at the time to decide whether it would be appropriate. We should try to manage the conflicts between committee pressures and plenary time case by case. It should not be routine for committees to meet when plenary business is taking place.

The Convener: I am sorry, but I will cut across John Finnie. Given that the question process starts two weeks earlier and that a request for a committee to overlap with plenary business probably comes up nearer the time, if a committee meeting is to overlap with general questions, does that open up the question of whether standing orders should permit another member to ask a question for someone who cannot be in the chamber because they are at a committee meeting? I am not advocating that; I am just exploring the issue.

Joe FitzPatrick: On the only occasion on which we have been asked to approve committee business taking place at the same time as a plenary session, the request was made well in advance of the meeting. The committee had managed its time and it saw a time pressure whereby evidence sessions could potentially overlap with plenary business. I do not know whether, in the event, the committee had to overlap with plenary business. I cannot remember which committee was involved either, so I apologise for that. The request was made well in advance and it was well planned. The clerks of all the committees are very good at noticing pressure points well in advance.

The Convener: Okay—that is fine.

John Finnie: I will not repeat the detail of his comments, but when my colleague Patrick Harvie was at the committee a couple of weeks ago, he mentioned that two committees recently shared a debating slot in the chamber and cited the example of Westminster Hall. It is a case of maximising the opportunity for everyone to participate in debates. We are certainly open minded about such opportunities. Of course there are challenges, but any change will bring challenges and the issue is how we address them.

The Convener: At the risk of moving off the topic of committees, how do you feel about—on appropriate occasions—having fewer members take part in debates but more time for the members who speak? That is one of the issues that has arisen.

John Finnie: For a small group, it is challenging full stop. As you know, it is very arithmetical, so unless a debate goes to a second day, we have no specific entitlement to speak. What is different for members such as Alison Johnstone in my group is that we bid to speak and go along to the debate not knowing whether we will speak. We would be very wary of anything that reduced the number of opportunities for members outwith the larger parties to speak.

The Convener: We might come back to that issue.

Cameron Buchanan: The committee is constrained by its Cinderella time, because we have to finish at half past 11. In view of that, should we move First Minister's question time to Thursday afternoon, so that we are not constrained? We have to finish at half past 11 on a Thursday, which is sometimes difficult for us. I have never understood why FMQs is at 12 o'clock—I think that it is for the press or something. What do you think about moving it to 2 o'clock?

Alison McInnes: I do not feel strongly about that. We should manage our business appropriately rather than be driven by the media's requirements.

John Lamont: I am quite relaxed about the timing of FMQs. However, I am conscious of how much time the party leaders and the First Minister have to devote to preparing for it. From Ruth Davidson's perspective, if FMQs was held any later, the consequence of that would be that more of the day would be spent preparing and she would have less time to do the other things that she has to do around the Parliament, whether it is meeting groups or other engagements. Having it at the time at which it is currently held allows sufficient prep time but also allows other duties to be performed.

10:00

The Convener: For some, I guess you have made the case for having it at 4.30. [*Laughter.*]

James Kelly: I am not in favour of changing the time. I think that media coverage of FMQs is important. It is the main event of the Parliament during the course of the week and it is important that it gets appropriate media time. In addition, a lot of school groups visit the Parliament on a Thursday that will come in to FMQs, but it would

make school arrangements difficult if FMQs took place later in the day, so I favour keeping FMQs at 12 o'clock.

The Convener: The schools argument is probably the best one that I have heard so far.

Joe FitzPatrick: We need to be very careful about unintended consequences of changing our timetable. That is not to say that we should not consider potential changes. I understand the pressure that the Thursday morning committees are under, but maybe we should look at other ways of addressing that particular pressure. I am not saying no or yes to moving FMQs; I am saying that we need to look at suggestions of that sort very carefully.

The Convener: Curiously, committee members have not responded terribly favourably to the idea of a 7.30 am start.

George Adam (Paisley) (SNP): James Kelly made the point that conveners and clerks can have their own ideas about what they want their committees to do for the year ahead. What role do you think that conveners have in providing continuity and leadership on committees to ensure that committees get through the business that they need to get through?

James Kelly: The convener's job is very important not only in providing leadership but in other ways. For example, we can see how Stewart Stevenson is managing today's agenda to ensure that the committee gets through a specific amount of business by half past 11. That aspect of the convener's job is extremely important.

It is also very important for the convener to involve the other committee members in his approach to the business and to bring them with him. I have seen conveners—I will not name them—operate differently. Some will take a very single-minded approach, because they have been around the Parliament for a long time and think that they know best. I think that it is important for the convener to take the whole committee with them, to take account of different views and to have a team approach. That is particularly important when the Government has a majority on nearly all the committees. If the committees are to work appropriately, members need to work together and to respect one another, and there is a big job for conveners to do in that regard.

The Convener: This convener regards a day when I do not learn something as a wasted day. There are very few of those, I have to say.

Dave Thompson: On the point about committees and chamber time, we have heard from Alison McInnes and others about the feeling that some plenary debates are less important than some of the work that we do in committees. What

would the panel members feel about reducing the length of the core plenary sessions? At the moment, we run from 2 pm to 5 pm, 2 pm to 5 pm and 2.30 pm to 5 pm, which is eight and a half hours a week. If we were to change that to three sessions running from 3 pm to 5 pm, that would give us six hours of core plenary sessions a week and would allow committees to run on after lunchtime. They could go from 10 to 12.30, have a half-an-hour lunch break, then go from 1 o'clock right up to 3 o'clock, if they needed to.

On a Thursday, committees could finish at 11.30 for FMQs et cetera and reconvene at half past 1 or 2 o'clock and work on till 3 o'clock, if they had business to get through. The plenary sessions could run on past 5 o'clock if they needed to. What do the panellists feel about reducing the length of plenary sessions and giving committees the flexibility to run over and sit after lunch?

John Finnie: I am sorry to keep referring to what happens outwith Parliament, but I think that other points of reference are sometimes helpful. Are we driven by a formula that means that we have to fill the time, or do we make the formula fit the workload? There are weeks when many important debates take place in committee and debates in the chamber are less so. Of course, all of our debates are jewels—they are just jewels of varying quality. Perhaps if some of the scrutiny that takes place in committees took place in the chamber, that work might get a higher profile.

Again, our group sees a role for external scrutiny as well as external consultation. Indeed, I think that Patrick Harvie touched on that last week.

The Convener: We have asked others who have come before us whether it would be useful, appropriate or proper to second people from outside Parliament to committees to participate in the questioning of witnesses and related discussions. Obviously they would not have a deliberative role in casting votes and making decisions. Is that where you are attempting to lead us?

John Finnie: Yes, indeed. You will be aware that committees call on individuals with outside expertise to help them and that those individuals sit quietly at the end of the table—no doubt occasionally exasperated by the way things are going—and are incapable of suggesting other lines of questioning. We would certainly be open to the suggestion that you have made, although we agree that the person should not participate in a voting capacity.

Joe FitzPatrick: Round-table events are one of the committees' most effective tools. When I was the convener of the Local Government and Regeneration Committee, I chaired one such meeting at which committee members were silent

for almost the whole session while our guests interviewed each other across the table. The committee found that a useful way of gaining evidence and of involving external people in scrutiny. Indeed, a number of committees are now using it as a tool for allowing a crossover of ideas between people who might come from quite different starting points.

On Dave Thompson's idea about having plenary start at 3 pm, that is not something that I have considered. I can guarantee, though, that it would have two immediate impacts: first, it would make it more challenging for smaller parties to take part in debates, because of the way in which the Presiding Officer has to allocate time; and secondly, we would have many more late-night sittings, especially with stage 3 proceedings—and perhaps at even stage 1, when we want to ensure that all voices are heard—and that would have an impact on our attempt to be a family-friendly Parliament.

Flexibility is the best thing. We might be able to be flexible in that way, but if we were to constrain plenary sessions routinely, we would find it difficult to get through the business that we need to get through.

Alison McInnes: Mr Thompson's suggestion would create a real headache not just for Government business managers in particular but for the Parliamentary Bureau. In our most recent reform of plenary business, we lost the Thursday morning session, and that has already caused problems at stage 3. You will remember, convener, that stage 3 of the Climate Change (Scotland) Bill ran over a whole day—it might even have run over two days. That was appropriate, because we needed that time. We have already found it hard to cope with some of our busier bills at stage 3, so I would be reluctant to change the plenary time in the way that has been suggested.

Again, it might be best if committees could identify well ahead of time some pieces of work—not legislative work, but scrutiny work or post-legislative scrutiny—that could usefully be done when a plenary session would otherwise be taking place, and put in a bid to the Parliamentary Bureau for plenary time to be given up. That would allow things to be dealt with in a much more managed way, as the Government business manager could say, "No, we have a number of stage 3s at that time", "We need space for ministerial statements" or whatever.

The Convener: During stage 3 of the Climate Change (Scotland) Bill, I spoke, as the minister, for more than four hours. I note that our longest afternoon runs from 2 o'clock to 5 o'clock, which is only three hours, so the point is well made.

One of the things that we have been looking at is whether we should routinely be scheduling stage 3s over multiple days. I do not want to open up the subject of parliamentary structures, because we are inquiring about committees, but there is an interaction between the two. When Parliament deals with amendments at stage 3, it is, in a strict sense, sitting as a committee rather than as Parliament. Do our witnesses want to comment on that? I will bring in Cameron Buchanan followed by Patricia Ferguson.

Cameron Buchanan: My point has been answered, convener.

The Convener: In that case, we will move to Patricia Ferguson.

Patricia Ferguson: The Minister for Parliamentary Business commented earlier that committees needed the flexibility to decide what their business should be. I think that we would all agree with that, but the problem that has been presented to us is that there is no flexibility to do that kind of work, and the committee is trying to find some way of allowing that flexibility to exist.

One issue that has been raised with us, on which there is no consensus but there is an interesting debate, is the status of committee conveners. It has been suggested to us—not necessarily by a convener, I have to say—that committee conveners should be paid some kind of allowance, and that convenership should be seen as an alternative career route to being involved in Government. It has also been suggested that we need to find other ways of enhancing the status of conveners to recognise the importance—we are told—of the committee process itself. I would be interested to hear colleagues' views on that.

John Finnie: We all have an enhanced role. We are all very well remunerated and it is a privilege to be in this building—and we forget that at our peril. Conveners of committees are afforded respect for the additional tasks that they take on, but I would be totally opposed to their getting any extra remuneration, as it would send entirely the wrong message.

I have read some of the background information, and I understand that there might be additional pressures that would mean that being a convener could intrude on a member's constituency work. I would certainly be open to considering the issue of providing support to a convener in their other duties, but I think that remuneration that is attached specifically to the role of convener would send entirely the wrong signal. We are all here and are all capable of doing our job, and that is the way that it should be.

The Convener: Just to be clear, I take it that you would not stand in the way of a specific additional allowance that is intended not for the

personal benefit of the individual who has been elected to Parliament but to support the other activities that they are having to take time away from doing.

John Finnie: That would need to be looked at in detail—

The Convener: But you do not oppose that suggestion.

John Finnie: I do not oppose it in principle.

The Convener: Let us put it no stronger than that.

John Finnie: I do not agree that remuneration should be attached to the individual.

The Convener: Okay. Minister, do you want to comment?

Joe FitzPatrick: One of the challenges that members face is working out how to stretch their allowances to support them in both their constituency work and their committee work. It is very difficult for members to balance those elements with the allowances that they have.

We have been talking to some extent about other places, where members get allowances to ensure that their constituency office is well staffed and that they have a well-staffed resource to support them in their committee work. We should look at those examples. Obviously our clerks do a good job in supporting members, but that only goes so far, and I hope that Parliament will consider addressing that issue at some point.

The Convener: Let me just take stock of that novel suggestion, which I do not think the committee has heard before and which is worthy of further thought. Do other business managers have an immediate reaction to the alternative idea that there could be a modest uplift in allowances to cover the work?

Mr Lamont, I will put you on the spot. I deal equally with everyone.

John Lamont: It would be very difficult to sell to the outside world any case or argument for paying politicians more. It would cause a feeding frenzy among the media, so we would have to be very sure of our case before the suggestion was progressed.

Perhaps the answer lies more in a change of culture. If I were to draw comparisons with committee conveners at Westminster and elsewhere, I would suggest that there is a much greater willingness to issue statements and reports that are critical of Government policy. There is a feeling among certain elements in the Scottish Parliament that there is a reluctance to do that. Arguably, a culture change would achieve many of the things that have been discussed and

address some of the concerns that have been raised about how the committees are working.

10:15

The Convener: I suspect that Government ministers do not always welcome Mr Gibson and Ms Grahame—and even, on a couple of recent occasions, Mr Don—rising to their feet, but there we are.

James Kelly: I am not convinced of the need to pay conveners more. If we started down that route, we could make the same argument for other positions in the Parliament such as spokespeople and party leader roles, and then things would become difficult. I am also cautious about enhancing allowances, and I think that it would be better to explore how we could better resource the clerks and the work behind committees.

I agree with John Lamont about the need to change the culture. As the current session has continued, there has been evidence that the Government has sought greater control, particularly over reports that come out of committees. That has been a regrettable development.

Alison McInnes: The Presiding Officer has set out a coherent argument for elected conveners and for conveners to be remunerated. It is a recognition of the Parliament's role and reflects the sense that we should strengthen the voice of the Parliament in the same way that we reward the Presiding Officer and the Deputy Presiding Officers. Such roles are important, and there is benefit in considering how we can enhance the independence of committees. Committee conveners are already significant leaders and have a strong role in fostering committee cohesion and encouraging a cross-party approach to the scrutiny that they do, but that independence might be enhanced by our considering what the Presiding Officer has set out clearly in her presentations.

Patricia Ferguson: As a follow-up to the comments that Mr Kelly and Mr Lamont made, I wonder whether they and other colleagues are attracted to the idea of there being more committees on which, as of right, the Opposition has the position of convener. I do not necessarily mean one Opposition party; I mean the Opposition.

Joe FitzPatrick: That would depend on the make-up of committees. There is a good reason why the Public Audit Committee has that rule. We must be careful about making such changes to subject committees and other committees, because we need to make sure that the Parliament reflects the democratic wishes that are expressed by the electorate in an election. There

is a balance to be struck, so we need to be careful about what we propose.

James Kelly: I take Joe FitzPatrick's point that the committee structure must reflect the democratic outcome of the election. However, if committees are to operate properly and serve a purpose, they need to properly hold the Government to account. If we get into a situation whereby the Government simply uses its majority to push changes through a committee, as has been the case in some instances, that undermines democracy and the role of committees.

From that point of view, if we are really serious about moving forward and making the Parliament and its committees more effective, we should look at the idea of giving Opposition parties a stronger voice within the committees as a counterbalance to the control that the Government seeks to exercise.

Joe FitzPatrick: Our committees do a really good job in scrutinising legislation. A couple of comments have been made about that. However, there are times when committees come down to party politics. People have joined the political parties for a reason, which is that they agree with colleagues. At those times, people vote along party lines, and that happens across all the parties.

If we look at the times when there have been divisions within parties, we see that the Green Party is the most united, as its members vote together probably 100 per cent of the time. The Lib Dems would be the second most united—in fact, I am not sure whether there have been any occasions on which Lib Dems have voted against each other. That would be difficult in committee, because they never have more than one member on a committee. Likewise, the Conservatives are very united in voting together. However, you will find that there have been only a small number of occasions when Labour and Scottish National Party members have voted against their colleagues on committee.

That is all down to party politics and it is what we expect, given the reasons why we have joined our parties. For most of the time, particularly when committees are considering legislation, members take their party political hats off and consider the legislation properly. In stage 1 reports from across the committees, we keep hearing people say that their committee is different, but all the committees are different, and they all take their role very seriously, particularly at stage 1. The Government reads those reports and acts on them.

There are a couple of good examples of that from this session, including stage 1 of the Mental Health (Scotland) Bill. The Health and Sport Committee has a majority of Government

members on it but it has a Labour convener. There are six significant recommendations in its stage 1 report on that bill—I will not read them out—and, in various ways, the Government accepted them into the legislation, either by working with a member of the committee or by lodging Government amendments at stage 2 or 3.

Another, probably more significant, example was the Local Government and Regeneration Committee's consideration of the Community Empowerment (Scotland) Bill. I have a list of some 20 recommendations from the committee's stage 1 report. The committee has an SNP convener but it does not have a Government majority. The Government listened to what the committee said, the committee having probed, questioned and done its job at stage 1. Again, the Government either worked with individual members or lodged amendments at stage 2 or 3 so as to take on the committee's recommendations, which were based on the evidence that it took at stage 1.

Our committees do a fantastic job, and we should shout about that more often. The media are only interested where there is a party-political division. That gets reported. When the Government accepts the recommendations of committees, that does not get reported. Going right back to 1999, whatever Government there has been, our committees have done a very good job.

The Convener: This committee looks forward to working with you on the proposed lobbying bill. We will see how you respond to the comments that we have made most recently.

Alison McInnes: I wish to respond to what Ms Ferguson said. To suggest that we should somehow set aside a particular committee as being only for the Opposition or balanced in favour of the Opposition is the wrong approach. I believe that all members are capable of setting aside their political beliefs when they are properly immersed in the work.

That takes us back to what we were discussing earlier—we need to foster independence and encourage cohesive maturity. I have seen committees change as they have gone along. Members become more confident and more independent minded about pursuing issues. We should develop those parliamentary skills and that sense of belonging to the committee instead of saying that Government members are not capable of setting their party politics aside.

I understand the point, and it seems like a simple suggestion, but we should consider what we need to do to give respect to committee members and allow them their independence.

Patricia Ferguson: Those who have suggested that way of adding more independence to

committees are not suggesting that the committees could not act independently; they are recognising that, at the moment, some committees—for example, the Public Audit Committee—because of their nature, are chaired by Opposition members as of right. The suggestion is that, because we are a unicameral body, as we get further powers it might be possible or sensible to extend that arrangement further. I do not think that they are suggesting that that rule should apply to all committee conveners; they are suggesting that there are certain committees for which that might be worth considering.

The Convener: I return to something that Alison McInnes said quite early on, which we have worked our way back to. Reference was made to three changes to the Justice Committee during stage 1 of the Criminal Justice (Scotland) Bill. The question in my mind from the point at which that was mentioned—which has not otherwise arisen, so I will ask it now—is this: when we have a major piece of legislation that one can reasonably foresee will take some considerable time to scrutinise, is there a case for establishing a bill committee? The members of that committee, who would have that remit alone, would clearly have a greater chance of seeing the bill at least to the end of stage 1 and, one would like to think, all the way through. We could do that under the procedures right now—there is nothing to prevent our doing it. Does Ms McInnes think that that would be a useful way of dealing with the issue that she properly raised quite early on?

Alison McInnes: It is worth considering. The danger of that suggestion is that the members would not necessarily bring to such a committee the expertise that would sit with a thematic committee. I know how difficult it is for business managers to find members to put on another committee. The proposal might fit better with the idea of having a larger committee that could break itself down into sub-committees. Members from the larger committee could elect to spend a lot of time working on a bill via a sub-committee.

The Convener: It is worth saying—again, I say this wearing my individual member's hat, not my convener's hat—that when, about 10 years ago, we had a joint meeting between a Westminster bill committee and our thematic committee because both committees were about to start legislating in the same area, it was immediately apparent that our committee was much better informed and engaged. That had nothing to do with the politics; it was down to the composition of the committees. That is a good example that I can draw on, and I would like to know what others' views on that are. Minister, I think that you broadly agree.

Joe FitzPatrick: I broadly agree with that.

The Convener: I see other members nodding their heads.

Dave Thompson: What do the panelists think about having a limit on the number of bills that a Government can introduce in any given year? I understand that there is a lot of politics behind that. There have been accusations that certain Governments in the past have been light on policies, bills and all the rest of it, although the trend could go the other way. If a Government was limited to 10 or 12 major bills per session, would that be a good thing or a bad thing?

Joe FitzPatrick: What do you mean by “major bills”?

Dave Thompson: I suppose that I mean any bills. I will change the question.

Joe FitzPatrick: You have come up with an interesting figure, because that is about the number of bills that there have been. That is where we are at. In the first session of Parliament, there were, on average, 12.5 bills per year; in the second session, there were 13.25 bills per year; in the third session, there were 10.5 bills per year; and in this session we expect the figure to be 13.2 bills per year.

The figure is always about the same, and there is always extra pressure towards the end of the session because bills can slip a bit from one year into the next. In the final year of a session, fewer Government bills are introduced but we have the pressure of additional members’ bills being introduced. The non-Government bills unit prescribes a cut-off date, which means that a number of members’ bills are introduced at the very end. Those are all additional pressures but I think that, in general, the Parliament manages to cope with them.

I try to work with the relevant conveners to manage the situation so that, where possible, the workload is spread across committees and across the years of the session.

The Convener: I signal to members that I aim to draw the meeting to a close in about 15 minutes. If we drop short of that, that is fine.

James Kelly: I do not favour Mr Thompson’s suggestion of putting a cap of the number of bills, because I hope that a Government would not legislate just for the sake of it. There might be events in different portfolio areas that drive the need for legislation, and in putting a cap on the number of bills we could end up tying our hands.

10:30

The Convener: The one issue that we have not covered specifically is the remits of committees. Are there any opportunities to merge existing committees? I just throw out the idea—without

advocating it—that the DPLR Committee and this committee could co-exist, as they are in the same relatively technical area. Are there subject committees that could sensibly be merged?

Joe FitzPatrick: When the current parliamentary session started in 2011, the then business managers—that did not include me, because I was not the Minister for Parliamentary Business at the time—sat down and discussed what the best make-up of the committees would be, taking into account the subject areas and the sizes of the various political groups. Although I am sure that the Liberal Democrats would love to be on every committee, it would be impossible for them to service them all. Issues such as that had to be taken into account.

The make-up of committees cannot be worked out until the outcome of an election is known. If we were to sit down and have that conversation now, taking account of the Parliament’s current powers, I am pretty sure that we would arrive at a different outcome from the one that we have now. However, it is difficult to change the layout midstream. Business managers will have a discussion early after the next election, based on the outcome, in which they will look at the make-up of the committees.

The Convener: Did John Lamont want to come in—or were you merely nodding?

John Lamont: I was nodding.

The Convener: I am content with that. There are no other questions. Do the witnesses want briefly to draw to our attention any matters that we have not otherwise covered but that we might usefully pick up as part of our inquiry?

John Finnie: The question of whether the Parliament should have its own stand-alone human rights committee has been raised on a number of occasions but the idea has been discounted. My group would favour extending the Equal Opportunities Committee’s remit specifically to include human rights.

The Convener: It is part of the DPLR Committee’s remit to check whether draft legislation conforms to human rights legislation, but I suspect that that is substantially less than what you are calling for.

John Finnie: Yes, that is right. There is a role for the Justice Committee, too, as the issue is linked to its remit.

James Kelly: I know that the role of parliamentary liaison officers sitting on committees has previously been raised with you. That whole area needs to be clarified. What is their job? Is their remit correct? Should they sit on a committee? If they are to sit on committees, are they able to take an objective view on any

legislation and issues that are progressing through those committees? The committee needs to bear that in mind.

The Convener: I see no appetite for further discussion. This has been a useful session. Thank you very much for giving us your time and some interesting thoughts. We will certainly take account of what we have heard.

10:32

Meeting continued in private until 11:15.

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

All documents are available on
the Scottish Parliament website at:

www.scottish.parliament.uk

Information on non-endorsed print suppliers
Is available here:

www.scottish.parliament.uk/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@scottish.parliament.uk
