

# **PROCEDURES COMMITTEE**

Tuesday 12 March 2002  
(*Morning*)

Session 1

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## **PROCEDURES COMMITTEE**

### **5<sup>th</sup> Meeting 2002, Session 1**

#### **CONVENER**

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

#### **DEPUTY CONVENER**

\*Mr Kenneth Macintosh (Eastwood) (Lab)

#### **COMMITTEE MEMBERS**

\*Susan Deacon (Edinburgh East and Musselburgh) (Lab)

\*Donald Gorrie (Central Scotland) (LD)

\*Fiona Hyslop (Lothians) (SNP)

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

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

\*attended

#### **WITNESSES**

Patricia Ferguson (Minister for Parliamentary Business)

Derek Grieve (Scottish Executive Finance and Central Services Department)

Hugh Flinn (Scottish Parliament Directorate of Clerking and Reporting)

Andrew McNaughton (Scottish Executive Parliamentary Liaison Unit)

Euan Robson (Deputy Minister for Parliamentary Business)

Janet Seaton (Scottish Parliament Research and Information Group)

#### **CLERK TO THE COMMITTEE**

John Patterson

#### **SENIOR ASSISTANT CLERK**

Mark MacPherson

#### **LOCATION**

The Chamber



## Scottish Parliament

### Procedures Committee

*Tuesday 12 March 2002*

*(Morning)*

[THE CONVENER *opened the meeting at 09:32*]

### Parliamentary Questions

**The Convener (Mr Murray Tosh):** We will start the meeting. I am told that the Glasgow train is running late. It is of course a weekday, so that is bound to be the case. We are expecting the members of the committee who are not here yet to arrive shortly.

I welcome Patricia Ferguson, Euan Robson and their supporting officials. Today's sole item of business is discussion of a number of issues that have been under negotiation and discussion between the committee and the Executive. Those issues are: the Scottish Executive business directory; the transparency of questions to Executive agencies and non-departmental public bodies, or NDPBs—I always struggle to get the initials in the right order; and the advisory cost limit of parliamentary questions. Other issues might arise in the discussion, but those are the issues that are covered in the paper that members have received.

I hand over to Patricia Ferguson to make an introductory statement. Members will thereafter be able to pursue the three issues and anything else that they think is compellingly urgent and pertinent to the lead issues.

**The Minister for Parliamentary Business (Patricia Ferguson):** I welcome the opportunity to contribute on behalf of the Executive to the committee's further consideration of parliamentary questions and related issues. I welcome the continued co-operation of Executive and Parliamentary staff in the process; those close working arrangements have provided—I hope they will continue to do so—a constructive approach to the many issues that are under consideration.

As we undertook previously to do, we have submitted a memorandum covering the Executive business directory, transparency and the advisory cost limit. It might be useful for me to make introductory remarks on each of those topics. Thereafter Euan Robson and I will be happy to answer any questions that members might have.

Following an earlier recommendation by the committee, an electronic copy of the Executive's

business directory was made available to MSPs, their assistants and parliamentary staff on the Parliament's intranet site. That has been operational since 23 April last year and MSPs and their staff have been able to access the business directory for urgently needed factual information that is not available from other sources.

Our analysis is based on the eight months' operation of the system and provides an assessment of how those arrangements have operated in practice. During the period of analysis, 112 inquiries were logged. Most of those—about 69 per cent—were dealt with readily on the day on which they were logged. However, it took several days to obtain the information and provide an answer for some of the inquiries. The analysis provides a detailed breakdown of those inquiries. Our conclusion is that the system is working satisfactorily without significant problems. We propose to continue to monitor the arrangement for a further period.

I repeat that inquiries using the business directory should be used only for obtaining factual information that is needed urgently and that is not readily available from another source. It would also be helpful if requests were made in writing—by e-mail or longhand—so that staff can respond comprehensively to them.

I turn to the transparency of questions. The committee wanted to give further consideration to how information relating to NDPBs and other public bodies could be made more publicly available. Questions relating to operational matters in Executive agencies, NDPBs and other public bodies are for the body concerned to deal with. However, there is a clear distinction between Executive agencies and other bodies because the links between the former and the Executive are closer than are those between the latter and the Executive. That is reflected in the way in which the Executive responds to parliamentary questions. Executive agencies are part of Executive departments and in some cases are departments in their own right. Where a question relates to an operational matter, the agency's chief executive's response is sought and incorporated in the reply.

NDPBs and other public bodies are not part of the Executive in the same way as are Executive agencies; they operate more at arm's length. It is only right that questions about operational matters in NDPBs are dealt with directly by the bodies concerned. Questions should therefore be taken up with relevant chief executives.

I turn finally to the advisory cost limit. I am pleased to say that our preliminary findings are now available and I understand that copies have been distributed to committee members this morning. The key findings in the report show that the average cost to the Executive of answering a

written question is £65.18 and that the average time taken to provide an answer is 1.45 hours.

Following careful consideration of the results of the study, we propose to establish an advisory cost limit for Scottish questions. The threshold that we propose is based on 20 hours' work to research and prepare an answer to a single question. Based on the findings of the survey, the advisory cost limit would be set at £550. We would welcome the committee's views on that once members have had the chance to consider it. The threshold would apply where substantial work would need to be undertaken in order to answer a question. I emphasise that breaching the advisory cost limit would not, in itself, be a reason not to answer a question, particularly if the question related to matters of significant public interest or concern.

We would also be glad to hear the committee's views on applying the advisory cost limit to a group of related questions. It might be that the aggregated cost of dealing with a group of related questions would exceed the threshold, so I believe that there might be a case for further guidance to members on lodging groups of questions, and for consideration of whether the advisory cost limit should be applied to groups of questions.

We propose to uprate the limit annually in line with movements in the Executive's pay and overhead costs. Parliament would, of course, be notified of that. A full review would be undertaken every five years.

The committee will, no doubt, wish to consider the proposals, but it would be useful to hear the committee's views by, perhaps, the end of April to enable us to make progress. I hope that that brief summary was helpful to members of the committee. Euan Robson and I are happy to answer any questions that committee members might have.

**The Convener:** What is your view on the level of use of the directory? I take it that every phone call, e-mail or letter to a civil servant is now logged. I thought that the level of use was remarkably low.

**Patricia Ferguson:** We agree. Something like 112 inquiries have been logged altogether. I must admit that I thought that the number might have been higher over the period in question, but it has not been as high as we expected. The level of abuse has been very low, however, and I do not think that—as far as the Executive is concerned—there are any problems in continuing to operate the system.

**The Convener:** Is there a lack of awareness of the facility or is the problem that members prefer to use questions because they are in the public domain?

**Patricia Ferguson:** I suspect that low usage of the directory is the result of several factors. As the convener said, members might prefer to ask parliamentary questions because such questions are in the public domain. However, a variety of other avenues are available to members. I suspect that members are using the business directory only when they are unable to access from another source the information that they require.

**The Convener:** Has the Executive analysed the sort of inquiries that are being made, in order to satisfy itself that those inquiries are urgent? I ask because on the three or four occasions that I have used the facility, my inquiry has usually related to planning matters and I have e-mailed the chief planner to find out what the development department is doing about a notifiable planning application. I cannot say that any of my inquiries were urgent, but I cannot think whom else I could have asked to get the information that I wanted within a few days. I am not sure that I met the criteria that the minister set out in her introductory remarks but, equally, I am not sure that I did anything wrong. I believe that I did the appropriate thing in the circumstances. Do you have a view on that?

**Patricia Ferguson:** I do not think that we would have a problem with members using the directory as the convener described, but these are still relatively early days. I am concerned that members are not as aware of the facility as they might be. We might, with the committee, want to highlight again its existence to members. We will continue to monitor use of the facility and would be happy to report back later to the committee with further information on how and why it is being used.

**Mr Gil Paterson (Central Scotland) (SNP):** Most MSPs who have used the facility have used it only once. The reason for that could be that the directory is very difficult to navigate. Could the Executive examine that?

**Patricia Ferguson:** The layout of the directory has not been flagged up to me as a problem, but we could check whether that is a reason for low usage. As I said, I suspect that it is more likely that members use the facility only as a last resort.

**Donald Gorrie (Central Scotland) (LD):** I am one of the incompetent MSPs who have not yet used the facility. Do members receive written replies to inquiries?

**Patricia Ferguson:** That depends on the nature of the request. If members ask for a written reply, they will almost certainly get one. Some verbal requests have been dealt with within a very short time, through a phone call back to the member concerned. However, a written reply is certainly one of the options that is available. Mr Robson

would like to make a point.

**The Convener:** I do not know what the protocols are within the Executive, but if any of our witnesses wishes to contribute he or she needs only to gesticulate.

**The Deputy Minister for Parliamentary Business (Euan Robson):** The great majority of requests have been dealt with in less than half an hour. That suggests that there is a rapid turnaround. The information that I have indicates that 5 per cent of requests took between two and five hours to answer and that a large majority of inquiries were dealt with on the day they were received. That suggests to me that members are not being inhibited from using the business directory by the mechanics of the system. However, it does not throw any light on why members have tended to use the directory only once.

**Donald Gorrie:** That is helpful. Like the convener, I think that the fact that members are supposed to use the facility only if they need information urgently acts as something of an inhibition. What does “urgently” mean? I was merely speculating that one reason for the disappointing take-up might be that members like to receive information in writing. A quicker, but unwritten, response might not provide members with what they really want. If the reply is wrong, members want to be able to hang the Executive at a later date. That is what politics is partly about.

**Andrew McNaughton (Scottish Executive Parliamentary Liaison Unit):** If there were any doubt about the substance of a question, our preference would be to respond to it in writing. We would also prefer questions to be asked in writing in the first place. However, sometimes small issues are raised that can be dealt with fairly quickly over the telephone.

09:45

**Mr Kenneth Macintosh (Eastwood) (Lab):** As the second most frequent user of the facility—far be it from me to be average—I can say that members do not receive written replies to their inquiries. That is fine, because I have used the facility to elicit factual information.

I noticed when first I asked questions that staff were tentative in responding. That might have had as much to do with their uncertainty about the system as it had with mine. I tried to limit my questions to factual matters, but it is possible that they strayed into slightly more delicate areas. Has a set of guidelines been drawn up to assist civil servants when dealing with inquiries over the phone? I assume that written responses are approved by senior civil servants or ministers. However, despite questioners’ intentions, inquiries

made over the phone might stray into delicate areas. Are there guidelines to help MSPs and civil servants in that regard?

**The Convener:** Lewis McNaughton—I am sorry, I mean Andrew McNaughton. Who is Lewis McNaughton?

**Mr Macintosh:** He is a clerk to the committee.

**Andrew McNaughton:** Guidance on how the process should be managed is available on the Parliament intranet homepage, which leads to our directory. Whenever a question is dealt with by an official, he notifies the minister’s private office of what he has done and of the answer that he has given. Although an answer might be given over the telephone, ministers are advised of and alerted to what has been said, so that they are aware of what contact has been made. In a notice that is attached to the directory, members are informed that officials should deal only with factual information. If a member’s query relates to a policy issue, it should be directed to the minister’s office.

**Mr Macintosh:** Will guidelines exist setting out what you have just said, to ensure that no frustration is created in future?

**Andrew McNaughton:** What I said is set out in guidelines at the point where members have access to the directory. We could issue, or ask the committee to issue, a notice to members to remind them of that. However, we think that that is made fairly clear at the point where members access the directory and seek to locate a particular official.

**Fiona Hyslop (Lothians) (SNP):** Asking parliamentary questions is a key part of calling the Executive to account, which is a key responsibility of the Parliament. I was concerned by what the minister said about advisory costs for answering questions. That raises a serious question: what price democracy?

**The Convener:** For the time being I would like us to stick to asking questions about the directory. We will come to other issues later.

**Fiona Hyslop:** It is for MSPs to determine whether they want to use the directory to obtain factual information, or ask parliamentary questions. As part of your review, have you considered—apart from inquiries made through the directory—what parliamentary questions have been asked in order to assess how many of them could have been dealt with through use of the directory?

**Patricia Ferguson:** It is hard to judge whether some questions could have been dealt with through the directory because we do not know how quickly members need the information. That is one of the criteria that we hope members will bear in mind when using the directory. Members must be free to use whatever method they think

appropriate. The idea behind giving members access to the Executive directory was to allow them to obtain information as quickly as possible, in a way that would not normally be available.

**The Convener:** I would like to ask Hugh Flinn about that. I remember a survey that the chamber office carried out shortly after the establishment of the Parliament, which showed that very few questions required simply factual answers. Virtually every question that contained a factual element went on to tease out a policy issue. Do I remember correctly?

**Hugh Flinn (Scottish Parliament Directorate of Clerking and Reporting):** That is also my recollection. The survey was carried out over the relatively short period of one or two months, but it showed that the great majority of questions were about more than just a factual element. In most cases, the factual element was part of a more complex question.

**Fiona Hyslop:** If most members' questions concern policy areas, we should probably not be worried about misuse of the exchange, because it is being used appropriately. Perhaps we should advertise the exchange better, so that people know that it can be used to support MSPs' work—particularly factual work for their constituents. Are there any concerns about the use of the exchange?

**Patricia Ferguson:** We have no concerns about use of the exchange. It is one of a range of options that are available to members. Fiona Hyslop is right to say that members choose the approach that is most appropriate to the issue they want to take up.

**The Convener:** Members have no further questions on that—we are all quite happy. We can consider later whether we want to do anything to advertise the facility. No doubt the Executive will, in the fullness of time, let us know of any further monitoring information.

The second issue is the transparency of answers. We will deal with the vexed question of questions being asked of non-departmental public bodies. Some concern has been expressed by the Parliament's research and information group about the extent to which answers that might be in the public interest and which members might want in the public domain are not adequately placed there when members are referred to the chief executive or chairman of the NDPB concerned. I wonder whether Janet Seaton would like to contribute to the discussion before I call on members to ask questions.

**Janet Seaton (Scottish Parliament Research and Information Group):** Let the members ask questions first.

**The Convener:** I shall start by probing the distinction that the Executive memorandum draws between executive NDPBs and the advisory NDPBs. Some executive NDPBs seem to carry out functions for the Executive. Indeed, the memorandum points out that, ultimately, ministers are answerable for the actions of those bodies. I understand why one would not want a parliamentary question to be asked about the supply of surgical dressings in a local cottage hospital, but members might feel that a question to, for example, Scottish Enterprise or another national NDPB might raise pertinent public issues.

I wonder whether the ministers or their officials would like to comment on the distinction between the executive and the advisory NDPBs. The executive NDPBs are clearly acting as branches of the Executive. Is not there a legitimate case in certain areas for questions to be asked of them, or for some other means to exist for getting significant issues into the public domain?

**Euan Robson:** As Tom McCabe said on 1 May, the Executive draws a distinction between executive agencies and NDPBs. Executive agencies are part of Executive departments, whereas NDPBs are not. Although we have always thought that it is appropriate that responses from executive agencies are incorporated into parliamentary questions, we do not think that that should be the case for NDPBs. That has been the Executive's position all along and we have not seen anything that would convince us to change it. Only ministers can answer parliamentary questions. A question to the chief executive of an NDPB is not really a parliamentary question—that is the distinction that we have drawn throughout on this complicated issue.

**The Convener:** I appreciate the difference between an executive agency and an NDPB. I refer to the Executive's publication of June 2001, "Public Bodies: Proposals for Change". In annexe A, the Executive classifies NDPBs, further breaking down the category into executive NDPBs and advisory NDPBs. The executive NDPBs are those that carry out functions for the Executive. They are much closer to the Executive and are more akin to executive agencies. In the final bullet point on the characteristics of executive NDPBs, the document states:

"Ministers are ultimately answerable for the performance of the bodies and for their continued existence."

That implies that the Executive acknowledges ownership of and responsibility for executive groups, which is not the case for advisory groups. It is clear that it is up to ministers to decide whether to accept the advice of advisory groups. Ministers can then be questioned about what they have done with that advice. However, ministers



are potentially involved in the actions of executive NDPBs, which raises potential policy and implementation issues. There ought to be a way in which those actions can be questioned.

**Andrew McNaughton:** The main distinction is directed at questions relating to operational matters for which NDPBs have a responsibility—as do executive agencies. Questions on those operational matters would more appropriately be directed to the chief executive of the specified body. It is true that ministers have a policy interest in the work of the executive agencies, as well as in that of the NDPBs, and that they may consider in certain circumstances that it is appropriate for them to respond. However, because of the distinction, we consider that it is only right that NDPB chief executives should reply on their own behalf on operational matters, reflecting their greater distance from the Executive.

**The Convener:** Does that mean that, if I ask a question on the operation of an executive NDPB, a judgment will be made on whether the question raises purely operational issues—in which case, the answer will be that I should write to the chief executive of the NDPB—and if I ask a question on other matters that are acknowledged to raise general policy issues, an answer might come from a minister?

**Andrew McNaughton:** That would be right, yes.

**The Convener:** Does that distinction exist anywhere in guidance? Should I be aware of that?

**Andrew McNaughton:** We have internal guidance on that.

**The Convener:** Yes, but is there guidance for members on that, with regard to the framing and lodging of questions?

**Andrew McNaughton:** I am not aware that there is specific guidance for members. Perhaps the chamber office has addressed the matter in its guidance on parliamentary questions.

**The Convener:** The chamber office representative is not being drawn. It might be worth considering that in drawing the distinctions. If we understand the distinctions, we might live with them more easily.

**Donald Gorrie:** There is a wider issue of democratic accountability regarding NDPBs. As the convener said, a minister is ultimately responsible for an NDPB, yet does not answer any questions about it, which is nonsense. The idea that scrutiny of a body's annual report and accounts teaches us a great deal does not accord with my experience. Annual reports are written to conceal unpleasant information. Lanarkshire NHS Board is not going to record in its annual report the fact that more people die of disease X in Lanarkshire than anywhere else. However, that is

the sort of information that we would like to know, so that we can deal with such problems.

I do not blame the two ministers who are present. They are simply setting out the Executive's position. However, the Executive's position on NDPBs is totally unacceptable. A better way of scrutinising their activities must be found. Do the ministers agree?

**Patricia Ferguson:** It is possible for committees to invite chief executives or senior officers of those organisations to appear before them, so that they can scrutinise them in that way. There are other ways of doing it, but as Mr Tosh indicated, we can examine the guidance that is given on questions and try to make it a lot clearer than it is at the moment.

10:00

**Mr Paterson:** I will cut to the chase. Is not it clear that the Executive is just ducking its responsibility, especially in relation to health boards?

**Patricia Ferguson:** Not at all. Members, rightly, would criticise the Executive if it chose to answer on behalf of those organisations on every occasion, because clearly that is not the way it is meant to be. Such bodies are meant to be open to scrutiny in other ways, so I reject that suggestion.

**Mr Paterson:** But health trusts and health boards are dancing to a political tune, and responsibility for that tune lies with the Executive. Should not we be able to ask the piper exactly what the position is, rather than the monkey?

**Patricia Ferguson:** Obviously, every opportunity that is normally available to members is available with regard to policy issues. Your argument is not relevant. Ministers come to the Parliament and are held to account in a way that never happened before, which is one of the huge advantages of devolution. Your argument is not fair.

**Susan Deacon (Edinburgh East and Musselburgh) (Lab):** The distinction between policy and operational matters is important, but it is often clearer when spoken about in the abstract than when translated into practice. Do you agree that one of the things that has characterised the post-devolution period in Scotland is that the nature of the Executive's responsibilities means that a great deal of attention is focused not just on policy as it pertains to public services, but on the delivery of policy? Indeed, the current First Minister has placed particular emphasis on that. Does not that require the Parliament and the Executive to revisit what we recognise as policy issues, as distinct from operational issues? Is not it the case that where the line was drawn

historically is no longer appropriate for this Parliament and its areas of responsibility and interest?

**Euan Robson:** Yes. We should keep that boundary constantly under review. Perhaps it has moved from what was considered to be the boundary in the past. We can examine that, but it is difficult to do that where operational issues impact upon policy or policy impacts upon operational matters. It is not always easy to define whether something falls into one category or the other, but I hope that ministers, when questions are put to them, will err on the side of involvement, rather than non-involvement. In other words, if a question has a policy implication, I hope that the minister will err on the side of answering, rather than not answering.

**Susan Deacon:** I wish to pursue that point. Patently, no consensus exists in this Parliament on where that boundary lies. Is that the problem? I accept absolutely the fact that the boundary could never be drawn with precision, but it seems clear, whether we examine parliamentary questions, other aspects of the Parliament's operation, or ministers' practices—that is, the issues on which ministerial statements have or have not been made—that there is no consensus on the distinction between policy and operational issues. It might be helpful, therefore, for us to consider jointly how greater clarity of understanding could be achieved. Members sometimes feel let down by the lack of an answer to a question, purely and simply because they do not recognise where the boundary is drawn. I am not familiar with the sort of philosophical analysis on that that has been set out for us this morning, which may or may not be valid. Do we need to work more to clarify that issue?

**Euan Robson:** Yes. Further examination of the issue would doubtless be useful. If the committee wished to do that, I would have no objection. I do not think that we will ever arrive at a positive conclusion; the matter will always be open to debate. One minister may make a judgment that another minister in the same position would not make. There may be a role in examining the issue for the Parliament's chamber desk; I am not sure.

The important guiding principle is that the minister's motivation is to be helpful. The way forward would be for ministers, when they examine questions, to think, "There is an element of policy in that, therefore I should reply." However, a definitive conclusion could not be reached. Even if such a conclusion was reached, people change; ministers change and MSPs change over time, which would be bound to alter the boundaries.

**Susan Deacon:** I have a final question on a different but related topic. If NDPBs, executive

agencies et al are expected to be directly accountable for their actions in the way that the ministers have described this morning—in the main I have no difficulty with that—significant changes will be required to the practices of those bodies. The document "Public Bodies: Proposals for Change" sets out a number of aims and aspirations for the practices of public bodies. Could you give us some examples of steps that have been taken by the Executive since the publication of that document to increase the extent of direct engagement with NDPBs or executive agencies, and examples of measures to improve accountability and the sharing of information?

**Euan Robson:** I am afraid that I cannot do that offhand, but I will look into the issue and write to you and the convener about it. I just do not have that information to hand.

**Fiona Hyslop:** We are identifying the problems of living in a quango state, in which the Executive does not have direct and immediate responsibility. We are grappling with the policy perspective.

My first question concerns the fact that different ministers might have different interpretations of how to answer questions. When I contacted the then Minister for Communities, Wendy Alexander, on issues that were dealt with by Scottish Homes, I received full responses, but I understand that that might vary from minister to minister. Do practices vary from department to department when it comes to how hands-on the departments are with regard to NDPB issues?

**Euan Robson:** Practices do not differ. There is common practice, but people read the words and interpret them slightly differently. That is the result of normal variations in human behaviour. Guidance on the practices exists; it is just a question of how people interpret it. If people take a decision on one occasion that clearly errs in one direction, they might, in the light of their experience, change their view on a subsequent occasion.

**Fiona Hyslop:** I wish to develop that point. The committee's inquiry is about the principles of transparency and accountability in the broadest terms. We are asking whether the Parliament is operating effectively under those principles.

The matter of whether a question is a parliamentary question could be determined not by who answers the question, but by who asks it. In other words, any question that is asked by an MSP would be a parliamentary question. From what you have said, the Executive can decide whether the matter is a policy issue on which it should answer. It would not be beyond the wit of the Parliament to devise a system whereby quangos or NDPBs could be responsible for their answers being published in the business bulletin.

What would be the Executive's reaction to such a system?

**Euan Robson:** It is possible to devise new systems. The Executive does not suggest that it has a monopoly of wisdom in that area. If the committee produced a new way of working, I am sure that the Executive would be happy to consider it.

It is difficult to respond on the proposal for publication of answers in the business bulletin. If a member receives an answer that they do not like, they can put it into the public domain by means of a press release, for example. However, if there are better ways of working and the committee is minded to spend time producing a paper, the Executive will consider it.

**Patricia Ferguson:** An answer often depends on what question is asked. The way in which some questions are framed will elicit detailed responses; other questions will not elicit such responses. Some questions are incredibly vague and it is difficult to work out exactly what a member is looking for. Sometimes, the chamber desk might try to elicit more information from a member about what is required or the appropriate minister might write to the member and ask them to come and talk about the matter. There are other ways of obtaining information, but much depends on how a question is framed.

**Mr Frank McAveety (Glasgow Shettleston) (Lab):** Have you heard whether the NDPBs feel that they cannot give fuller answers because of the structure? Have the NDPBs said that they have had communications from MSPs saying that it would have been more helpful if information could have been more widely disseminated?

**Andrew McNaughton:** We have received no such information. As far as we are aware, the NDPBs seem happy to respond on operational matters in their own way. Departments with a responsibility to oversee NDPBs keep in regular contact with them and exchange information. We have had no such feedback.

**Mr McAveety:** Would you be happy to discuss the matter with the NDPBs if the committee wanted to explore the issue?

**Andrew McNaughton:** We would, if the committee wanted us to. I am sure that the committee would want to make contacts with NDPBs, too.

**Mr Macintosh:** I have an observation rather than a question. An example of a difficulty that I had in getting information might be helpful. The example relates to the roll-out in my area of the free central heating programme. I lodged a question on the matter, but the Executive could not answer it. I then wrote to the Executive and it

could not answer. My query was forwarded to the Eaga Partnership, which gave me a helpful response in the end. The agency went to some trouble to pull together the statistics, which obviously were not easily accessible. The outcome, although it took many months, was satisfactory. I received the answer that I sought, but there was frustration before that. Members often interpret such delays as civil service or Executive obfuscation, but the simple fact of the matter is that the Executive is not directly responsible for certain bodies and therefore can have difficulty in replying on operational matters. To avoid wrong motives being ascribed in respect of operational matters, guidance could be given to the NDPBs on answering questions, or perhaps to MSPs about which NDPBs it would be best to write to directly. That would be helpful.

Susan Deacon mentioned that "Public Bodies: Proposals for Change" does not mention how agencies should answer questions or reply to letters. For the most part, I have found agencies helpful, but MSPs would find it helpful if the Executive placed a public duty or expectation on the agencies. As I said, I wanted to make an observation rather than ask a question, but a minister may wish to comment.

10:15

**Euan Robson:** You have used an interesting example. I have been chasing the same agency. I asked when a central heating installation would be put into a particular house. Clearly, that is an operational matter and I understood that I should go straight to the Eaga Partnership with the question. Equally, a question about whether there should be a central heating installation programme would be a policy question for the Executive. Matters become difficult if someone asks whether there should be quality control of the installation of central heating systems. Is that an operational or a policy matter? Policy would suggest that there should be quality control, but quality control is clearly an operational matter. I do not know whether I could ever give a definitive answer in respect of quality control.

If the NDPBs would find guidance helpful, I am sure that we could talk to them about it.

**Mr Macintosh:** You have shed further light on the subject and the difficulties that are sometimes involved in framing a question to get a speedy response. The point that I was trying to make was that it took me months to get a response, yet I did not think that the question was particularly difficult. In the end, the question was not a policy question. If we had a more transparent system, such frustration would be avoided. If there were clear guidelines for MSPs and agencies, the delay and frustration could have been avoided.

**The Convener:** I, too, have had dealings with the Eaga Partnership but I was lucky. I did not think of going to the minister first—I went to the partnership that was mentioned on the leaflet that the local authority in an area that we share had carefully concealed in its local office. My assistant found it.

**Euan Robson:** It was possibly the same case.

**The Convener:** It probably was. I had questions about the pace of the roll-out of the programme and the partnership's sub-contracting practices. I was concerned that there might be blockages if the agency did not sub-contract to local agents. I am going into the story to make the point that both matters were operational, but related to the performance of the whole project. It is a pity that 129 MSPs have to get such information through individual approaches. If there was a more elegant mechanism, such issues might be centrally cleared and put in the public domain so that members, their researchers and third parties who read the written answers report could see what is happening. I will leave that issue sticking to the wall. The exchange has been useful.

**Donald Gorrie:** Can anyone confirm a recollection? At Westminster, if a minister replied that they had asked the director of the Scottish Tourist Board—as it then was—to reply to a question about tourism, the letter from the Scottish Tourist Board would be put on the record. Is that correct?

**Andrew McNaughton:** My recollection is that the letter would not be put in the *Official Report*. Currently, if the minister responds to a parliamentary question by saying, "I will write to the member," the reply does not go into the *Official Report*.

**Donald Gorrie:** If the reply did not go into the *Official Report*, the minister would say, "I have placed a copy of the letter in the House of Commons library for everyone to look at." Does that happen here?

**Andrew McNaughton:** When the minister responds in writing to a member's question, a copy of the letter is placed in the Scottish Parliament information centre so that it is widely available to all members. However, the reply does not feature as a formal part of the written answers report.

**Donald Gorrie:** Are copies of responses from quangos sent to SPICe?

**Andrew McNaughton:** No.

**Donald Gorrie:** That is a defect. In that respect, we are less open than Westminster, which I thought was physically impossible.

**Andrew McNaughton:** When the chief

executive of an NDPB responds, he might be happy for a copy of the letter to be placed in SPICe.

**The Convener:** Yes, but the member who asked the question must rely on the goodness or sense of public responsibility of the person who responded. The point is that the practice at Westminster, on which we might have sought to improve, is not being followed here.

**Andrew McNaughton:** We can consider that matter in the context of a general review of the guidance. We will consider ensuring that the practice at Westminster is followed so that when an NDPB responds to a member, it offers to place a copy of the response in SPICe as a matter of course.

**Susan Deacon:** I am surprised by Mr McNaughton's blanket statement that the practice is not followed. I can think of a number of instances in which it has been followed and the relevant information has been sent to SPICe. However, there is no question but that the practice is not consistent, which takes us back to the matter of consistent practice among ministers.

**Andrew McNaughton:** I accept that there might be variations in practice.

**The Convener:** Janet Seaton has been desperate to say something for a while. I hope that the briefing that she has received from the Executive has not deflected her.

**Janet Seaton:** Perhaps I can clarify the matter, which was about Westminster. I used to work at the House of Commons library. Chief executives' letters are put in the library but, as Mr McNaughton said, they do not appear in the *Official Report*. That has not been the practice here. There is no promise to put responses to questions to NDPBs into the reference centre. That happens only accidentally.

I am a little disappointed with the Executive's response on the issue. The way in which it deals with questions to executive agencies on operational matters is a model of transparency. It is disappointing that the Executive relies on constitutional niceties to prevent the same practice in relation to questions to NDPBs.

**The Convener:** We have exhausted that line of questioning, which has produced a lot of meat for the committee to discuss in future. We might seek further clarification of some of the issues that arose.

I am conscious that we advertised this evidence-taking session as one that would last for up to an hour. The third topic for discussion is the advisory cost limit for parliamentary questions. I do not expect the committee to come to a definitive view on the matter because the paper on the subject

was given to us only this morning. If members have had time to read the paper, the remaining time might usefully be spent on questioning or on raising general issues.

A significant point that struck me was the estimated cost of a written parliamentary question, which is now £65.18. I love the 18p; it shows beautiful attention to detail. Three years ago, the estimated cost was £100 an answer. How was the estimate arrived at?

**Patricia Ferguson:** A number of factors have caused the cost of parliamentary questions to come down. One reason is that the number of questions is now much greater and they cover a much wider range of issues and subjects, which means that it is possible to consider the system in more detail than it was with the earlier sample. Another reason is that the Executive's tracking system provides a more detailed analysis.

Because we were concerned about the sample that was used, we said that we would consider the previous figure on the costs in the light of experience to try to obtain a more robust figure. The figure that we now have is definitive; we arrived at it by taking into account all the information that can be assessed. I hope that the new figure is much more accurate.

**The Convener:** The *Daily Record* might be distressed to find that the cost of replying to Fergus Ewing has fallen by a third overnight.

In the context of applying an advisory cost limit, I want to pursue the issue of considering groups of questions. The most questions that I have asked at one sitting is 27. They related to a document, a statement and a debate in Parliament on the strategic roads review. When I read the document after the debate, I thought of 27 questions that I wanted to ask about a range of road schemes throughout the country. Should that amalgamation of questions be subjected to the notional 20-hour maximum, or should I be allowed 27 different questions on 27 different road projects?

**Patricia Ferguson:** To make an absolute judgment on that, I would have to look at the questions. I ask the committee to consider the issue in the light of experience. Such situations occur only in a few instances. Recently, a member lodged 65 questions on one topic, which might have been more easily dealt with by meeting the minister to resolve the issues. I appreciate that questions are not always asked only to glean factual information; there is often a political reason for asking them.

The purpose of the limit is not so that we can say that beyond that limit, we will not answer questions; the purpose is to have a reasonable figure against which we can measure whether it is appropriate to answer questions. We would like to

discuss further with the committee whether the limit should be applied to such large groups of questions. The 65 questions that I mentioned would have cost around £4,000 to answer. Such groups of questions are outwith the cost limit that has been suggested. When members have had a chance to read the documentation, it would be interesting to hear the committee's view.

**The Convener:** I am obliged to the minister for the letter—which committee members have seen—in which she drew my attention to the case that she mentioned. I have considered those 65 questions closely. I found that they were answered by four separate ministers, which indicates that the questions were to a degree cross-cutting. The practical difficulty is that if the Executive had decided to answer only 30 of the questions—because to answer more than that would have taken more than the 20-hour limit and would have involved unreasonable costs—the member involved might simply have passed the other 30 questions to a colleague to ask in his place.

**Patricia Ferguson:** You are correct that that might happen, but it is also possible for members to amalgamate questions. In a recent example, a member queried how material to encourage awareness of breast cancer had been drawn up. The member's next question was about how the material was assessed. Those two questions could easily have been one question and the cost of answering one question would have been less than the cost of answering the two questions, even though they were related.

As the committee has told other members, an element of self-discipline is required. Rather than being dogmatic either way, we must balance the requirements on members and those on the Executive.

**The Convener:** I would not be surprised to discover that, in the example that you gave, the two questions had begun life as one question, which the chamber desk thought could be usefully split in two. That has been known to happen.

**Mr Macintosh:** According to the table in the paper on the costs of parliamentary questions, no question cost more than £470 to answer. In the face of that evidence, why is there a limit? If very long questions are such a rare occurrence, there is no need for an advisory cost limit.

**Patricia Ferguson:** The cost limit is purely advisory. You are right to say that the limit will be reached on few occasions but, on very rare occasions, questions will reach that limit. The point of the limit is to allow us to identify clearly when that is the case.

**Fiona Hyslop:** We received the paper only this morning and I am concerned about the talk of limits. I understand from your opening statement

that you would not preclude answering any question because of cost. Will you affirm that?

10:30

**Patricia Ferguson:** That is the case. I have already said that today.

**Fiona Hyslop:** I am also concerned that a third of the costs that are mentioned in the paper are secretarial and office costs. I understand from paragraph 7 of the summary report that those include accommodation. Are costs for Victoria Quay taken into account in the costing?

**Patricia Ferguson:** Executive overheads are taken into account.

**Fiona Hyslop:** They include accommodation, most of which will be at Victoria Quay.

**Patricia Ferguson:** They could include accommodation, but that is not necessarily mostly at Victoria Quay.

**Fiona Hyslop:** Is the preparation of an answer to an oral question more expensive than the preparation of an answer to a written question?

**Derek Grieve (Scottish Executive Finance and Central Services Department):** The study examined 500 written questions. It did not consider the detail of oral questions. The turnaround time for oral questions tends to be quicker than that for written questions and the costs will be proportionately lower.

**Fiona Hyslop:** A written question can be asked to elicit information, but it can also be asked for political reasons. That is part of the Executive's accountability to the Parliament. We should question any idea of limits on the cost of democracy. Oral questions tend to be a different animal. They are a public part of accountability. A similar study to find out how much the preparation of an answer to an oral question costs—including costs such as accommodation—might be helpful. Then we would have an idea of how much time goes into preparing ministers to answer at Executive question time. Would that be possible?

**Patricia Ferguson:** It would be possible, but it is important that the committee bear in mind the fact that the number of written questions far exceeds the number of oral questions. The problem arises because of the sheer volume of written questions. The Executive undertook the study because members were asking questions about the cost of questions. We have undertaken the exercise and arrived at the cost limit to be able to fulfil our obligation to members.

It is not a question of putting a cost on democracy. We are putting a possible cost limit on responding to some of the questions that are asked and using that to encourage members to

consider how they ask questions. As I have mentioned, the committee has in the past flagged up the fact that members have a responsibility to do that. Everybody should take that responsibility seriously. Questions are not necessarily the best way to get information. There may be a political element to what members ask and everyone accepts that, but some questions could be better dealt with in another way. I was recently asked a question the answer to which is readily available on the Parliament's website. It was not necessary for that question to be asked in that way.

**Fiona Hyslop:** There might be political elements to questions. Members approach SPICe to get information on an issue that they perhaps want to pursue for political purposes. At what point and how often does SPICe contact the Executive to try to get that information? When SPICe contacts the Executive on a particular issue—health, for example—does the Executive have a system to bring that contact to the attention of the appropriate department? Is there a link between the question that is asked of SPICe and the Executive department to which it is passed on? Does it get passed up the system to ensure that the department knows that a member is asking questions about an issue?

**Andrew McNaughton:** Perhaps Janet Seaton has comments to make on the matter. My understanding is that SPICe contacts the Executive for further information on questions that it is asked and relays the information back to the member. It is also my understanding that the Executive does not know which member is asking the question of SPICe. That is a matter between SPICe and the member.

**Janet Seaton:** That is correct. We contact the Executive if we need to but we never reveal who has asked us. Members take that into account when they decide whether they would like to ask us to get the information or whether they want to ask for it directly.

**Susan Deacon:** I return to the average cost of answering a question. I fully appreciate the minister's point that the study was done because the information that it gives was asked for rather than because the Executive views the matter as one of pounds, shillings and pence.

The £65 average cost of answering a question is probably quite good value for money and probably compares favourably with the equivalent at Westminster. However, I am genuinely concerned and surprised by the breakdown of that figure. In particular, I am surprised that the administrative process accounts for a third of the cost and the policy work that is associated with answering a question accounts for just two thirds of the cost. I will give away state secrets: I am aware from past experience that, as well as being the main answer,

the policy work is also a briefing note for ministers. It strikes me as strange that such a sizeable element of the overall cost should relate to administration rather than policy preparation.

**Patricia Ferguson:** Derek Grieve will be able to go into that in more detail. I suspect that the proportion is due to the fact that some of the information is already available in a form that can be readily disseminated as an answer to a question. The cost is an average, not the cost of a specific question. Some questions will no doubt cost considerably more than £65 and others will cost considerably less.

**Derek Grieve:** The breakdown of cost is, as the minister explained, an average. It might be useful for me to explain how we identified and tracked the costs. Every time that officials opened a parliamentary question on our electronic tracking system, they were prompted to record how long they had spent working on that question, as well as details of their grade and location. That held for every entry into, amendment to or viewing of an answer to a written parliamentary question. That information has been collated.

I appreciate that the committee has not had an opportunity to read the report in detail. Around 6,000 entries were made against the 500 questions that were used for the study. Producing an answer requires a fair amount of involvement.

Although the secretariat staff costs look like a large amount, they are the apportioned cost of the administration that is necessary to hand each question to the right department and individual and to ensure that the answer complies with the guidance on reply time and response. The apportioned time that an administrative member of staff spends on a parliamentary question is small—around 10 minutes.

**Susan Deacon:** I am grateful for that explanation, but if we consider the matter from the systems management point of view, 6,000 contacts with 500 questions sounds like an incredibly over-engineered system. Is there scope to refine the process not only to reduce the costs, but to make the system more efficient overall and so put less pressure on all concerned?

**Patricia Ferguson:** A number of procedures are built into the process to allow us to ensure that questions are answered timeously and to ensure that, if it appears that that is not the case, the question concerned is flagged up and taken on to the next level so that performance is kept up to date. There has been a lot of concern about the time that questions may take to be answered. As a result, we have adopted measures such as introducing the tracking system.

Derek Grieve talked about contacts. I suspect that those contacts represent a very small amount

of the time taken. For example, a contact may be a message flashing up on a computer screen to say that something needs to be done at that point. That is part of the monitoring process to ensure that all the different deadlines in the system are met.

**Susan Deacon:** I am grateful for that clarification. Having cast doubt on the number of contacts that are made, I want to ask about one particular contact that is probably quite important, which is the minister's involvement. I am struck by the fact that the descriptions of the process in the paper and this morning do not address the minister's involvement in the consideration of questions. In fact, the implication is almost that the process is quite depoliticised, with the minister simply putting his or her initials to the answer. Clearly, post-devolution, there is much more to the matter than that, because ministers are now very aware that they are accountable for a particular answer.

In the work that you have undertaken, have you come across any indication of how much ministerial time is spent in handling questions? Although it might be difficult to put a price tag on that, there is presumably an issue about the time that ministers spend querying draft answers that they are given, speaking to policy officials or even including additional information in the answers because they have a greater awareness of what the members are seeking. That aspect is curiously conspicuous by its absence from the analysis.

**Patricia Ferguson:** It is absent; it was not taken into account as part of the process. Obviously, you will know that the time that a minister takes to consider a question varies very much depending on the question and the answer. You are absolutely right to flag up some of the elements that are taken into account and some of the conversations that go on; however, they were not taken into account in arriving at the figure mentioned in the paper. I understand that those elements are not taken into account at Westminster either.

**Donald Gorrie:** I wonder whether, in the interests of improving democracy and saving people's time, the Executive would consider being more proactive. Someone mentioned the member who asked more than 60 questions about a matter and asked whether, in that case, it would have been better for the minister to have a meeting with the member. Would not it be sensible for the Executive to contact the MSP and arrange a meeting? MSPs would have the right to refuse, and anyway, we do not want to bludge—*or* emasculate—them, but such an approach would be more sensible if that is what the member wanted.

Indeed, the approach could be spread more

widely. In a social conversation, a civil servant told me that his colleagues were all very exercised by a question that I had lodged and asked me what on earth I was getting at. The civil servants had spent hours thinking, "What on earth is that idiot Gorrie on about now?" A huge amount of time would have been saved if someone had lifted the phone and said to me, "You've got this question about people falling over pavements. What on earth are you aiming at?" Civil servants feel inhibited and do not want to be accused of preventing us from being democratic; however, a more active approach from the Executive would benefit us all.

**Patricia Ferguson:** That happens fairly often. A minister will either contact a member and offer to meet them or will write to the member to suggest that they meet or enter into fuller correspondence about an issue. Sometimes we might even go back to the chamber desk and say, "This question mentions 'the conference that took place in 2001'. What conference does the member mean?" As I said, members' questions are not always that clear. As a result, such an approach is much better and needs to be encouraged.

**The Convener:** I apologise for running past the advertised finish time, but to round things off, I want to ask about the calculation of the 20-hour limit in relation to a single question and to a group of questions. Might the people who deal with answers be asked to estimate whether answering them would take 20 hours, or would an axe fall, in the sense that someone would simply say, "That's it. I've done my 20 hours. I've done 20 of the 60 questions, and I'm not doing anymore"? How on earth would such a system work? If a member decided that, because of the 20-hour limit, it was not worth asking any more questions, someone else would surely ask the same questions, because the member who wanted the answer would be bound to know someone who would do that for them. How would you work out when the 20-hour limit would come into play?

**Patricia Ferguson:** As I have said several times, the limit might not necessarily be used. We are minded to introduce it only as an advisory limit. It is fair to say that it is often clear which questions will call for a more substantial amount of work than would usually be carried out. In those cases, the amount of work would be measured against the limit, but we have not done that yet. It would be interesting to see how it works. I suspect that the limit would be used in that way.

**The Convener:** Thank you very much. I think that we have exhausted our discussion of those issues, but I am sure that we will want to explore other questions a little further when we have a chance to look back over the exchanges in full. At this stage, I thank both ministers and their

advisers and civil servants for their time and for the co-operation that we have received, not just this morning but in general, as we tease out these matters and others that are outstanding on our shared agenda. I thank everyone for their attendance and participation.

*Meeting closed at 10:45.*



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