

# **PROCEDURES COMMITTEE**

Tuesday 29 May 2001  
(*Morning*)

Session 1

£5.00

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## PROCEDURES COMMITTEE

### 5<sup>th</sup> Meeting 2001, Session 1

#### CONVENER

\*Mr Murray Tosh (South of Scotland) (Con)

#### DEPUTY CONVENER

\*Mr Kenneth Macintosh (Eastwood) (Lab)

#### COMMITTEE MEMBERS

\*Brian Adam (North-East Scotland) (SNP)

\*Patricia Ferguson (Glasgow Maryhill) (Lab)

\*Donald Gorrie (Central Scotland) (LD)

\*Mr Frank McAveety (Glasgow Shettleston) (Lab)

\*Mr Gil Paterson (Central Scotland) (SNP)

\*attended

#### WITNESSES

Alison Coull (Scottish Parliament Legal Office)

Hugh Henry (Paisley South) (Lab)

Alex Johnstone (North-East Scotland) (Con)

Alex Neil (Central Scotland) (SNP)

Anne Peat (Scottish Parliament Directorate of Clerking and Reporting)

Mr Lloyd Quinan (West of Scotland) (SNP)

Mrs Margaret Smith (Edinburgh West) (LD)

Elizabeth Watson (Scottish Parliament Directorate of Clerking and Reporting)

Mike Watson (Glasgow Cathcart) (Lab)

#### CLERK TO THE COMMITTEE

John Patterson

#### SENIOR ASSISTANT CLERK

Mark MacPherson

#### ASSISTANT CLERK

Katherine Wright

#### LOCATION

Committee Room 2



## Scottish Parliament

### Procedures Committee

*Tuesday 29 May 2001*

*(Morning)*

[THE CONVENER *opened the meeting at 10:33*]

### Convener's Casting Vote

**The Convener (Mr Murray Tosh):** Welcome to the fifth meeting of the Procedures Committee in 2001. We are slightly behind time, but everyone whom we have been expecting is now here. An apology for lateness has been received from Frank McAveety, who has missed his train. No reasons—humorous or relevant—have been offered for that, but we will no doubt get the story later.

The first item on the agenda is the question of the convener's casting vote at various stages in committee. I welcome Alex Johnstone, Margaret Smith and Mike Watson, who are representing the conveners liaison group—as it is called until we change standing orders. An apology has been received from Andrew Welsh, who was also invited to attend.

The essential background to the issue is set out in a brief paper. The issue was highlighted to the committee a long time ago. Recently, when we reached the stage of acting on the request to consider the matter, the committee agreed that I should write to the conveners liaison group and the result is the attendance of our three witnesses this morning. I do not want to put anybody on the spot, but I offer our witnesses the opportunity to make a statement about the general use of the casting vote. Mike Watson has looked up purposefully.

**Mike Watson (Glasgow Cathcart) (Lab):** We have not prepared anything in advance, so we are all looking at each other. I speak in the light of my experience not only in the Parliament as the convener of the Finance Committee but as a previous member of committees in other forums and other places.

The general principle that a casting vote should not be used to effect change is broadly accepted, and I subscribe to it. I would adopt that position in the Finance Committee, if the situation arose. In two years of the Finance Committee, I have been obliged to use my casting vote only once and on that occasion change was not the issue.

It is important to state that there are different

situations in which the casting vote may be used, as the discussion paper highlights. The situation in the Finance Committee arose when we were deciding what a topic of inquiry would be. I have subsequently learned that I acted incorrectly. Two proposals were put forward for an inquiry subject, and I counted those in favour of one and those in favour of the other together in the same vote, whereas the committee should have voted for and against each one. The vote was tied and I used my casting vote to vote for one of the topics of inquiry. That is the only such occasion that has arisen in the Finance Committee.

There is a difference between a situation in which a committee is dealing with amendments to a bill—or amendments to a committee report, when a vote might effect change—and a situation in which a decision is being taken on which inquiry to choose. If I had handled the vote correctly, the vote would still have been tied. Nonetheless, following my experience, the procedure is now clear in my mind.

I believe that there is some benefit in establishing a common approach to casting votes. It would be in the interests of conveners, committees and the Parliament to have such an approach for the protection of conveners and committees and to avoid accusations of using a vote to gain political advantage.

**The Convener:** In considering its forward work programme, a committee is considering a change, and the status quo is the previously agreed programme. However, in drawing up a programme from scratch, the status quo cannot be defined. I presume you think that, in those circumstances, it is reasonable to exercise a casting vote as a substantive vote.

**Mike Watson:** If a committee has begun a certain inquiry and then there is a proposal to suspend or abandon it and move on to another inquiry—

**The Convener:** That is different, though. No change is involved if a committee has completed an inquiry, or anticipates completing an inquiry, and is discussing what to do next.

**Mike Watson:** Yes. I do not regard that as change because, until a vote is taken, there is nothing to follow the inquiry. The vote does not change something that already exists.

**The Convener:** You would feel happy about exercising a casting vote as a substantive vote in such circumstances.

**Mike Watson:** In that situation, yes.

**The Convener:** That seems fair enough.

**Alex Johnstone (North-East Scotland) (Con):** I have experience of using the convener's casting

vote. I am not at liberty to discuss all the occasions on which I have done so, for various reasons. The first time that I used my casting vote was when the Rural Affairs Committee was discussing the National Parks (Scotland) Bill. The suggestion was that a simple majority in the initial vote was always required to effect change—that is a firm guideline that we should stick to. During the passage of that bill, I had the experience of voting for an amendment and then using my casting vote to defeat it. I had no problem with that. We can stick to the simple procedure of requiring a majority for change in the initial vote.

However, there are other ways in which the casting vote can be used. I am concerned by the forcefulness with which some of the papers before us emphasise the requirement for strict guidelines to protect the convener. The guidelines are not always as simple to interpret as they were in the example that I gave from the debate on the National Parks (Scotland) Bill. As Mike Watson said, there will come a time when a convener has no alternative but to cast his vote as he feels appropriate. In that situation, it is important that he makes his decision and is prepared to defend it, rather than hiding behind the defence that is available to him.

**Mrs Margaret Smith (Edinburgh West) (LD):** Although I have been billed as someone who has used her casting vote, my clerk has confirmed that I have not yet had to do so. We found that in the Health and Community Care Committee there have been fewer than 10 votes in two years, during which we have considered two pieces of legislation. Like most committees, we do most of our work by consensus.

I endorse many of the comments that my colleagues have made. We would benefit from clarity as to the convener's position. The paper's position on the procedure for dealing with amendments to bills is to be welcomed and I support it. However, I am concerned about the implications for the select committee work that we do. Like Mike Watson, I have questions about discussions on future work load and work programmes. I would not like the more informal type of committee work to become formalised just for the sake of it. Members have traditionally taken an informal approach to discussions about work programmes and so on.

My question is: what is the status quo? When a committee is dealing with an amendment to a bill, it is clear what the status quo is. However, in many other situations it is much more difficult to determine. Is the status quo what the convener has in front of them—an amendment to the wording of a report on which the committee has been working in select committee mode—or is it the policy of the Executive and the Parliament as a

whole? That is often open to interpretation.

There is mileage in seeking clarification of the convener's role in the legislative part of our work. The situation regarding other types of work is more complicated. It will be difficult to devise a rule that suits every occasion. Guidance—but with a strong steer—would probably be more useful. We should try to uphold the general principle that the casting vote should not be used to effect change. However, the convener should be allowed some flexibility because there are situations that do not fit neatly into that box.

**The Convener:** I saw Brian Adam and Donald Gorrie indicating that they wanted to speak. If the conveners want to respond, they need only indicate that.

**Brian Adam (North-East Scotland) (SNP):** I share Margaret Smith's view that the key question is: what is the status quo? The papers before us suggest that, when dealing with legislation, the status quo is the bill. However, the bill is just a set of proposals. At stage 2 we also have a committee report, in which a committee of the Parliament, acting on its behalf, has taken a view on the bill. How would the conveners act if the bill said one thing and the committee report another? Would they regard the committee report as the status quo—because that represents the decision that the Parliament has reached on the matter—or would they regard the proposal in the bill as the status quo? Recently, in the debate on the Housing (Scotland) Bill, there were some examples of where the casting vote was exercised against the view expressed in the committee report.

10:45

**Mike Watson:** I might not be the best convener to comment on this because the Finance Committee does not deal with much subject legislation. Where a committee produces a report that is at odds with the bill or calls for changes to the bill, that is a clearly expressed position of the committee itself. Amendments have to be lodged in respect of the bill, not the report. The amendments to which Brian Adam refers would relate directly to the report. It is a tricky issue. It could be argued that the committee's position is the majority one. However, in strict terms, the bill is the status quo, because it is in that context that amendments are moved and debated. On balance, the bill is the basis of the discussion and is therefore the status quo.

**Alex Johnstone:** I am strongly inclined to agree with Mike Watson, particularly in relation to Executive bills. If the Executive commands a majority in Parliament, it must have the authority to act on behalf of Parliament. Where a committee

chooses to challenge that, the Executive must be treated as holding the view of Parliament in that respect. I will throw into the works a point that occurred to me while I was rereading the paper: although the Executive view should be regarded as the view of Parliament while a majority runs the Executive, that would not necessarily be my view if the Executive were run by a minority administration.

**The Convener:** That raises an interesting question.

**Mrs Smith:** There is a pragmatic approach to the problem. Members often use stage 1 committee reports as an opportunity to flag up difficulties in the bill. They tend to welcome the general principles of the bill but use stage 1 to indicate that they have a problem with particular issues. Generally, everyone in the committee can agree that there is a difficulty with a particular element of a bill. However, by the time we reach stage 2 and stage 3, the discussion is fine-tuned to the level of what amendments members are prepared to support. The stage 2 debate to which Brian Adam referred was very detailed. If, at that point, a convener cannot persuade the whole committee to come behind a particular amendment on an area of concern that was flagged up in the stage 1 report, that is when the casting vote comes into play. Stage 2 is a different animal from stage 1, particularly the generalised concern that might be expressed at stage 1. It may well be that the Executive will have introduced proposals to allay the fears of some members of the committee, who then feel that the approach taken at stage 1 has worked. Although other members might not agree, that is the balance of opinion at stage 2.

I agree with my colleagues that the bill is the status quo and that amendments should be dealt with as set out in the briefing paper.

**Brian Adam:** Do the conveners agree that when we set up the Scottish Parliament we wanted to enhance the role of the committees? If the conveners regard the bill as the status quo and suggest that conveners should use their casting vote against the view of the committee, surely they are undermining that vision. We should bear it in mind that that happens only in circumstances where there is need for a casting vote. We want a Parliament that is driven by committees and not just the Executive. Do you not accept that, as the committees act on behalf of the Parliament and the only time that the Parliament expresses a view on a bill, beyond the general principles, is when the committee expresses its view, the committee report should become the status quo?

**Alex Johnstone:** I am confident that, where there is a majority administration in control of the Executive, if Parliament wishes to overturn the

views of the Executive it should be able to command a simple majority in committee. If it cannot achieve a simple majority, it would be improper for the casting vote to be used to achieve that.

**The Convener:** The bill would come back at stage 3 and in the event of an issue being debated and tied at stage 2, the Presiding Officer would almost certainly select a similar amendment at stage 3, allowing the Parliament as a whole to decide on the issue.

**Brian Adam:** If we accept the view expressed in the paper and by the conveners who are here, the driver is on the Executive's side. However, we should always try to protect the interests of the Parliament. I therefore suggest exactly the opposite: that it should be for the Executive to justify its position against the view of the committee. If the committee has already expressed its view and the Executive has not satisfied the committee, as demonstrated by its failure to achieve a simple majority, it is then open to the Executive to overturn a decision at stage 3.

**Alex Johnstone:** I remind Brian Adam that the Executive governs with the authority of Parliament, so Parliament's authority lies on both sides.

**Mike Watson:** To qualify what Alex Johnstone said earlier, if the committee decided that it wanted to express a different view from what the bill was saying, there must have been a majority in the committee for that view at that time. Something would have to have happened to change that, such as a slightly amended position on behalf of the Executive. If the committee had a view at stage 1, one could reasonably expect there also to be a majority view in the committee at stage 2. The chances are that the sort of situation that Brian Adam describes would arise relatively infrequently.

**Brian Adam:** Well, it happened five or six times during consideration of the Housing (Scotland) Bill, and the casting votes all went in a direction that did not favour the committee report.

**The Convener:** I remind members that we are gathering evidence this morning. We are testing views rather than seeking to change people's minds, and I think that we have explored those points. We will discuss this again when we reflect on the evidence that we have gathered.

**Donald Gorrie (Central Scotland) (LD):** I accept the position that, for a Government bill, the casting vote should be given for the bill and against the amendment. I suggest that strong guidance be given to the Presiding Officer that he should select an appropriate amendment to test the view of the whole Parliament.

I have two questions. First, what happens with

members' bills? Suppose that Mike Watson is running with his Protection of Wild Mammals (Scotland) Bill, or that I progress with my idea for a bill to outlaw sectarianism. Those bills would contain the views of Mike Watson and Donald Gorrie and not the views of the Executive. If there were an amendment to a bill on sectarianism saying that it was okay to abuse Buddhists but not Hindus, for example, is it the bill or the amendment that represents the status quo? How would that be decided?

My second question concerns reports outwith bill territory. To oversimplify matters, there may be a big issue in the Rural Development Committee about whether subsidies should go to cows or to sheep. If the committee is pretty evenly divided, does the convener have the casting vote, and if the convener happens to be a sheep person or a cow person, can he or she just vote that way? That is a theoretical example.

**The Convener:** I think that it goes to the cows, so long as it is dairy. [*Laughter.*]

**Mike Watson:** Without wanting to personalise the example by referring to my bill on hunting, my view is that the same principles apply. The bill is the status quo, whether it is a member's bill, a committee bill or an Executive bill. That is what the committee is being asked to debate and consider amendments to. I do not differentiate between Executive and non-Executive bills.

The issue that Donald Gorrie raised with his example of sheep and cows would be analogous to the situation to which I referred earlier. In such a situation, we would take the votes for and against sheep and for and against cows. If there is no status quo in such a situation, it is then appropriate for a convener to use their casting vote on the basis of what they think is best in the circumstances.

**Alex Johnstone:** While declaring an interest.

**Mike Watson:** If that is appropriate. It might indeed be appropriate if the circumstances to which Donald Gorrie referred occurred in the Rural Development Committee.

**Mrs Smith:** I concur with that.

**The Convener:** It occurs to me that a member's bill that reaches stage 2 has obviously been approved by Parliament at stage 1. In a sense, the convener would be backing Parliament by treating the bill as the status quo at stage 2.

**Mr Kenneth Macintosh (Eastwood) (Lab):** Did the conveners discuss the paper in the conveners liaison group? I am quite happy for all three of the conveners to speak as individuals on whether the group has a general view and whether all conveners would welcome the clarification that is given in the paper.

**Mike Watson:** We had a discussion but no conclusion was reached, so there is no conveners liaison group position as such.

**Mr Macintosh:** Do you welcome the clarification that the paper gives? It makes matters much clearer for committee members as well as for conveners. The trickiest areas seem to be those such as future business or reports, which Mike Watson touched on. Margaret Smith has managed to avoid using her casting vote altogether, which is good because it avoids division. Are you happy that there are suitable mechanisms for conveners to avoid having to use their casting votes, which is what we are trying to bring about? Do you have that mechanism at your fingertips?

**Mrs Smith:** I am not convinced that we have what I would call a mechanism. The position that I usually take is that unity is strength—if a committee report is unanimous, it is much more difficult for someone who might want to rubbish that report to do so successfully. That does not mean that they would not try. Therefore, I urge the Health and Community Care Committee, when we might be heading towards an impasse, to consider seriously coming up with a position that everyone can agree with, because that would be a much stronger position for the committee and for me as convener to be in and from which to speak to people about the report.

We do not have a mechanism. The role of the convener is to try to pull together all the different proposals. Most of the time, most of us probably feel that committees respond to that. That is the manner in which I deal with disagreement.

As I said, it is quite tricky to say what the status quo is when putting reports together. The Health and Community Care Committee tends to take evidence and then have discussions around that evidence. More often than not, we simply have question-and-answer sessions with experts. We have an expert working with us who, with the committee clerks—usually also with me and sometimes with me and the deputy convener, Margaret Jamieson—will come up with a report that they think reflects the work that the committee has done.

I would find it difficult to consider the draft report as the status quo because the person who compiles the report often misses the point or gets the wrong angle on an issue that we have been exploring—that is no reflection on anyone who has assisted us. The draft report is often rehashed considerably by the committee as members say, "No, that is not what we meant," or, "No, I don't think that."

Defining the status quo will be much more difficult at that point, because an awful lot of clarification takes place. It is more difficult to have



clear-cut guidance on the position of a convener in such cases. I would question what the status quo is when discussing a draft report in a way that I would not when discussing bills. I have probably not explained that very well, but it is how we have to deal with situations.

**Mr Macintosh:** I think that Margaret Smith answered the point perfectly. The point is that the draft report is the status quo—at least that is what we are suggesting. I can imagine, however, that that could be quite tricky in some situations.

11:00

**Mrs Smith:** If a reporter has come up with a draft report, that draft report simply reflects the views of that reporter. The report has not been anywhere—unlike in the member's bill scenario that was discussed a few moments ago, in which, as Murray Tosh pointed out, Parliament will already have undertaken stage 1. The status quo is more clear in that case.

I am not picking out Mary Scanlon for any reason other than that her measles, mumps and rubella vaccine report was one of the Health and Community Care Committee's more recent reports, but that was simply her report and will remain so until it goes through an exhaustive process of people adding to it, asking questions about it and adding further lines of inquiry.

I have a difficulty with a report as it is first presented—before any committee member other than the member who presented it has had a chance to discuss it or input into it—forming a committee's status quo. That is a grey area and might give rise to various interpretations.

**The Convener:** Presumably, the tidying-up exercise—the clarification, the straightening out or members pointing out that the adviser may not quite have understood the sense of what was said—is likely to be done on a broadly consensual basis. We are likely to have a vote, perhaps with the requirement for a casting vote, only if there is a fundamental point of difference within the committee.

Some committees have dealt with that simply by reflecting their division of opinion on the relevant issues; others have pushed such matters to votes. The committees that have voted on such matters have experienced the most internal angst; the others have either allowed individuals to be named as dissenters or have shown that a majority of committee members favoured a particular point of view. The art of convenership is to carry people along as much as possible but, where there are fundamental disagreements, to reflect those in committee reports.

**Mr Macintosh:** You have highlighted the

mechanisms that conveners have at their disposal to avoid divisions, convener. However, is it clear, when a report has been drafted, when changes have been made to it and when it is still before the committee, whether that report is the work of a reporter or the expert adviser? If the report does not carry majority support, should the convener support it? Perhaps that situation has not arisen, but I imagine that it could. A reporter's recommendations or an adviser's recommendations, in the form of a draft committee report, may make it through to that stage. Is it the job of the convener to support the report in such a situation and therefore to use their casting vote in favour of it, or should they avoid taking a decision and using a casting vote until the report can be amended to such an extent that it commands majority support?

**Mike Watson:** That is a tricky question. I had not considered the status of a reporter's or adviser's report. I return to the original position: if the majority of committee members are not in favour of a report, that report will not stand, whether the decision is on something that the committee had written or on an amendment to it. I would be unhappy about using a casting vote in such a situation as that would, in effect, create a position that the majority of the committee did not support. I have not been in that position but, if Ken Macintosh were to press me for my view, I would come down on the side of not using the casting vote.

**Alex Johnstone:** Let us consider the issue as simply as possible. In cases where a proposal is to effect change but that proposal cannot command the majority within a committee, it is critical that the casting vote should be used in such a way as to ensure that no majority equals no change. According to the CLG paper, legal advice suggests that we are required to use the casting vote where a division has taken place and the vote is tied.

**Mr Macintosh:** May I clarify that point? If the committee is producing a report, the convener would not use a casting vote, because to use a casting vote in that circumstance would be to create a body of opinion that did not previously exist. In other words, we are saying that a report does not really exist until it is recommended by the committee. A report is just a draft produced by a member or an adviser, so the convener would not use their casting vote to make it the will of the committee or the expression of the committee's view.

**Mike Watson:** The casting vote would not be used not because the body of opinion did not exist before, but because there was not a majority of the committee in favour of the proposal. Whether we were discussing the report as presented to the

committee or an amendment to the report, if it did not carry the majority of the committee, I would be uneasy about using my vote to create that majority.

**The Convener:** These matters are best resolved by avoiding circumstances in which we have to have a vote. If the committee is divided—unless that is clear-cut and we can clearly resolve it by a casting vote that we can justify—there will be a weakness in the committee report, as it will have to reflect the fact that opinion was divided. That is the only fair way.

**Brian Adam:** It was said that the convener would have to justify their decision. I know that conveners cannot be forced to explain the way in which they use their casting votes, but should they explain what they believe to be the status quo and why they have cast their vote in one way or another? Would it be a help or a hindrance to have to have the justification for the vote in the *Official Report*?

**The Convener:** I exercised a casting vote once and I do not think that explained it, but that is a fair point. Have any of the conveners justified or explained a casting vote?

**Mike Watson:** I did not explain it when I used it, but that was not because I was unwilling to do so. I would not cast a vote that I did not feel I could justify. If it is felt that the convener should make a statement after using his or her casting vote, I would be comfortable with that.

**Mrs Smith:** I, too, would be comfortable with that, as I believe it would be beneficial. One of the benefits of such a statement would be clarity, which is one of the aims set out in the papers. It would be beneficial to have something in the *Official Report* to explain why the convener has acted in such a way, particularly in a situation such as Alex Johnstone described, in which he voted one way and then had to use his casting vote in another.

**Alex Johnstone:** I would have no problem with a requirement to explain why I took a decision. Every time that I have had to exercise a casting vote, I have done so after a brief consultation to make sure that I was fulfilling the guidelines that I personally have adopted. I would be perfectly happy to justify my casting vote when I have to use it.

**The Convener:** That is a useful idea to aid good practice. We may reflect on that when we finish dealing with the matter at a subsequent meeting. We have had a good thrash at this issue; we have had half an hour on it. Everyone has had the opportunity to make the points that they wanted to make, so I thank the three conveners for giving up valuable time this morning to share their experience and wisdom with us. We will return to

the matter at a subsequent meeting.

## Minutes (Publication)

**The Convener:** The second item on the agenda is the publication of Scottish Parliamentary Corporate Body and Parliamentary Bureau minutes. The item has arisen as a result of a letter by Lloyd Quinan. I invite Lloyd Quinan to make introductory comments before I open up the discussion.

**Mr Lloyd Quinan (West of Scotland) (SNP):** My letter is fairly self-explanatory. To me, this is an issue of principle and an issue of best practice in a new structure. My fear, which a number of members share, is that the practice of behind-closed-doors meetings, specifically those of the Parliamentary Bureau and the horse-trading that goes on there, is not in the best interests of members of the Parliament or in the best interests of the broadest concepts of democracy. I say that fully aware that the deputy chief whip of my party is to my left.

The bureau has become the trading place between parties, not the place where the business of the Parliament is done in the Parliament's best interests. It is becoming the place where power is exercised by the business managers, who are—let us face facts—the effective transubstantiation of their party leaders. That is not, to my mind and the minds of a number of other people, the best way for us to proceed if we wish to do so democratically. It is also entirely at odds with the essential spirit of the consultative steering group report. It suits the business managers, the parties and the party leaders to operate on that basis, but it denies the people of this country the right to know why decisions are being made about issues such as parliamentary time.

Frankly, if we were simply to receive notes of the bureau's decisions that are anyway made available 24 hours later either in the bulletin or in other parliamentary publications, that would be a waste of paper. Full minutes are the only way for us to have a genuinely open and democratic structure at the heart of the programming of the Parliament. It is the key to what goes on in relation to the membership of committees, debates and the timetabling of all work in the chamber.

My feeling—and this has been expressed by people from a number of parties—is that we need to go back to the CSG report and, taking on board its spirit, produce full minutes of bureau meetings. I appreciate that there are questions and concerns specifically to do with commercial confidentiality, which might arise with the SPCB. My feeling is that slightly more clarity comes from the SPCB, but considerably less clarity and understanding comes from the secret society that is the bureau and the business managers.

**The Convener:** Will you clarify what you mean when you say that you want full minutes from the bureau?

**Mr Quinan:** I mean in exactly the same way as we have published minutes from the official report.

**The Convener:** You mean that you want an *Official Report* of bureau meetings?

**Mr Quinan:** Absolutely.

**The Convener:** Do you believe that bureau meetings should take place in public?

**Mr Quinan:** I have not thought seriously about the issue. That may be a step too far. It would not necessarily be advantageous to have those meetings in public where there is potential for conflict, but I leave that entirely to the Procedures Committee to consider.

**Donald Gorrie:** I want to explore whether there might be some ground between the notes of decisions taken that are sent out at the moment and the *Hansard* that you are proposing. A fuller note of the business of the bureau, which records any votes or matters of dispute, could satisfy what you think is the reasonable demand of the Parliament. We all go to meetings at which there are minutes of varying fullness. Would a fairly full minute but not a verbatim record be satisfactory?

**Mr Quinan:** I welcome your suggestion, but we have to recognise that the archive of the Parliament will be around for many centuries. If we begin the process of democracy in this country on the basis of having limited minutes, we deny to future generations access to the reality of the Scottish Parliament in the years 1999, 2000 and 2001. We cannot in any conscience do that.

It strikes me that, if we are to do what Donald Gorrie suggests and have a fuller description of decisions, that might mean that we would have a clue about, for example, what was discussed under points 1 to 5 as opposed to being told only what was said under points 6 to 12, as outlined in annexe C. I do not think that that alone would meet the requirements of open democracy.

It requires some discipline from the business managers and the bureau to operate as the bureau of the Parliament rather than the bureau of the party leaders. That is the essence of the issue: the Parliamentary Bureau should not be a minor battleground for party politics; it should be about the timetabling of the Parliament's business. As we are all aware, the powers that the business managers are given by the Parliamentary Bureau allow them to apply muscle on the members of their group, particularly with regard to members' business debates.

11:15

**The Convener:** The clerk has asked me to point out that something funny happened with the software in annexe C. The meeting of 24 April is covered in points 1 to 5 and the meeting of 1 May is covered by points 6 to 11.

**Mr Quinan:** So they are not from the same meeting.

**The Convener:** No. Point 6 should have been point 1.

**Mr Quinan:** That explains why we need to have a fuller minute. Researchers going through the dusty archives of the Scottish Parliament in 100 years' time will not have the benefit of having the clerk at their right shoulder to tell them that that is the case.

**The Convener:** It is on the record now. Would a clerk like to make an intervention? No? It appears that the clerks are not prepared for their words to appear in the *Official Report*.

**Mr Macintosh:** Would there be a difference between the way in which the Parliamentary Bureau and the Scottish Parliamentary Corporate Body would be reported? The fact that the law governing the SPCB—

**Mr Quinan:** As I said in my opening remarks, I fully appreciate the requirements of commercial confidentiality. My concern about a lack of openness or transparency is not as great in relation to the SPCB as it is in relation to the dark and secret society that is the Parliamentary Bureau.

**Brian Adam:** Would Mr Quinan care to tell us what he thinks happens at meetings of the Parliamentary Bureau—

**Mr Quinan:** You are overly protective of it, Brian.

**Brian Adam:** I have not even asked my question, Lloyd. You seem to be rather sensitive about the issue. What do you think is happening at the Parliamentary Bureau that you feel is being hidden by this dark and secret society, as you describe it?

**Mr Quinan:** As you know, some decisions in the Parliamentary Bureau are made on the basis of a trade-off. For us simply to get a note of the decision that has been made when a trade-off has taken place in which party interest has won over a member's desire for a debate—which you know happens regularly—is not good enough.

**Brian Adam:** That does not characterise my experience of the Parliamentary Bureau meetings.

**Mr Quinan:** In that case, produce the minutes and you will not have to explain yourself in a committee.

**Brian Adam:** I do not feel that I have to explain myself.

**Mr Frank McAveety (Glasgow Shettleston) (Lab):** I point out to Lloyd Quinan that, if the organisation were secret, we would not know its membership.

In your letter, Lloyd, you talk about the four key principles of the CSG. Which of those does non-publication of a full minute breach?

**Mr Quinan:** Primarily, the first, which is:

"The Scottish Parliament should embody and reflect the sharing of power between the people of Scotland, the legislators and the Scottish Executive".

**Mr McAveety:** Could you expand on that?

**Mr Quinan:** It breaches it on the basis that the access to the full deliberations of our Parliament are not accessible to the people of Scotland if the meetings that are at the centre of the programming of the Parliament are, effectively, held in secret.

**Mr Gil Paterson (Central Scotland) (SNP):** Do you see any benefit in keeping the new minute?

**Mr Quinan:** In keeping it as it is?

**Mr Paterson:** Yes.

**Mr Quinan:** I can see that it would be useful if the creeping presence of Westminster practices continues. That presence has wandered into a world that is not in keeping with the spirit of the CSG report and is more informed by the behaviour in another place. That is a corrupting influence in the centre of our Parliament.

**Mr Paterson:** Do you see any benefit in a fuller minute?

**Mr Quinan:** The greatest benefit would be absolute clarity for the people of our country—the electors who put us here. More important, we should consider the matter from the historical point of view. Instead of speculating about how decisions were made on the basis of a note of decisions, historians, political historians and sociologists in future could have a full understanding of the reasons why decisions were made. The most important element is that the bureau should be a place not for the exercise of party politics, but for an open and democratic approach to the timetabling of Parliament for the benefit of Parliament and therefore for the people of Scotland.

**Mr Paterson:** Have you spoken to any members of the bureau on this matter, and have they explained why it is a good idea to keep things the way they are? In fact, the bureau has only recently changed procedure.

**Mr Quinan:** I can say only that my discussions

have been informal. As my position is known, the information that I gain from members of the bureau is limited.

**Patricia Ferguson (Glasgow Maryhill) (Lab):** I have never before been accused of being a member of a secret society. Given that I do not have a vote on the bureau, I will exempt myself from Lloyd Quinan's description.

I do not recognise Lloyd Quinan's suspicions about the bureau, which is the body that Brian Adam and I sit on. Having said that, I am sure that Lloyd would say that I have the advantage in that respect, because he does not go to the meetings. However, I have a couple of points on that. First, as the note of decisions makes clear, many of the issues are straightforward and are more or less nodded through. Such issues include the appointment of advisers, requests from committees to meet outside Edinburgh—which is something that the bureau would always encourage—and the allocation of business to one committee or another, which is a straightforward process in the majority of cases and involves a discussion with the conveners of the relevant committees.

You said that you would like historians to be able to look back and find out why decisions were taken. Can you illuminate our discussion with some examples of decisions that have concerned you and that have had a result with which you were uncomfortable?

**Mr Quinan:** There was the whole palaver—that is the only way that I can describe it—over the restructuring of committees. I can speak very specifically from the party group of which I am a member, in which there was an absolute lack of understanding about what was really going on. None of the decisions that were taken or discussions that were had could be supported by minutes of meetings. We must remember that, in the bureau, the business manager of a party presents a group—not a party political—approach on an issue. I am dependent entirely on my faith in that individual that they are giving a full and true account of that meeting. However, that is not appropriate in the circumstances. A minute of meetings would have a double effect. I believe that, again for historical reasons, it gives us a guarantee. Moreover, if members are aware that there is a minute, they will be more open and straightforward in what they say.

**Patricia Ferguson:** To be honest, Lloyd Quinan may be highlighting a weakness within his political group. I am not sure that that was the experience of other parties. It was certainly not the experience within my party. If the bureau were required to publish full minutes, would not that encourage decisions to be made elsewhere and not at its meeting?

**Mr Quinan:** Without doubt, that is the greatest fear. As we know, a lot of the horse-trading is done at the pre-meeting of the bureau and the informal meetings between the business managers before the bureau meetings. It could be argued that, if a full minute were taken, those meetings would make even more decisions in greater secrecy. To go back to the spirit of the CSG, if we said that a full minute would be taken, it is to be hoped that those backstairs, pre-bureau meetings would not become the place where decisions were made before meetings at which decisions went through on the nod.

**Mr Macintosh:** I sympathise with the thrust of Lloyd Quinan's remarks, but I am not sure about some of his colourful language. Such matters should be treated with greater transparency. It is unfortunate that people might suspect that decisions are taken in a certain manner when that is not necessarily the case. I am happy that the bureau's decisions are published. There should, however, be greater openness with the SPCB; I do not share Lloyd Quinan's faith in it. I know less about what is going on in the SPCB than I do about the bureau.

The broader issue concerns the balance of power between back benchers and those front benchers who make the decisions on their behalf. That is a housekeeping matter and we appoint a business manager to make decisions for us. We are not happy with all the decisions, but I favour greater transparency.

**Mr Paterson:** Lloyd Quinan highlighted the committee restructuring. If we are honest about that, we have all been told different things at different times, such as that one party had signed up to something, while another party had signed up to something else, when, in fact, no party had signed up to anything. If details of the broader issue and discussions were available to us all, we would all know exactly what was happening or what was about to happen. We could then have input to the process.

**The Convener:** The point was made earlier that meetings and telephone calls happened away from the bureau and that much of the horse-trading was conducted face-to-face between the participants, not by the bureau as a whole. A full *Official Report* of the bureau's meetings would not advance our knowledge.

What would help would be to know what is being discussed and decided at the bureau meetings. I am not convinced of the case for coverage of the proceedings in an *Official Report*. I have always been in favour of crisp minutes that explain what was decided, rather than long verbatim reports of who said what. We shall note the position today, but as Lloyd Quinan said, it is appropriate that we examine some of the issues that have been

highlighted today in the context of our CSG inquiry.

**Patricia Ferguson:** I do not know whether I can reassure Lloyd Quinan, but the Presiding Officer is a jealous guardian of Parliament's rights as opposed to those of a particular party or the Executive. He takes that responsibility seriously within the bureau and other committees, including the SPCB.

**Mr Quinan:** I fully appreciate that. Thank you, Ken Macintosh—as you know, I use colourful language at the best of times.

I am not expressing a deep-seated fear that there is an internal Bilderberg group in the Scottish Parliament. The general issue is about our being open. Let every word be printed for posterity, so that people can see what decisions were made. I appreciate what you said, convener—in many contexts, the type of minute that you were talking about is absolutely appropriate. However, when we make decisions that affect directly the lives of the people who entrusted us with making those decisions, names must be named. We work and live in a structure that is personality driven to a degree, in so far as ballot papers show the names of individual candidates, not the names of the parties, and it is vital that decisions have names attached to them.

11:30

In my stupidity, I have so far failed to mention the position of the minority parties and of independents and potential independents. That issue will be around for a long time and I hope that when committee members consider it in relation to the bureau, they will also consider the idea of independents or smaller parties having a rotational presence on the bureau—again, for the sake of greater democracy.

Large numbers of people throughout the country voted for the two party leaders—Tommy Sheridan and Robin Harper—who sit in the Parliament and the largest individual vote went to Dennis Canavan, the independent member. We should not wait for a party to have five MSPs before it is considered to be a real party. This is about the big parties exercising protectionism—they want to protect their time and their backs. However, that is anti-democratic and some of the decisions that are made in the bureau affect the independent member and the leaders of the two smaller parties, who have no access to information about those decisions.

**Patricia Ferguson:** I would like to make a point of clarification, as that is not the case. A full briefing is given to those members after every bureau meeting. We have discussed this issue before and I accept completely Lloyd Quinan's

point that those members do not sit on the bureau—he outlined the reasons for that. However, they are fully briefed after each meeting.

**The Convener:** Lloyd Quinan has done the committee a service this morning by raising those issues, some of which are uncomfortable. As I said, we will reconsider the matters again during our CSG inquiry. However, this morning I wish members simply to note that the bureau has responded to our previous request by producing the level of minute that it now publishes and to note the position in relation to the SPCB, where an outcome is expected in the fullness of time.

I thank Lloyd Quinan for sharing with us the idea that Brian Adam is to his left—[*Laughter.*] We did not think that any member of the Scottish Parliament was to the left of Lloyd Quinan, but there you go.

**Mr Quinan:** Just you, convener.

**Donald Gorrie:** It would be possible for us to recommend that the minute of the bureau meetings should be much fuller on the matter of the future business programme. The other matters are technical.

I accept that there was a big disaster over the handling of committee restructuring, which gave rise to a lot of suspicion. However, the bureau's normal business is the business programme, and it would be helpful if the minute on that item was less opaque. If the committee were to agree, my suggestion could be transmitted to the bureau.

**The Convener:** Those comments will be held until we discuss these matters again, as we should consider them in the round.

Does the committee agree to note the position as it stands?

**Members indicated agreement.**

## Conveners (Speeches in Chamber)

**The Convener:** For agenda item 3, we have been joined by Alex Neil, who initiated the item and who has sat patiently through our previous discussions. Welcome, Mr Neil. Would you like to give us your thoughts on the time that is allocated to conveners of lead committees for speeches in the chamber?

**Alex Neil (Central Scotland) (SNP):** I begin by reminding members about the general principles of the CSG—in particular, the “sharing of power” both inside and outside the Parliament. Inside the Parliament, the “sharing of power” between the front benches, the committees and back benchers is critically important. Striking a balance between those three groups is also critically important, if we are to adhere to the basic principles on which the Parliament was founded.

The way in which the Parliament’s legislative process has been designed is clearly different from that of Westminster. Our legislative process recognises the importance of the committees. There is pre-legislative scrutiny; submission of stage 1 reports by committees to the Parliament as part of the stage 1 debate; and the fact that all of stage 2 is taken in committee—none of it is discussed on the floor of the chamber, as the process goes to the chamber only for stage 3.

The role of the committees must be recognised, particularly at stage 1 and stage 3. Stage 1 involves the production of an often substantive report on a bill, with recommendations to the Parliament from at least one committee and sometimes two or three committees. At stage 3, the bill goes before the Parliament as amended by the committee at stage 2.

My suggestion is that there should be an opportunity at stage 1 for the convener of the lead committee to supplement the written report with a full report to the Parliament that recognises the role of the committee and that gives the committee equal status with the front benches. The convener should be given a similar opportunity at stage 3.

Let me deal with two of the genuine concerns that have been expressed, the first of which is that committee conveners would take up all the time for speeches. I do not believe that that would happen. My suggestion is that speeches at stage 1 and stage 3 should be limited to the convener of the lead committee, who would speak for eight, nine or 10 minutes, depending on the allocation. At present, those conveners have about four minutes, and it can be difficult to squeeze in comments on pre-legislative scrutiny.

Let me take members back to the Abolition of Poidings and Warrant Sales Bill or to the Education (Graduate Endowment and Student Support) (Scotland) Bill. Substantive written stage 1 reports were produced on those bills, but a number of points should also have been brought out by the conveners of the lead committees during the stage 1 debates in the chamber. To be frank, the suggestion that an additional four or five minutes for a convener’s speech would denude the back benchers of a substantial amount of time does not hold water.

On the second major objection, I refer members to the letter from Sir David Steel in which he said that there might be resentment because conveners have already had an opportunity to put across their point of view in committee. With all due respect to the Presiding Officer, he is missing the point. The role of the committee convener during stage 1 and stage 3 is not to give his or her personal view, irrespective of how long their speech is. Rather, their role is to report on behalf of the committee and to explain some of the reasoning behind the stage 1 recommendations or the stage 2 amendments.

I will give a quick example. The Education (Graduate Endowment and Student Support) (Scotland) Bill was dealt with by the Enterprise and Lifelong Learning Committee, which is the committee that I convene. That bill contained five sections, three of which were not particularly politically controversial, but to which we made improvements. The first two sections, which dealt with the graduate endowment, were politically controversial, but nevertheless, the committee agreed to accept our political differences in order to try to improve the bill. The convener should have the opportunity to explain to the Parliament in a reasonable amount of detail where the committee is coming from in relation to its recommendations and proposals.

My suggestion is a fairly modest proposal, which reinforces the principle of equality in the legislative process between the front benches and the committees, without damaging in any way the opportunity for back benchers to speak in debates.

**The Convener:** In the light of subsequent discussion and correspondence, it has become clear to all that you speak on behalf of the conveners of lead committees—that was not Sir David Steel’s assumption, nor was it mine when the matter arose initially. Are you broadly content with the proposal from Sir David and George Reid that an attempt will be made to allocate some additional minutes to the convener of the lead committee? I think that that proposal was made in George Reid’s letter, rather than in Sir David’s, but it is also implicit in Sir David’s letter.

**Alex Neil:** As you know, we had a fairly good

discussion on that issue at the conveners liaison group. The general view of the group—there was not one dissenting voice—was that the recommendation was right in principle. However, I am not satisfied with an attempt to allocate more time to conveners; I would like more of a commitment from the Presiding Officer that more time will be allocated to the convener of the lead committee. The onus would then be on the bureau to ensure that, if it is expected that a number of back-bench members will want to speak and time might be tight, there is scope to extend the time that is allocated to the debate.

Acceptance of that proposal would mean that the convener of the lead committee would get an extra four or five minutes, which is—at the outside—the equivalent of a back-bench speech. If the bureau believes that time might be tight, it is the bureau's responsibility to address that problem. The important thing is to get a commitment from the Presiding Officers to establish the principle that, at stages 1 and 3, the committee conveners will be allowed the same time—they may not take it all up, especially in consideration of smaller bills—as the front-bench members. That would reinforce the principle, during the legislative process, that the committees have the same status as front-bench members.

A number of members feel that the Parliament has slipped too far the other way, so that front-bench members—irrespective of whether they are from the Executive or the Opposition—enjoy more power than back-bench members and committees. The proposal would redress the balance, to some extent.

**The Convener:** Can you clarify what length of time allocation you are seeking? In normal, Executive-led debates—say at stage 1—a substantial amount of time would be allocated to the leading minister, and the time allocations would then decrease as members from other parties entered the debate. Are you looking for parity with the time that is allocated to Conservative and Liberal front-bench members?

**Alex Neil:** Broadly, yes. The job of the lead committee is to scrutinise and comment on an Executive bill, not to introduce it. Giving the convener broadly the same amount of time as the Opposition spokespeople would be satisfactory.

**The Convener:** Do members have any points to raise or questions to ask?

**Mr Paterson:** Have you had discussions with other conveners on the matter?

**Alex Neil:** We discussed the matter at the conveners liaison group. Some conveners wanted to go further than I did—on this issue, as on most others, I am a very moderate person. For example, the convener of the European

Committee believed that the principle should be extended to debates that were not part of the legislative process, but which concerned subjects on which a committee had reported. He believed that, in such debates, the Presiding Officer should allocate the same time to the committee convener that he allocates to the Opposition spokespeople. There is an argument for that, but I am not here to argue that case.

My point is that it is critical that committee conveners are given more time to speak in the legislative process. We establish the importance of the lead committee's role right up to the stage 1 debate, when we seem to downgrade it. I am saying that we should recognise the work of the committee and award the committee the status that it deserves and requires.

**Donald Gorrie:** I am with you on your basic proposition. However, if the committee convener is also a party spokesperson, is it reasonable for them to say, "I am now speaking as the committee convener," and then, halfway through, to say, "I am now speaking on behalf of my party"? Alternatively, if the committee convener makes a major speech as a committee convener, should he leave the party fighting to other people and stick entirely to putting forward a committee view?

**Alex Neil:** Ideally, that should not happen. However, some members hold both positions—especially in the Tory party, as their numbers mean that they are left with no choice in the matter. Whoever is in that position should make it absolutely clear at the start which role they are speaking in. If they decide to try to combine the roles, they should be up front about it. If they combine the roles, they should not get double the time. If I were in that position, as convener and party spokesperson, I would invite the deputy convener of the committee to make the committee speech and I would make the party speech.

**Brian Adam:** You have suggested a time limit of eight or nine minutes. However, during longer debates, Opposition spokespeople sometimes get considerably longer than that—up to 15 minutes or longer for SNP members. Would you expect conveners to be allocated the sort of time that is allocated to Conservative or Liberal front-bench members, which tends to be less generous than that which is allocated to SNP spokespeople?

It is up to whoever is presiding over the meeting of the Parliament to choose the order in which members speak, but their choice is usually informed by the submitted party lists of those who have requested to speak. Should the committee convener be discounted from the party list to speak after the party spokespeople on behalf of the committee?



11:45

**Alex Neil:** Irrespective of whether my proposal to change the time allocations is accepted, my view is that members who speak on behalf of the committee should not submit their names to the Presiding Officer as part of a party list or be counted as part of a party list. The role of the committee in the legislative process should be fully recognised. It debases the committee if the convener has to put himself or herself on a party list. The whole point of the convener's speech is that it is a report to the Parliament from a parliamentary committee, not from a committee of a party. Irrespective of the time that is allocated, a convener who speaks on behalf of a committee should not have to submit their name as part of a party list. That is a contradiction in terms, because the point of allowing a convener to speak is to get a non-partisan report on the outcome of the committee's deliberations, not the outcome of party deliberations.

In stage 1 and stage 3 debates, the time allocations have seldom reached 14 or 15 minutes. If they did, that was because we did not have a busy agenda or because the subject was of such import that it required that amount of time to be spent on it.

**The Convener:** Excuse me for interrupting, but if the Parliament was engaged in a three-hour debate, the Liberal and Conservative spokesmen would be allowed around 12 minutes. However, they are usually allowed less than that.

**Alex Neil:** I am trying to establish a principle. We recognise the importance of the lead committee's role right up to the stage 1 debate, then we downgrade it. I am suggesting a way in which we can continue to recognise the importance of the committees in the legislative process. It is absurd that we place so much emphasis on pre-legislative scrutiny and the hours of committee work that results in a two-volume report—the committee recommendations in one volume and the evidence in the other—and then ask the committee convener to sum up that work in three and a half minutes.

**Patricia Ferguson:** I have some sympathy with Alex Neil's proposal, at least as far as stage 1 debates are concerned. Stage 3 debates are a totally different ball game, and I do not think that the principle that Alex Neil has outlined should apply to them.

I support Alex Neil's view on the allocation of time to committee conveners in stage 1 debates. If the time allocations were to be rejigged—and the rejigging could have substantial impact on back-bench members—the Presiding Officers would have to know in advance that a committee convener wanted to speak, and the convener

would have to speak exclusively on behalf of the committee. On occasions, when conveners have been allocated some extra time, they have got halfway through their speech and said, "That is what the committee thought. I will now tell you what my party thinks."

Obviously, extra time is allocated not so that party business can be discussed, but so that the conveners can represent what has been said at the committees. I have a lot of sympathy with that view.

**Alex Neil:** I agree. The onus would need to be on the convener to make it clear to the Presiding Officer that they were speaking in their role as convener of the committee, and to have submitted their name to speak accordingly, rather than on the party list. If they have submitted their name through the party list, they should be given the same time that is allocated to a party back bench.

Patricia Ferguson's second point is also valid. If a member has submitted their name to speak as the convener of the committee, but starts to give their own or their party's point of view halfway through the speech, the Presiding Officer would be well within his or her rights to remind the member that they have been given that allocation of time on the basis that they are speaking on behalf of the committee, in the same way as the Presiding Officer can interrupt a front-bench speaker if he or she tries to speak on behalf of another party. I have often heard the Presiding Officer say, "You are not here to comment on that. You are here to comment on this." That is a judgment for the Presiding Officer but, in principle, Patricia Ferguson is absolutely right.

**The Convener:** We have probably evolved a general agreement that, in stage 1 debates, we would like greater credence, including a proportionate additional amount of time, to be given to the lead committee convener, on the clear understanding that the convener accepts the responsibility to speak for the committee. The situation is not the same at stage 3, when the formal debate after amendments is only 30 minutes long, but it would be reasonable for the committee convener to ask to speak in that debate as well. I am sure that that could be accommodated without any reference to time.

If we can broadly agree that view, it could form the basis of the advice that is given to the Presiding Officer and the Parliamentary Bureau when they consider the allocation of time for stage 1 debates.

**Brian Adam:** If we were to proceed along those lines, we would also have to have an agreement or understanding with the Presiding Officers that the conveners' time would not be taken out of the

balance of the party arrangement.

**The Convener:** That is implicit in the view that I have outlined.

**Donald Gorrie:** I was going to make a similar point. In making its decision on timetabling, the bureau should take account of that allocation. If it meant, for example, that all the party spokesmen had their allocation reduced from 12 minutes to 11 minutes to counterbalance the additional time, that would be better. The problem of stealing back benchers' time would not then arise.

**Mr Macintosh:** My point exactly.

**Alex Neil:** I think that cutting back the time of the front-bench spokesmen would be a very popular measure.

**The Convener:** We shall proceed on that basis and see how it goes. I see no reason why we should not be able to work things out to everyone's satisfaction. Is that agreed?

**Members** *indicated agreement.*

**Alex Neil:** I thank the committee very much indeed.

## Committee Agendas

**The Convener:** We are joined for this item by Elizabeth Watson, whose paper we are considering. She will take us through her report and make it clear to the committee what we are invited to do with the three suggestions.

**Elizabeth Watson (Scottish Parliament Directorate of Clerking and Reporting):** The paper draws together three of the issues that the committee agreed to consider as part of the committee operations inquiry. All of them relate to the setting of agendas and planning of business in the committees.

Paragraph 2 sets out the issues that the directorate is addressing in the paper. The first issue is the respective roles of the committee and convener in business planning and setting agendas. The second issue is how an agenda can be changed once it is published. The third issue is what provision there can be for emergency business and whether there should be an ability to raise matters without notice in a committee meeting.

The paper attempts to take the committee through the current arrangements that exist in each of those situations, and makes a number of recommendations. I would like to help the committee through it by dealing with any questions that arise. The paper represents the views of the clerking and reporting directorate, rather than my own views. However, the decisions are obviously for the committee to make, and it is not appropriate for me to press any particular line against another. Rather, it is for me to help the committee through the issues that arise.

In the first situation, we have tried to analyse the respective roles of the committee and the convener in business planning. The current provisions set out two distinct roles, but possibly not all that clearly. One of those roles might be called forward planning and the other involves setting agendas on a week-to-week basis—a task that the standing orders give at present to the conveners. The forward planning is the bigger picture. Committees are planning six or nine months ahead, or even two years ahead in some cases, the issues that they will address and the inquiries that they will handle. On a week-to-week basis, it is for the convener to notify the clerk of the agenda. Not only does that advance the committee's forward plan, but it programmes in the other things that may be referred to committees, such as subordinate legislation, bills and matters from the European Committee. The question that arises is whether the balance is correct.

The next section of the paper deals with

changes to an agenda.

**The Convener:** Can we take it section by section?

**Elizabeth Watson:** Of course.

**The Convener:** I feel that what you set out for business planning and agenda setting was generally pretty acceptable as a statement of how it works and should work. Because I have no overview of the situation, I am not aware of how all the committees are working, but I was aware of some early difficulties and friction on a couple of committees. However, having heard nothing in the past year, I assumed that things were now working reasonably well. Do you, Elizabeth, or any members know whether that is an area of continuing difficulty, or have the committees got it all worked out now?

**Brian Adam:** It is fine.

**The Convener:** Can we therefore agree to the first section of the paper?

**Donald Gorrie:** I have no evidence about this, but I would just like to clarify something. If a member of a committee is very keen that a committee should discuss something, but the convener's view and the consensus of the other members is that it is a load of rubbish, does the individual member have the right to get that matter on to a future agenda?

**Elizabeth Watson:** There is no right for a member to have something put on an agenda, but members can feed into the discussions on the forward work programme. If the committee agrees to take up a suggestion, that is another matter, and it becomes part of the work programme. The week-to-week agenda setting is at the discretion of the convener.

**Donald Gorrie:** I just wondered whether such a situation had arisen. I know that there were some stushies early on, but I have not heard of any since then. I assume that, in the example that I gave, the member could reasonably get an item on an agenda that would allow him to say, "We should be examining X." He might be thoroughly defeated in a vote and the issue would disappear, but I should have thought that he had the right to get it on the agenda.

**The Convener:** I do not think that that sort of thing would usually appear on the public agenda. The member could raise it at one of the regular housekeeping sessions when the forward work programme was being discussed. If the committee thought that it was a fair suggestion, it would agree to include it. If it did not, the member in question would just have to accept that. We are not in the game where somebody wants an item on the agenda for the *Official Report*. If that were to happen, that might have to be covered in the

redrafting of rule 12.3.1 of the standing orders, which the conclusion of Elizabeth Watson's report indicates might be appropriate to clarify matters. We could try to build that point in there if we had to, but I would rather that committees worked out such things by practical good relationships and commonsense working, rather than formalising everything down to the finest detail.

**Brian Adam:** Obviously, we do not want to be utterly prescriptive about what committees are doing if there is not a problem. However, I would like clarification as to whether forthcoming business has to appear on a committee agenda on a regular basis. If so, how regularly should that happen? That would allow any member to raise the issue of what might be considered in forthcoming business. Can you clarify when committees have to discuss forthcoming business?

**Elizabeth Watson:** Standing orders do not prescribe that the forward work programme must appear on an agenda. In practice, committees discuss their forward work programmes either as part of their formal agenda or as part of what might loosely be called housekeeping.

**Brian Adam:** Would it be useful to insist that the item appear at least biannually on a committee's formal agenda?

**The Convener:** The recommendation is that

"conveners should be urged to programme regular reviews of the committee's work programme".

I should have thought that committees would want to fine-tune their programme regularly, especially in private session when a degree of informality obtains.

12:00

**Brian Adam:** I accept that that is much the best way of dealing with the issue. However, there needs to be an opportunity for formal discussion of the work programme, so that it can be recorded that a member feels aggrieved and wanted to address a particular issue. If everything is done informally, they cannot show whoever asked them to raise the issue when they did that. We do not want to be too prescriptive, but we should recommend that forthcoming business be part of a committee's formal agenda at some point.

**The Convener:** Can you see a way of reworking rule 12.3.1 to incorporate the right of a member to have his or her request for an item to be examined rejected on the record, for the comfort and protection of that member?

**Elizabeth Watson:** We would seek advice from the legal office on changes to the wording of standing orders. That would form part of the process of clarifying the respective roles of the

committee and the convener in forward planning and agenda setting. If the Procedures Committee would like standing orders to make it clear that committees should decide formally on a forward work programme, that could be accommodated.

**Brian Adam:** It would be nonsensical for the item to appear on every agenda, but if it appeared on a committee's agenda at some point, every member would have the opportunity to discuss it.

**The Convener:** We could resolve the issue by having committees' discussions of their work programmes appear in the *Official Report*. That would allow people to see what matters had been raised, by whom, when and with what results.

**Brian Adam:** That would be another way of dealing with the issue.

**Mr Macintosh:** I sympathise with what Brian Adam has said. Is there a happy medium between being prescriptive and the recommendation that is made in the paper? I am not aware of problems relating to our forward work programme on the committees of which I am a member. If a member wants to state on the record that they raised a particular issue, there are various ways in which they can do that—through points of order, for example.

**The Convener:** Brian Adam's point is that sometimes a member feels that he or she must put something on the agenda or must be seen to do that. If a committee decides not to conduct an inquiry into, say, fish farming, the member who has raised the issue must be able to demonstrate that he tried to have it included in the committee's work programme.

The solution to the problem is not convoluted standing orders. We should ask whether, now that the official report is fully staffed and resourced, we should not place all the issues that we have been discussing on the public agenda of committees. The same point was made earlier with reference to the Parliamentary Bureau. Why should the general public not see what reasons were advanced for decisions about what work we do, how we allocate time or which subjects we debate? The committee may want to discuss the issue more fully, away from the general issue of separating out the work programme from the convener's day-to-day or week-to-week handling of business.

We need to deal with the question of how we are seen to raise and dispatch issues. I sometimes wonder whether committees have not retreated too far from the public agenda. In this committee, we always discuss our work programme on the record. We are about to consider a draft committee report—if we ever get there, we will do it on the record, rather than in the privacy in which most other committees choose to wrap up such matters. There are issues here of transparency

and openness. The particular difficulty that Brian Adam has highlighted may not have been a factor in our early decision to take matters off the public record—in effect, to ease the strain on the official report.

**Mr Macintosh:** Is this something that we can deal with in the CSG report inquiry?

**The Convener:** Yes. It raises issues of transparency and accountability. Members of the public have spoken to me about matters that they would like to have included on committees' agendas. I was not able to deal with their queries satisfactorily because I could not show them in the *Official Report* what had been said on the issue or that a colleague had raised it in private session. Doubts are raised about the system when discussions take place in private or without proper scrutiny.

Do we agree that Brian Adam has made a valid point, which we will consider in the context of our CSG report inquiry? As part of that, we can address the broader question of what should be included in committee agendas, and whether we have struck the right balance between what is discussed privately and what appears in the public domain.

#### **Members indicated agreement.**

**Mr Paterson:** The second last bullet point in the summary of recommendations states:

"Conveners should, however, in exceptional circumstances be given the power to include emergency business in the day's agenda".

**The Convener:** We have not yet reached that item. We are still dealing with the first set of issues.

We now move to paragraphs 9 and 10 of the paper, on changes to committees' published agendas.

**Elizabeth Watson:** Changes to the published agenda and the taking of emergency business are linked issues, but they can be separated in the way set out in the paper.

The arrangements in the current standing orders for changing an agenda differ, depending on whether that happens on the day of the meeting or prior to that. Paragraphs 9 and 10 are concerned with changes other than on the day of meeting. Again, the general principle is that the convener sets the week-to-week agenda of a committee. The convener has the power to change an agenda within the time scale set out in the paper. However, committees might want to have regard to the need to give due and proper notice. Any proposed changes to the standing orders must take into account the fact that the committees are trying to conform to the CSG principles of

openness and accessibility. Perhaps conveners should be invited to use the power to change agendas sparingly, so that proper notice can be given.

**The Convener:** The third and fourth indented bullet points in your summary of recommendations are relevant. If we agreed the substance of the recommendations, you would presumably consider any changes to standing orders that might be required and provide revised guidance to committee conveners clarifying the circumstances in which business should be changed and how that might be justified.

The committee seems content with those recommendations, which brings us to the issue of emergency business. That is dealt with in paragraphs 11 to 16 of the paper and in the fifth indented bullet point.

**Elizabeth Watson:** On the day of a meeting, a committee's agenda moves to a different section of the business bulletin. That is significant under the Parliament's current standing orders, because the agenda becomes part of the daily business list. At present, it is very difficult to change an agenda on the day of a committee meeting. For that to happen, standing orders require the agreement of the Parliament on a motion of the Parliamentary Bureau. That is a problem because committees and the Parliament do not meet at the same time. We need, therefore, to consider how rule 5.5.3 operates in relation to committees. A change to the agenda might be required to deal with a detail such as the identity of a witness changing.

At present, because of the inflexibility and difficulty in changing a committee agenda on the day of the meeting, there is no provision for emergency business. It is appropriate to balance the need for openness and accessibility and the ability of committee members to prepare to take items, with the need to act with urgency on the day of the meeting for an individual item.

There is an argument for a convener to be given the power, in exceptional circumstances, to put an emergency item on the agenda. That, perhaps, would be a power to be used very sparingly. In the general run of things, one would expect a committee properly to prepare to debate and discuss an issue. Committees are likely to want to call witnesses, and difficulties would be created if items were put on agendas at short notice. Given that one cannot rule out the possibility of an urgent matter arising at short notice, there is an argument that conveners should have that power.

**The Convener:** Elizabeth Watson has made a valid central point that, just as the Parliament can respond to something that happens out of the blue, committees would benefit from having the same ability. In order for us to make progress on

the issue, we would need to see a paper that examined all the implications, not least so that the circumstances could be defined in which it would be appropriate for conveners to act in that way.

The paper should also look at changes to standing orders and the disentanglement of the subject from the issue of the business bulletin. We do not want the production of the bulletin to be made unduly difficult, as reprinting bulletins involves time lags and expense. Much fleshing out is required. Do members feel that that is something that we should be moving towards?

**Donald Gorrie:** I would like to see whether the committee agrees with the principles according to which I approach such issues. All democratic bodies should be as flexible as possible and should respond to what goes on. On the other hand, we should not be bounced into things. A simple rule would be for a convener to be able to add new business if that was agreed unanimously by the committee. However, if that was not the case, the convener could not put the question whether to add the item to a vote. That means that anyone who was unhappy with the item could, in effect, stymie it. That allows for a consensus response to an emergency, but it prevents us from getting bounced into anything. That simple principle could be reflected in a rewriting of the rules, as suggested by the convener.

**Mr Macintosh:** Can someone give me an example of the exceptional circumstances in which the provision would be needed? I cannot think of any. As Elizabeth Watson said, committees meet for mature and reflective debate. The Parliament already has the power to discuss matters and it is a more political place than are the committees.

In my own experience, when issues have arisen, the convener has agreed to put the issue on the agenda of the next meeting. That has invariably been sufficient, so that the committee can prepare and react accordingly. Committees should not be overreactive. Unless someone can give me an example of where the provision would be necessary, I am against the proposal.

**The Convener:** What happens if the Rural Development Committee has dropped foot-and-mouth from its weekly agenda on the basis that the whole thing seems to have faded, and suddenly, there is another big flare-up? Is not that committee entitled to put the issue back on the agenda, so that it can agree to invite the minister to give evidence on the matter the following week? Might not committee members want to react to circumstances of that nature?

If the Enterprise and Lifelong Learning Committee was looking at a particular industry and a major player suddenly went bust, surely the committee would want the flexibility to say, "Let us

put the matter on the agenda today, so that we can have a brief discussion. Let us change the programme in order to change the thrust of what we are doing."

**Mr Macintosh:** The convener's second example is good. When Motorola closed and that also happened to Compaq, the Enterprise and Lifelong Learning Committee ended up discussing those closures informally after the committee meeting had finished. The convener put the issue on the agenda for the following meeting.

12:15

**The Convener:** That means that the Enterprise and Lifelong Learning Committee dealt with that issue under "Any other business", which is a heading that does not exist. You formalised the discussion in the following week.

**Mr Macintosh:** We agreed that the convener should put it on the following week's agenda, which he could have done anyway.

**The Convener:** Could he really do so, given the absence of a heading of "Emergency business" or "Any other business"? The paper aims to formalise a practice that is evolving in any case of committees working flexibly as events change, without being stampeded into responding to everything that happens—as Donald Gorrie said, without being bounced into things. I see the proposal as an easing of the standing orders, which, if they are followed literally, are perhaps a bit restrictive and unhelpful.

**Mr Macintosh:** It sounds as if we need another issues paper.

**The Convener:** Yes. That is what I suggested.

**Mr Paterson:** I do not have a problem with the issue. As Donald Gorrie said, there should be opportunities as needs arise. Before the meeting started, would it be the convener who made the decision to add emergency business to the agenda, and would they have to ask committee members? Perhaps, at the start of the meeting, the convener would put it to the committee that an issue be added to the agenda. I should be happier with that proposal.

**The Convener:** Those are niceties, which would have to be teased out in the issues paper. The guidance document should include a provision stating that the first time that an item was put on an agenda, nothing substantive should be done, as it had been put on the agenda for the sake of organising work on it. The committee would therefore handle the issue maturely. All those things would come out in an issues paper, which should cover "Emergency business" and "Any other business". There is a relationship between the two, in that the one is often the trigger for the

other.

I am aware that the paper is not in favour of "Any other business", but the only alternative is for the convener to decide that an issue is an emergency and that the committee should therefore deal with it. It would be better if we had the opportunity for a matter to be raised somehow in committee. I return to the point that was made earlier, about how committees get something on the public agenda, showing that the issue has been raised.

The paper is worth while. There is much in it that would repay thorough work and clear thinking, resulting in an issues paper for discussion.

I say to Elizabeth Watson that I might have jumped ahead a bit to take in the issue of "Any other business". Do you have anything to add to what has been said?

**Elizabeth Watson:** Nothing at all.

**The Convener:** As members have nothing further to add to what has been discussed so far, are we agreed on having an issues paper?

**Members indicated agreement.**

## Witness Expenses

**The Convener:** Elizabeth Watson will stay with us for this item, on witness expenses. Members have a self-explanatory report on the subject. Does anyone have questions to ask?

**Donald Gorrie:** Purely by coincidence, I am on the Finance Committee, which has asked me to produce a preliminary report on the funding of the voluntary sector. In order to make the report as wide as possible, we are trying to get voluntary bodies from different parts of the country to come and speak to us. Some of those bodies are poor and, at the moment, we have no facility to pay their expenses. That seems a pity, and I will raise the issue in whatever is the right forum. It is a relatively small sum, and we should be generous.

**Elizabeth Watson:** Mr Gorrie refers to witnesses coming to speak to reporters as opposed to coming to speak to a committee. He is correct in saying that the current witness expenses scheme does not cover that, as it covers only attendance at committees or the Parliament.

**The Convener:** What would the mechanism be for having that looked at? That seems to be anomalous given that, if witnesses come to see an adviser or reporter, that is the same as giving evidence to a committee.

**Elizabeth Watson:** I think it would be a matter for standing orders and then for the SPCB. The witness expenses scheme is a matter for the SPCB and for Parliament.

**The Convener:** Has the issue been raised with the SPCB?

**Donald Gorrie:** This is the first time that I have raised the issue. It has arisen only in the past two days.

**The Convener:** Should the committee ask Elizabeth Watson to reflect on the matter and to determine whether there is an issue that the SPCB should consider? She could advise us of the outcome of her inquiries in the fullness of time. At first sight, the point is a pretty good one.

**Donald Gorrie:** Thank you very much.

**The Convener:** As there are no other points to raise on the paper, does the committee agree to note it and agree the recommendations set out in paragraph 4? Is the committee agreed that there should be no change to standing orders, but that we will return to the issue?

**Members indicated agreement.**

**The Convener:** I thank Elizabeth Watson for attending.

## Parliamentary Questions

**The Convener:** The next agenda item is on parliamentary questions. The documentation is massive, but fortunately most of it is appendices that we have already considered and extracts from the *Official Report* with words that we have uttered. The substantive draft report on parliamentary questions is before members. We should probably stop at 1 pm so I hope that we can deal with the item by then. Does Frank McAveety want to get away earlier?

**Mr McAveety:** I will have to leave as I have an Education, Culture and Sport Committee meeting at 12.30 pm.

**The Convener:** I understand.

First, the committee has been asked by Mr McCabe to reconsider a question following the exchange of views at the previous committee meeting. He has written to me and the letter is before members.

**Brian Adam:** On a point of order. Would I be right in thinking that we will consider inspired questions as part and parcel of the business before members? I could not find anything in the folder that relates to them. Will we deal with them or have I missed something?

**The Convener:** The issue is dealt with somewhere in the folder.

I do not propose to go through the substantive report paragraph by paragraph, but I propose to consider each recommendation and get the committee to agree or amend the recommendations. We will get through the report quite crisply if we do that.

Before we deal with the report, I want to mention the letter that we have received from Tom McCabe since the previous committee meeting. Again, he has made a plea for a moratorium on questions being lodged during the summer recess. His plea is for a four-week moratorium within the summer recess and not for a moratorium for the whole summer recess. His letter argues that that would help the Executive to deal with the backlog of questions and would improve the service overall. He has also asked for the period within which we allow a longer time for answering questions to be extended by a further week before the summer recess. I think that he has also asked for the deadline to be extended from 28 days to 35 days—no, he has not requested that; it is a possible flexibility that exists somewhere in the back of my mind.

The draft report—which includes extracts from the *Official Report* of previous discussions—is before members. We are well aware of the issues

and have discussed them several times, but the Minister for Parliament has raised them again, so it is appropriate that the committee take a few minutes to go over the ground again to satisfy itself that the provisional decision is correct. If it is not satisfied, the decision could be changed in accord with Mr McCabe's request that we consider a four-week moratorium.

**Mr Paterson:** I am still not sold on the idea. I understand the pressure that Mr McCabe is under, but I would like to take a different tack. Unless there is an emergency, members should haud their wheesht a wee bit and give the clerks as much space as they can. I am against the idea that there should be a period in which we cannot ask serious questions. The idea of our not being able to ask questions for a whole month—bearing in mind that we do not always take our holidays together—and that we should all shut up shop for a month and go home or on holiday—

**The Convener:** There is a suggestion that we should have a more clearly worked up and more helpful emergency question system.

**Mr Paterson:** The problem lies in defining an emergency question. The definition of an emergency question should be left with the individual who is asking the question rather than someone else. Some members take the opportunity not quite to dream up questions, but to go overboard sometimes if they have a particular area of interest. That is wrong, but it should be left to the individual's discretion to decide whether an answer is needed at a particular time.

**Donald Gorrie:** I do not agree with a moratorium, but it would be reasonable to consider extending the 28-day deadline to 35 days, for example. We should accept that there is pressure on staff and that, like everyone else, they deserve holidays. In the recess, many of us have more time to meet groups and lobbyists who may have good points that we wish to put forward. It would be wrong to stop us doing that. The flexibility of 35 days might be reasonable. The suggestion in paragraph 15 of annexe A that we should reconsider the issue after the summer recess is sensible.

**Brian Adam:** We recognise that there is a problem and we have made significant concessions. I am not convinced by the Minister for Parliament's case that we need to move from our current position. We will continue to review the issue. We will have three summers' experience of questions; the position in the paper is correct. I do not agree with a moratorium and I am not convinced by the idea regarding the two weeks before the summer recess. That would perhaps be all right, but 35 days certainly would not. That is most of the summer.

**The Convener:** I think that we have already agreed to extend the period allowed for answers and the time in the pre-recess period to try to ease the burden. It is realistic for the committee to propose that we run the proposal this summer and see how it goes. Annexe A recommends that we look at the issue again—that is implicit anyway in everything that we have done. Some other ideas have been suggested. The committee has demonstrated a willingness to work with the Executive to ease everybody's work load, but I do not think that Tom McCabe has made an acceptable case. If his proposals were carried out, any questions that I could not ask in the period would be lodged at the end of it. I do not understand how that would help anybody. We can come back to the issue and discuss it in the light of experience. Are members agreed that we record that as our response?

**Members indicated agreement.**

**The Convener:** Annexe B—which is blue—considers the transparency of Executive answers to parliamentary questions.

**Mr Paterson:** My paper is green.

**The Convener:** Oh dear.

**John Patterson (Clerk):** Sorry. That will confuse matters.

**The Convener:** I will not mention the colours. Those of us from the west of Scotland know the folly of confusing blues and greens. The colours are utterly irrelevant from the official report's point of view—we should say annexe B. That will be equally bamboozling, but at least the official reporters will be able to track the paper.

Again, we have been asked to discuss the question and take a view on it. We have established that when an executive agency is charged with answering a parliamentary question, the answer should go to the Scottish Parliament information centre and should appear in the written answers report so that it is part of the public record.

However, if a question is not directly about an executive agency but is about, for example, a health board or another body that is at arm's length from ministers, ministers are reluctant to accept responsibility for commissioning an answer or ensuring that the answer is part of the public record. SPICe feels—with some justice—that if a member has asked a question about public policy in a body that is within the broad remit of the Executive, it ought to be possible for the wider community to get the answer, rather than the member simply receiving a letter from, for example, the Scottish Qualifications Authority.

The report suggests that we need to consider the matter more carefully. I do not feel that I



understand the distinction that the Executive draws between the executive agencies and the more arm's-length bodies. We need to consider the matter again and perhaps take more evidence.

12:30

**Brian Adam:** The issue relates not just to the arm's-length bodies, such as the health boards; it relates also to organisations that have major contracts.

Transport is an issue close to the convener's heart. Quite a number of private organisations deal with transport matters. From time to time, such organisations find themselves in the difficult position of being criticised publicly by elected representatives and not being in a position to present their point of view.

I note that the table on letters sent from a third party at the request of a minister, which is in appendix A to the paper on the transparency of answers, shows that we have had two responses from Halcrow Scotland Ltd. I have had dealings with a different organisation. Such correspondence could and should be available if such an organisation is acting directly on behalf of an executive agency. The information that such an organisation provides—not only organisations such as health boards, but those that act under contract—should in some circumstances also be available to SPICe.

**The Convener:** It is a bit awkward. It means that if I wanted to ask a question of Scottish Homes once the Housing (Scotland) Bill had been passed and Scottish Homes had become an executive agency, I would be able to command an answer through a parliamentary question, which would be public information, but if I wanted to ask something about how the SQA was operating, I could not get that information through a parliamentary question because the SQA is not an agency. I would be told in answer to a parliamentary question that the question was a matter for the SQA and that it would respond to me in writing, as Mike Russell was recently told in a substantial number of answers. I would have the information, but the rest of the members and the public would not.

Questions have to be asked about why answering a parliamentary question is appropriate for some bodies and not for others. The paper says that we should discuss the issue and take a view. As paragraph 9 of annexe B to the transparency paper states, there is a case for an issues report

“to look at the implications of this more closely.”

The issue has arisen late in the course of the inquiry, rather than having been examined closely earlier on.

If the committee agrees, we will get an issues paper. The matter will not be part of the report that we are discussing today, but it could be part of a further report on the next phase of the parliamentary questions inquiry.

**John Patterson:** We would note in paragraph 96 of the report that we are discussing today that the committee has taken the decision to consider the issue in the autumn.

**The Convener:** Are we agreed?

**Members indicated agreement.**

**The Convener:** That takes us to annexe C, which is the draft report itself. After the prefatory information, the report has a summary of recommendations on pages 5, 6 and 7. The text of the report, which incorporates a summary of the recommendations of the previous report and then goes through the witnesses and the information, starts on page 8.

We will go through each of the recommendations. The first recommendation is in paragraph 28 and is to endorse the recommendations in paragraph 27: to continue to monitor questions; to keep that monitoring under review; and to receive periodic reports. That is all mainstream. I hope that we can agree to it.

**Members indicated agreement.**

**The Convener:** The next recommendation is in paragraph 32: to note the range of information that is available to members and to agree to consider further assessments of members' use of that information after a period of time. That is not controversial and, I hope, is broadly acceptable.

**Donald Gorrie:** I will just make a luddite remark. Would it be possible to have the Executive's departmental directories on paper as well as electronically?

**The Convener:** The difficulty with that is the frequency with which staff turn over, which would require the document to be amended regularly. That is why the Executive felt that it was perfectly possible to make the directories available in an electronic format, because that is readily changed, whereas reprinting at regular intervals is time consuming and costly. Members might forget whether they are working off the 92<sup>nd</sup> draft or the 93<sup>rd</sup> draft; there is more scope for confusion with a printed version. Realising that it is best to make the directories available in electronic format is also a tremendous training incentive for members who have not quite mastered the e-mail system.

For practical reasons, the answer to your question has to be no. The electronic system has distinct advantages.

Do we agree the recommendation in paragraph 32?

**Members indicated agreement.**

**The Convener:** That takes us on to the recommendation on seminars on parliamentary questions. The recommendation is basically to note and thank the people who did the work. It is in paragraph 36. Do we agree that?

**Members indicated agreement.**

**The Convener:** The next recommendations are in paragraph 44. The first recommendation is to note concerns about the volume of questions. This paragraph is the most important one because it recommends the extension of the period for answer from 21 days to 28 days during recesses of four days or more and also during the calendar week in advance of such a recess. That is a recommendation for changes and is one of the more substantive parts of the report. We have discussed it before. Do we agree it?

**Members indicated agreement.**

**The Convener:** There are further recommendations in paragraph 49, which is in the section of the draft report that deals with the use of inspired questions. The recommendation is that such questions be “tagged”. In paragraph 50, the recommendation is that we agree that there be a delay of a day between the question being lodged and tagged and the answer being given. We have discussed those recommendations previously. Do we agree them?

**Members indicated agreement.**

**The Convener:** There are also recommendations in paragraph 55. We decided not to recommend further changes to or extended time for question time, but to continue to examine question time. In effect, the recommendation is for no change at this point. Are we agreed?

**Members indicated agreement.**

**The Convener:** We recommend in paragraph 58 that we undertake no further work on the five options that were listed for further consideration in annexe E to the previous report. We discussed those further and decided not to pursue them. Are we agreed that we are not pursuing them?

**Members indicated agreement.**

**The Convener:** Paragraph 63 deals with the system for recording and tracking the number of holding answers. Do we agree the recommendations in that paragraph?

**Members indicated agreement.**

**The Convener:** Paragraph 70 concludes the section on admissibility of questions. There is no recommendation, merely a statement of the position, which exists for the sake of formal completeness and clarification. Do we agree the

section?

**Members indicated agreement.**

**The Convener:** The next section concerns Executive resources: the tracking system and in particular the advisory cost limit. We have established that an advisory cost limit exists and that it has been used but that the Executive is still weighing it up. We will not be in a position to come to a definitive conclusion on the advisory cost limit until the Executive has finished its work.

Paragraph 80 contains the interim conclusion for the section, which is to invite the Executive to discuss its study when it is available. We will consider that in the context of a further round of work. Are we agreed?

**Members indicated agreement.**

**The Convener:** We discussed the separate paper on transparency at the beginning and we have agreed that we will consider the matter again. An issues paper will be forthcoming. Do we agree the recommendation in paragraph 86?

**Members indicated agreement.**

**The Convener:** No points arise on the relevance, quality and quantity of parliamentary questions, which is the final section. Paragraph 96, headed “Next Steps”, contains our thoughts on those issues and recognises the fact that work is continuing.

I hope that the recommendations that I have highlighted in the text correspond with the summary of recommendations at the beginning and end of the report—they did when I checked them. We have, in effect, agreed the recommendations in the report.

The remaining annexes—A through to I—are the supporting paperwork that will appear with the report. Some of it is correspondence, some of it is statistical information and analysis of parliamentary questions, and much of it is extracts of the *Official Report* of meetings of the Procedures Committee. Annexe F is the important one, as it requires a change to standing orders. Does the committee agree with that recommendation, which is to give an extra week for answering questions, principally during the summer recess?

**Members indicated agreement.**

**The Convener:** Does the committee agree on the rest of the report?

**Members indicated agreement.**

## Standing Orders (Changes)

**The Convener:** The seventh item on our agenda is a paper giving a summary of a series of issues that the committee has discussed before. They have been summarised formally so that we can submit a set of proposed changes to standing orders. Members will recall our discussion of the withdrawal of amendments to motions. The first issue in the paper clarifies how an amendment might be withdrawn.

The second issue is amendments to motions for financial resolutions. Members will recall that we discovered that, technically, such resolutions can be amended, although we accepted that it was never intended that they should be—they should either be approved or not. The paper clarifies the standing orders accordingly.

The third issue is procedures for establishing the parliamentary members of the Scottish Commission for Public Audit. It contains a recommendation that, where further appointments are made along similar lines to other bodies, the guidelines approved by the SPCB should be applied for comparable purposes.

Do members agree with all the recommendations?

**Members indicated agreement.**

**The Convener:** In the report, there is a suggestion that we are looking for parliamentary time. I would not have thought that we necessarily want parliamentary time, but the Parliament will have to approve a report. What would be best—to hold the report until there are a lot of changes to standing orders, or to put it up for approval as soon as possible?

**John Patterson:** We should try to put it up for approval on the coat tails of the committee's second report, on parliamentary questions. This is a small report, so we should try to have it approved before the recess, in negotiation with the Parliamentary Bureau.

**The Convener:** We will try and do that.

Now, item 8—no, I am sorry, I forgot to thank our witnesses. I am trying to rattle through the business before 1 o'clock; I am sure that the witnesses are not too disappointed at not being asked to speak again. That was my mistake, and absolutely no discourtesy was intended.

**Donald Gorrie:** Convener, I am sorry, but I am being slow. If you will allow me, I would like to make a point about the proposed new rule 3.15, on the removal of members of the Scottish Commission for Public Audit, which states that "any member" may, by a motion, propose such a

removal. It is not clear whether a member of the commission may propose that another member be chucked out, or whether it is a member of the Parliament. Perhaps I am being obtuse.

**The Convener:** No—you are quite right to raise that. That is what we are here for.

**Anne Peat (Scottish Parliament Directorate of Clerking and Reporting):** The answer to that question is any member of Parliament, who could also be a member of the commission.

**Donald Gorrie:** Perhaps it should say that. If I, in my earnest attempt to read all this yesterday, was in some doubt, other people might be in doubt as well.

**The Convener:** Could we make that amendment to the proposed rule 3.15? The word "member" might be taken to mean a non-MSP member of the body, so it should say specifically "member of the Parliament".

**Alison Coull (Scottish Parliament Legal Office):** I want to consider that. The words, "any member", are used throughout the standing orders to mean any MSP. I am not sure that there would be any ambiguity, but I would like to consider the matter further.

12:45

**Donald Gorrie:** Doubt was raised in my mind by the fact that the words, "any member", which apparently mean any member of the Scottish Parliament, come just after the heading, which is "Removal of members of the Commission".

**The Convener:** I presume that there are members of the body who are not members of the Scottish Parliament.

**Alison Coull:** There are not.

**Donald Gorrie:** The wording could be read as meaning any member of the commission. Could I, as a member of the Scottish Parliament, propose removing those members or must it be a member of the commission?

**Anne Peat:** The reference is to any member of Parliament.

**Patricia Ferguson:** The issue is clarified by the fact that proposed rule 3.15 specifies that the motion would refer to an

"appointed member of the Commission",

which means that it makes a distinction between members of the Scottish Parliament and appointed members of the commission.

**The Convener:** It might be best if Alison Coull and Anne Peat examine the matter again and advise us whether there is any ambiguity or

difficulty. If they are happy with the competence of the rule, it should proceed as we have suggested. Would that be reasonable?

**Donald Gorrie:** Yes—I will not go to the wall over this.

**Alison Coull:** A change to the proposed rule might have implications for other parts of the standing orders.

**The Convener:** I ask you to reflect on that and advise us whether you think that we should consider certain issues. If you are happy that the position is covered adequately, the report can go before the Parliament, as we have approved it.

## Questionnaire

**The Convener:** The committee will recall receiving a paper from Donald Gorrie, which is included in annexe A of paper PR/01/5/8. We have before us a proposed questionnaire that will allow members to express their views on the issues that Donald has raised.

**Donald Gorrie:** The clerk gave me a preview copy of the questionnaire and I suggested the inclusion of an additional question which, I see, has appeared. I am happy with the wording.

**The Convener:** We have a draft letter from the clerk that indicates that the questionnaire is voluntary and that the results will be confidential. The questionnaire might give us some views that might be useful to us in subsequent discussions on the timing of questions, question time and so on.

**Brian Adam:** Since the questionnaire is voluntary and will be confidential, why do we need to have the member's name on the form?

**The Convener:** It would probably be useful for the clerks to know who has responded if they wanted to send a reminder to those who have not. John, why do you want to have the member's names?

**John Patterson:** Does the questionnaire have to be confidential?

**The Convener:** It is suggested that it should be confidential. Would asking for the member's name work against confidentiality?

Our questionnaire on substitutes was confidential, but the clerks knew who had responded. Neither I nor any political person knew. The clerks knew because they wanted to get people who had not responded to do so—without much joy, I must say. However, the name is not hugely important and we can remove that requirement if it is felt that it should be removed.

**Patricia Ferguson:** On question 6, figures are available about how many members do not get called in debates. The Parliamentary Bureau and the Presiding Officers consider that matter fortnightly to establish whether changes need to be made to ensure that more members are called. It might be interesting to compare the actuality with the perception.

We should also take into account the fact that parties submit lists of speakers. Although the Presiding Officers do not adhere rigidly to party lists, if a member consistently finds that he or she is not able to get onto their party's list, they will obviously have much less chance of being called to speak than a member who does.

We should bear in mind those two factors when we consider the results of the questionnaire.

**The Convener:** Are you seeking any elaboration of the questionnaire?

**Patricia Ferguson:** No.

**Donald Gorrie:** That is valuable. Perhaps the wording could be changed. I was aiming the questionnaire at members who feel that they could have made constructive speeches, but who did not get a chance to do so. A question that is included asks:

"How many times do you consider that you could have made a constructive contribution to a debate but were not called to speak?"

That might not be the right form of words. Perhaps, rather than saying,

"we were not called to speak",

it should say, "did not have an opportunity to make a speech". That might cover the business about members not getting on the parties' lists.

**Patricia Ferguson:** I would be inclined to leave the wording as it is because people do not always know that they are not on their party's lists. That might mean that they would not be able to make an informed judgment on the matter.

**Mr Paterson:** Perhaps there should not be party lists.

**The Convener:** We might want to come back to that point in the light of findings.

Does the committee agree to allow the questionnaire to proceed?

**Members** *indicated agreement.*

## Correspondence (Decision Time)

**The Convener:** I have received a letter from the Presiding Officer about how decision time is managed. The accompanying report is brief and asks whether the committee is content to receive an issues paper to allow us to address the suggestions that have been made by Sir David Steel.

**Donald Gorrie:** Would it be unprofessional to agree to an element of flexibility of 15 minutes either way?

**Mr Paterson:** Other issues might arise from a report, of which we will want to be aware.

**Donald Gorrie:** Fair enough.

**The Convener:** Do we agree to commission such an issues paper?

**Members** *indicated agreement.*

## European Committee (Remit)

**The Convener:** The European Committee has requested an alteration to its remit. The recommendation is that, if we agree with the points that are about to be made by Hugh Henry—whom I welcome to the meeting—we should consider the basis on which we might alter the remit of, and the standing orders relating to, the European Committee.

**Hugh Henry (Paisley South) (Lab):** The paper that members have before them is self-explanatory, but I want to raise a couple of key issues.

Members will be aware that the Executive has changed the remit of the minister who has responsibility for Europe to cover external affairs as well. At the moment, no committee has responsibility for scrutinising that part of the minister's remit. Scrutiny by committees of the work of ministers is a crucial feature of the way in which the Scottish Parliament operates. It would be unwise to have a minister who had an area of responsibility that was not subject to scrutiny by a committee.

We ask that the remit of the European Committee be extended to allow such scrutiny to take place and to allow the committee to operate in that field similarly to the way in which it operates in relation to European issues. As a matter of interest, I inform the committee that there was a similar discussion in the National Assembly for Wales when a move of a like nature took place. I point out also that there are similar areas of committee responsibility in other European legislatures, which means that we would ensure, through extension of the European Committee's remit, that there was an element of consistency with what happens elsewhere. More important is the fundamental point that a minister should be held to account by a committee on behalf of the Parliament.

**Mr Paterson:** In principle, I am in favour of the proposal. However, I wonder about its impact on the committee. Hugh Henry said in paper PR/01/5/10 that such a change in procedure could be fitted in without causing too much trouble to timetabling. Might not that be a wee bit ambitious? I expect that such a change would have an impact on the European Committee's current business. Given that that committee is now made up of only nine members, would that be sufficient to cope with such a broad remit?

**Hugh Henry:** The size of the committees is a matter for others to determine. I am not sure whether the extension of Jack McConnell's portfolio will be sufficiently large to warrant another

upheaval in committees. I do not anticipate a huge extension to our work. From time to time, we shall need to reflect on certain issues, for example, the Executive's policy on external relations. Given the European Committee's work load for the foreseeable future, discussing such matters with the clerks will not cause huge problems. However, resource implications for the clerks are probably more important than the size of the committee and such implications would need to be fed back through the appropriate channels. As yet, nothing that the Executive is doing suggests that such a change would be a burden.

**Brian Adam:** There should be a mechanism for scrutiny of such matters, but should not we have more background knowledge before we make a decision? Is the matter suitable for an issues paper? I do not want to get to the point at which standing orders are drawn up on the basis of a three or four-minute discussion, which is the implication of the recommendation.

**The Convener:** What background knowledge do you mean?

**Brian Adam:** As Gil Paterson said, the change in the remit of the committee might have an impact on its work load—it might restrict the issues that members wish to raise. All committees have limited time in which to deal with matters. The European Committee was set up primarily to deal with the European Union and its impact on Scotland and the Parliament. If members wish to raise issues about that and other general external affairs, there will be competing interests.

**The Convener:** Surely the point is that the minister's remit must be scrutinised. If evidence shows subsequently that the scale of the resource requirement for such work is beyond the remit of one committee, that will lead to further changes. It is not an argument for not extending the remit, given that the work load exists. It follows that such a remit must be scrutinised.

**Brian Adam:** I am happy to agree with the principle of what you say, convener, but I am concerned about whether we have an alternative. At present, we are discussing a proposal and I am interested to know what alternatives are available to us to provide the required scrutiny. What would be the implications of that for our committee system? I do not want to rush matters.

**Patricia Ferguson:** I am inclined to accept Hugh Henry's reassurances and those of the committee clerk that consideration has been given to the work load of the committee and that it has been found to be manageable. I accept Hugh Henry's assurance that the issue of the resources of the committee would be taken up if that became a problem.

I do not claim to be an expert on the Executive's

external relations policy, but as far as I can see from debates and reading papers and so on, the main thrust of that policy will continue to be concentrated on Europe. The European Committee will be dealing with a great deal of the minister's current portfolio. What is suggested is that the extra matters that are being added to the portfolio be covered. That is a welcome proposal.

13:00

**Hugh Henry:** On Brian Adam's comments, if that scrutiny is not done by the European Committee, it should be done by another committee—scrutiny of the Executive is a fundamental principle. The arguments could apply to other committees of the Parliament that are equally hardworking and which are overwhelmed with work at times. Whatever we do, those issues will always exist, but the scrutiny of external relations would probably fit most conveniently with the European Committee.

However, the strategy of Scottish Enterprise in developing north American trade links, for example, would not be a question for the European Committee but for the Enterprise and Lifelong Learning Committee. The same thing happens in relation to Europe. The European Committee considers the broad principles of issues to do with fisheries and agriculture, but the detail is considered by other, more appropriate committees of the Parliament. This is the same principle: the European Committee would consider the broad detail of Executive strategy, but the fine detail of what the Executive was doing in relation to areas of service delivery would be a matter for other committees of the Parliament.

**The Convener:** Is there a sufficiently detailed and concise explanation of the minister's broader role in external relations that would help to shape the standing orders?

**Hugh Henry:** Not at the moment. Lloyd Quinan has asked the Executive when it intends to publish its policy and the Executive has indicated that it will try to develop something by the end of 2001. Links are already being made with countries and regions outside the European Union, some of which are applicant countries. Work is being done with the Czech Republic, for example. It is important that the Parliament ask the Executive what it is doing with the Czech Republic and what are the intended benefits. There are other areas in which the Executive has expressed interest, but which are currently not subject to questioning by the Parliament.

**The Convener:** So, when the draft standing orders are presented to the Procedures Committee for approval, they will be framed in such a way as eventually to incorporate the

minister's precise remit.

**Hugh Henry:** I think so; a form of words that is similar to the approach in relation to Europe would be helpful and consistent.

**Mr Paterson:** The paper seems to be in Hugh Henry's name. We do not have any information about what the European Committee thinks.

**Hugh Henry:** The paper is from the clerks—it is not specifically my paper. It has been discussed informally within the committee. One committee member did not entirely agree with the approach, but others—from across the parties—had no problems with it.

**Mr Paterson:** Did you say formally or informally?

**Hugh Henry:** We have discussed it privately.

**The Convener:** I ask the committee to take a view. It is recommended that we approve the principle of extending the remit of the European Committee. The specific proposal is that, if we agree to the principle, changes to the standing orders will be introduced to give effect to that.

**Brian Adam:** I would prefer to consider the matter further. I suggest that there should be an issues paper that gives us the alternatives and the background. That would perhaps allow the European Committee to discuss the matter formally. I know that the minister's remit has been extended, but we do not need to rush the matter.

**Hugh Henry:** I would like to clarify what I said, the European Committee discussed the matter formally in private—I apologise if I misled the committee.

**The Convener:** I have what is, in effect, a motion from Brian Adam to the effect that we consider the matter further through an issues paper. Is that correct?

**Brian Adam:** Yes.

**The Convener:** Does the committee agree with that?

**Donald Gorrie:** I am happy, on the basis of this discussion, to go ahead to decide on the principle. We can always debate the matter again when the suggested changes to standing orders come out. I would move along the lines that the convener set out.

**The Convener:** That is an amendment from Donald Gorrie. Do we need seconders? We will have to vote on the matter, which is against all practice and precedent in this committee.

**Brian Adam:** That is what you get for letting me on to the committee.

**The Convener:** You are to the left of Lloyd

Quinan, so what can we expect?

**Mr Paterson:** We have voted previously.

**The Convener:** Yes.

The amendment in Donald Gorrie's name is, in effect, to approve the recommendations of the report.

There will be a division.

**FOR**

Ferguson, Patricia (Glasgow Maryhill) (Lab)  
Gorrie, Donald (Central Scotland) (LD)  
Macintosh, Mr Kenneth (Eastwood) (Lab)  
Tosh, Mr Murray (South of Scotland) (Con)

**AGAINST**

Adam, Brian (North-East Scotland) (SNP)  
Paterson, Mr Gil (Central Scotland) (SNP)

**The Convener:** The result of the division is: For 4, Against 2, Abstentions 0.

*Amendment agreed to.*

*Motion, as amended, agreed to.*

**The Convener:** That decision is in favour of the extension of the European Committee's remit. We were reassured by the advice that the European Committee had formally approved the report. There are potential further implications, like everything else that we discuss in this committee and which is subject to standing orders. If the change does not work, if it does not work the way that it is expected to or if other issues emerge, we will return to the matter and the job of fine-tuning will continue. I am sure that we will get this right eventually.

I thank Hugh Henry and Stephen Imrie for their attendance and everybody for their endurance.

*Meeting closed at 13:06.*



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