

PROCEDURES COMMITTEE

Tuesday 21 May 2002
(*Morning*)

Session 1

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PROCEDURES COMMITTEE

8th 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)

*Paul Martin (Glasgow Springburn) (Lab)

*Mr Gil Paterson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Phil Gallie (South of Scotland) (Con)

Richard Lochhead (North-East Scotland) (SNP)

*attended

WITNESSES

Phillippa Bonella (Scottish Council for Voluntary Organisations)

Robbie Dinwoodie (Scottish Parliamentary Journalists Association)

Kenny Farquharson (Scottish Parliamentary Journalists Association)

Alex Fergusson MSP (Convener, Rural Development Committee)

Andrew Nicoll (Scottish Parliamentary Journalists Association)

Grahame Smith (Scottish Trades Union Congress)

Tracy White (Scottish Trades Union Congress)

THE FOLLOWING ALSO ATTENDED:

Bill Anderson (Scottish Parliament Corporate Affairs Directorate)

Gillian Baxendine (Scottish Parliament Directorate of Clerking and Reporting)

Professor David McCrone (Adviser)

Eric MacLeod (Scottish Parliament Clerk/Chief Executive's Group)

CLERK TO THE COMMITTEE

John Patterson

SENIOR ASSISTANT CLERK

Mark MacPherson

ASSISTANT CLERK

Lewis McNaughton

LOCATION

Committee Room 2

Scottish Parliament Procedures Committee

Tuesday 21 May 2002

(Morning)

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

Interests

The Convener (Mr Murray Tosh): Good morning, everybody. Welcome to the eighth meeting of the Procedures Committee this year. We have a minor procedural item to dispose of first, which is to welcome Paul Martin MSP to his first meeting of the committee. Paul replaces Frank McAveety, who has gone on to greater things. I would like to place on record my thanks and, I am sure, the thanks of every member of the committee to Frank for the work that he did when he was with us. We will miss his sense of humour above all. I formally invite Paul Martin to declare any relevant interests.

Paul Martin (Glasgow Springburn) (Lab): I have no interests to declare.

The Convener: Thank you.

Consultative Steering Group Principles Inquiry

The Convener: The main purpose of this morning's business is to wrap up some of the evidence that we had hoped to work into our consultative steering group principles inquiry earlier. We have finished our programmed evidence taking, so today's session represents sweeping up of evidence from people whose evidence we want to include. We will be fairly relaxed about everybody joining in.

We have with us Phillippa Bonella, who is the policy officer of the Scottish Council for Voluntary Organisations. She will give her presentation in a moment and the committee will discuss it with her. Andrew Nicoll, Robbie Dinwoodie and Kenny Farquharson from the Scottish Parliamentary Journalists Association are also at the table. At some stage, we will be joined by Grahame Smith and Tracy White from the Scottish Trades Union Congress, whom I will invite to sit at the table when they arrive. I am relaxed about people joining in each other's discussions if they feel that it is relevant to do so.

The SCVO has circulated a paper, but I have no doubt that Phillippa Bonella would like to comment on it before we proceed to discussion.

Phillippa Bonella (Scottish Council for Voluntary Organisations): Good morning. I am the SCVO's policy officer and am responsible for most of the briefings with which we try not to bombard the Parliament. I must convey apologies from Jill Flye, our parliamentary information officer. It is unfortunate that she is unwell at the moment, because she is our expert on parliamentary procedures. However, I will do my best to answer questions on her behalf.

As our written evidence shows, voluntary organisations have a keen interest in the CSG principles. We feel that our ethos of participation and equality is shared by the Parliament through those principles and we watch with interest the continuing process of putting them into practice. The SCVO feels that, with other key organisations such as the Scottish Civic Forum, we have a role in watching the Parliament's work in relation to those guiding principles. Regularly, we bring together policy officers from voluntary organisations throughout Scotland in the third sector policy officers network to discuss parliamentary procedures and their impact on accessibility, power sharing and equal opportunities. Our evidence is informed by that group and by lessons that we have learned through our parliamentary information and advisory service, which works with local voluntary

groups to help them to get involved in parliamentary activities.

Our written evidence was submitted some time ago and we are happy to report that many of the procedural difficulties that we identified have been remedied. In particular, we welcome the fact that committees are travelling around Scotland more, and the Parliament's upcoming move to Aberdeen. We welcome, too, the continuing move to increase consultation through the Parliament's website—for example, by means of the new online discussion forums—and through the committees' use of new forms of consultation.

Beyond those improvements, it is important for us to record the voluntary sector's hugely positive response to two key parts of the Parliament's accessibility—its comprehensive website and the work of the Public Petitions Committee. Those elements of accessibility have inspired the voluntary sector, to the extent that the SCVO is about to launch a new voluntary sector web portal, which will provide a platform for e-democracy through facilities that allow voluntary groups to develop petitions, to question members of the Scottish Parliament and to consult their members and the general public. We hope that that will lead to even greater participation by local voluntary groups, particularly those that are outside the central belt.

In spite of those positive elements, some of our concerns have still not been addressed. There is widespread concern throughout the voluntary sector that the CSG principles do not extend to the Executive. The people whom we meet tend to be very positive about the accountability of the Scottish Parliament, but they are less positive about the Executive's accountability. We ask the Parliament to keep the key principles to the fore in its scrutiny of the Executive.

When parliamentary committee meetings are held in public, that is something to be proud of—but only to the extent that they are held in public. Many committees have settled into a routine of meeting in private to discuss forward work plans, draft reports and other housekeeping tasks. We used to say to people that Scottish Parliament committees meet in public; now we say that their evidence-taking sessions are carried out in public, which is nearer the truth. We feel that when a committee chooses for housekeeping reasons not to have its discussions published in an *Official Report*, a detailed minute of the meeting should be published and the public should be allowed to remain in the committee chamber during the discussions.

There is a welter of other groupings beyond the committees of the Parliament, some of which are more or less formal. None of those groupings seems to be as open to public scrutiny as they

could be. The Parliamentary Bureau and the Scottish Parliamentary Corporate Body to some extent recreate the inaccessible mystique of the Westminster corridors of power. The cross-party groups provide varying degrees of information on their activities and the conveners liaison group, although it could be a useful grouping for mainstreaming good practice throughout committees, is invisible.

When we hold our lobbying surgeries around the country, we often find that people are tired of the party-political nature of parliamentary debates. Although a debate might be on a subject that is important to communities, it can degenerate into a "My amendment is better than your motion" kind of argument. Members' business debates are very different; they allow thoughtful consideration to be given to important policy areas. We support the idea of having more prominent slots for members' business debates. We also call for earlier publication of Executive motions and relevant papers to allow civic society to participate more in briefing MSPs for Executive debates.

It is not the way of the voluntary sector to point out problems without proposing solutions, so in our written evidence we set out four key changes. First, we propose that each parliamentary committee should publish an annual accessibility report detailing what it has done to involve civic society in its decision making. The report should pay particular attention to the innovative methods of consultation and agenda setting that the committee has used. That could lead to agreed good practice and could help to spread innovation throughout the committees.

Secondly, the conveners liaison group should be formally constituted and full minutes of its meetings should be made publicly available. It should adopt a formal role regarding mainstreaming of good practice in committees, and it could draft guidelines for committees on implementing the CSG principles that go beyond standing orders and into the spirit of the principles.

Thirdly, the Parliament's strong work around equal opportunities, which was discussed at the committee's last meeting, should be publicly available to improve accountability.

Finally, the Scottish Civic Forum should be mandated and funded to carry out an annual independent audit of the implementation of the CSG principles based on parliamentary committees' accessibility reports and the views of civic society. The audit could be debated in Parliament each year.

The Convener: Thank you. Members will range across those issues in the questions or points that they have. They may also refer to issues that were raised in your submission which, as you said, was

prepared some time ago, when we were trawling for written evidence.

I will start by probing your comments on the Parliamentary Bureau. Many people have commented on the bureau, but you picked up on the criticism that decisions are made through what we call the usual channels—in the manner of Westminster—which means that they are made before bureau members get to bureau meetings. You expressed concern that most decisions are made before matters reach the bureau.

I ask you to address the process in two stages: first, the carving up among the party business managers of the allocation of time and, secondly, the process of taking bureau decisions—which now are made public, although the bureau remains private. Given that the work of the bureau is in essence the allocation of parliamentary time, what do you see as wrong, risky or disadvantageous about the fact that the bureau meets in private? It was always envisaged that it would meet in private; that was one of the initial recommendations of the CSG. You are arguing that the principle should go beyond the content of the CSG report, and that the bureau should be much more public than was ever envisaged. Could you flesh out your reasons for that?

Phillippa Bonella: Obviously, it is important to be realistic and to acknowledge that political parties need to have a place to discuss their business. We do not argue that meetings of the Parliamentary Bureau should be entirely in public and that the public should be invited to them, or that there should be a full *Official Report* of bureau meetings. However, in terms of accessibility, it is important that civic society knows exactly how decisions are made, and that it knows well in advance what the timetables are likely to be. The bureau does not meet in public and does not minute its decisions fully, so it is difficult first, for that level of accountability to be fulfilled and, secondly, for organisations that want to contribute to debates to know well enough in advance what the timetable is likely to be, so that they can include that in their work plans.

The Convener: You might be surprised at how short the forward programme is, and how little any of us know about what is likely to arise.

I have another issue to raise, about committee business, but I will hand over to other members around the table first, because I am sure that many of them have comments to make.

Donald Gorrie (Central Scotland) (LD): You feel that your people have difficulty getting at ministers—they have a secret code—and that they cannot even find out who ministers' private secretaries are. What would you like us to get the Executive to do to open that out?

Phillippa Bonella: It would be useful for the Parliament to take the clear view that the Executive should also implement the CSG principles, because when the CSG report came out, most people assumed—without really thinking it through—that it would also cover the Executive. It was a surprise to many organisations that I work with to find out that this inquiry, for example, was not examining the Executive, and that it was examining only the Parliament. Although the Parliament is moving forward in implementing the CSG principles, the Executive does not seem to have changed its culture much. It is a question for the committee how far it feels it can influence that culture, but it would help us if the Parliament made a statement that it is important for the Executive to consider the principles in its work.

09:45

Donald Gorrie: One of the criticisms that you make of the Parliament is on a matter that many of us share concern about, and that is the rapidity of stages 2 and 3 of bills. What should we do to improve that situation? Is it a question of allowing more time, or could we have a better structure, whereby organisations that have an interest in a bill can feed in their views and we can bounce ideas off them?

Phillippa Bonella: Much of that comes down to better timetabling. That is important for much of the Parliament's work. During stage 1, or before stage 1 when inquiries take place, I have known committees to consider examination of an issue for six months; however, they have not got round to asking for views on it. In such cases, they suddenly need to receive views within a fortnight. I am sure that the same is true throughout the legislative process.

The Executive knows what bills it wants to get through in any given year, and most people are probably aware of which committees should be the lead committees for those bills. It is a case of stepping back and realising that, although it is important for legislation to go through as quickly as possible, it is equally important for everyone to get a chance to contribute to it in order to ensure that it is good legislation. The Executive should step back and say, "We have four years to get the bill through—we don't have to do it in the next fortnight." A forward-planning timetable of legislation should be provided so that organisations can consult their members and contribute to the process at the right point.

Donald Gorrie: Let us say that the Procedures Committee was the lead committee on a bill, and there was an issue that affected a specific organisation. If Murray Tosh lodged amendments, and I wanted to know whether you thought that they addressed that issue, how long would you

need to comment on such amendments?

Phillippa Bonella: We need to be clear that many of the small local groups that I work with will not be involved with amendments, because it is resource intensive to read amendments and the bill, and to work out what is going on and where a contribution would matter. The larger and better-resourced organisations would be involved, but if they wanted to be involved properly, they would need three or four weeks. Few voluntary organisations in Scotland have full-time staff to deal with parliamentary matters.

Mr Gil Paterson (Central Scotland) (SNP): I take you back to your comments on the Parliamentary Bureau. It is claimed that horse-trading takes place in private at bureau meetings and that if that were not done, no compromises would be reached, and that if meetings were held in public, rigid party lines might develop. Is there a fear of that happening?

Phillippa Bonella: That reason is often given. It is also given to explain why committees do not meet in public all the time. I throw a question back at MSPs: would not it be nice if you did not always have to follow party lines in public? The CSG principles are based on the assumption that MSPs will be able to advance the public interest, and not always follow party lines. I hope that that would be the case, regardless whether it was noticed by the public.

Mr Paterson: We are all in political parties, and we all have strong views on particular issues. It might be better to discuss some issues and to reach a compromise—do the horse-trading; give a little and get a little—in private. We should be aware of the public perception and we should remember that there are other people behind us, but if the horse-trading was done up front, it would put members in political danger.

Phillippa Bonella: There is a compromise position, which we support. There need not be an *Official Report* of meetings, but what was discussed and what was agreed should be fully minuted. That would mean that everyone was clear about what had happened, but you would not have to go through the process of horse-trading, as you called it, in public. The groups that I work with in communities would be pleased to see more negotiation and discussion between MSPs leading to positive conclusions, rather than what they see in Executive debates, which are party-line based discussions.

Mr Paterson: Would you be more comfortable if a clearer agenda was produced, so that even if you could not influence it, you would at least understand what was coming up? In other words, would an agenda and an outcome—in the form of a reasonable minute—fit the bill and overcome the

fact that it might be necessary to horse-trade in the bureau?

Phillippa Bonella: That would be useful. Charities must be open and accountable, too, but we are not expected to write down every word that is spoken in a management committee meeting—which is probably just as well. However, we ensure that people can find out what is going on. Having full agendas and reasonably full minutes of bureau meetings made available would be helpful.

Mr Paterson: I will perhaps ask another question later.

Susan Deacon (Edinburgh East and Musselburgh) (Lab): You note in your submission that there have been a substantial number of debates on the voluntary sector in Parliament, which have gone a long way towards raising issues among MSPs and others. What are the main tangible results that flow from that degree of attention to the voluntary sector? Have your expectations been met, or should some of the perennial problems that voluntary sector organisations face—for example, concerning funding streams and the administrative process—have been addressed, rather than some of the other problems? Would that have delivered more for the sector? I know that that is a slightly leading question.

Phillippa Bonella: Luckily, we agree. We have been very pleased with the level of interest in the voluntary sector that the Parliament has shown. It has been great to have almost annual debates on the issues, in which members have raised all the key concerns, both national and based on their constituency experiences. However, three years into the Parliament there have been no major changes. Perhaps it would be expecting too much to expect a lot of changes to have taken place in that time. Many review groups have been set up and there has been a lot of considering of issues, but there has not been much movement forward. For example, we have concerns about funding, which Susan Deacon mentioned. A funding review has been on-going for a long time but has not come to much; ditto for charity law reform and the social economy review. There is obviously a slight mismatch between the level of parliamentary interest in the voluntary sector and the political will or ability to take tangible actions.

Susan Deacon: You mentioned your desire for the Executive to adopt the principles on which the Parliament was based. The use of the term “Executive” has been mentioned by previous witnesses. In using that term, do you draw any distinction between civil servants and ministers, based on the experience of your organisation or the organisations that you represent?

Phillippa Bonella: We probably have to make a

distinction. The SCVO has had very positive relations with ministers, although the difficulty is that it is quite hard to reach them. That might not be the experience of many local voluntary organisations, however, because organisations need to be well known and perhaps have links with particular ministers before they can short-circuit the official channels and reach them. Many smaller organisations therefore probably do not draw a distinction between ministers and civil servants, because they cannot reach ministers at all. Nonetheless, the SCVO draws that distinction. Ministers are generally happy to talk to us, but when we go through the official channels it is hard for us to reach them.

Susan Deacon: How are small voluntary sector organisations' experiences and perceptions of the Parliament shaped? As you say, they will not have contact with ministers or the Parliament directly, as would be the case for a national body such as the SCVO or a larger national voluntary sector organisation. How much are small organisations' perceptions shaped through contact with local MSPs, through consultation processes and through the SCVO?

Phillippa Bonella: There is an interesting mixture of positiveness and cynicism when we talk to local groups. If a group has been in contact with its local MSP, visited the Parliament or been involved in consultation, particularly through the parliamentary committees, it is usually very positive. Groups that have not been involved and which have only read what has appeared in the press are much more negative. Negativity tends to increase the further from Edinburgh those groups are. We try to hold sessions in Inverness and further north, but it is hard to get people to come and find out how to interact with the Parliament, let alone to give us positive stories about it.

Susan Deacon: You mentioned confusion among the public and a lack of clarity about the respective roles and responsibilities of constituency and list MSPs, which has been raised by previous witnesses. You suggest that formal guidance should be published on those roles and responsibilities. First, can you illustrate what the confusion is about? Secondly, should any further guidance and clarification focus on the existing definition of MSPs' roles and responsibilities, or ought there to be a substantive reconsideration of those roles and responsibilities?

Phillippa Bonella: Originally, when we considered the electoral system and the election of members to the Parliament, we thought that it was a positive thing for local organisations to have a range of MSPs to talk to about an issue. If, for example, a constituency MSP were not very interested in an issue, an organisation would have others to approach who might be. We spent a lot of time going round local organisations and telling

them that. However, the feedback that we have received from those organisations is that that situation often backfires on them, because constituency MSPs dislike list MSPs' becoming involved in what constituency MSPs consider to be constituency business. It is not clear to us how we should advise local groups to deal with that situation, or whether they must simply contact their constituency MSPs even if they know that those MSPs are more interested in different issues. There might be ways in which MSPs can agree among themselves to divide up issues or to accept that organisations might want to contact one political party rather than another because they know that its policy is more sympathetic to their cause. We would like to know how to advise organisations about that and we hope that the committee will be able to provide the key.

The Convener: We, too, wish that we could find a way to work that out. The majority of members of the committee are list members, so we might well be able to agree on a code.

Fiona Hyslop (Lothians) (SNP): I take it that, although you have criticisms to make, you think that the voluntary sector has far more access to Parliament and the Executive than it had to Government before devolution.

Phillippa Bonella: Yes—much more.

Fiona Hyslop: Your submission says that you are concerned about the fact that committees tend to accept academic views as neutral while they view the voluntary sector as biased. Can you explain that a bit more?

Phillippa Bonella: I understand why many people think, because voluntary sector organisations are single-issue organisations, that they are more likely to be biased. However, the same is true of academics and anybody else who has experience of a specific issue. Often, the SCVO might provide the only centre of expertise on certain generic voluntary sector issues; however, we would not be considered when committees were looking for advisers because we are thought to have vested interests. Academics, on the other hand, are considered to be neutral despite the fact that they have their own interests in the issues.

Fiona Hyslop: So, is your concern more about the appointment of advisers than the evidence that is given to committees?

Phillippa Bonella: Yes. There is still a tendency to regard somebody who has a professional title as more valid than an expert voluntary group, especially in the appointment of advisers. Committee advisers are nearly always academics although, occasionally, it might be more acceptable or sensible to appoint a voluntary sector organisation or some other organisation.

Fiona Hyslop: On openness and accountability, you expressed concern about some of the parliamentary committees' meeting in private. In previous evidence, we have heard that the voluntary sector is increasingly becoming part of a task force that is appointed by the Executive. The funding streams for voluntary organisations also often come from the Executive, and the organisations make recommendations and horse-trade behind the scenes with the Executive before a bill reaches the Parliament. If an organisation that was part of a behind-the-scenes task force that was horse-trading with other voluntary organisations and the Executive gave evidence to the committee that was considering a bill whose development that organisation was involved in, would that cause any concerns about how the voluntary sector is perceived?

10:00

Phillippa Bonella: I am not entirely sure how many times that has happened, but I hope that such an organisation would be clear about any interest that it might have in the bill. As members know, the voluntary sector is diverse. Large national organisations with resources are involved in task forces. Many other organisations deal with similar issues and could give slightly different perspectives on them.

Perhaps that returns to the idea of the usual suspects giving evidence to committees. Committees could consider the fact that some organisations have been involved in legislation at a previous stage and it would be nice to hear the views of other organisations, rather than pick the biggest national organisation that jumps out on any given issue.

Fiona Hyslop: If committees did that, would the SCVO and other organisations attack the Parliament for not taking evidence from the major players?

Phillippa Bonella: We certainly would not.

Fiona Hyslop: Do you understand that if the private sector acted similarly—if a company were part of a task force, involved in forming legislation and called to give evidence—the danger would be that much of the secret horse-trading would take place not in committees, but behind closed doors? Do you encourage more openness in the form of minutes and accounts of pre-legislative consultation and task forces?

Phillippa Bonella: Yes.

Fiona Hyslop: My final question is on the Parliamentary Bureau. I have a vested interest that I should declare, as I am a member of the bureau. Are you aware that the bureau has a weighted voting system and that the Executive has more votes than anyone else does?

Phillippa Bonella: Yes.

Fiona Hyslop: To promote consensual compromise and the best interests of the Parliament, would one solution be equal votes for each member of the bureau? Making negotiations open and public might protect the best interests of the Parliament, as opposed to party-political advantage.

Phillippa Bonella: That relates to coalition politics and the decision to form a coalition after the previous election. A colleague who will give evidence today said in his submission that it was slightly disappointing that the coalition was formed. Some commentators in the voluntary sector agree that the coalition created more party-political cleavages in the working of the system. It is obvious that the bureau works in that way, too. The issue applies more widely than just to the bureau. I do not want to comment more than that.

Mr Kenneth Macintosh (Eastwood) (Lab): You have made some welcome constructive suggestions. Often, we just hear views. The suggestion of annual reports on accessibility is particularly good. The idea of a partnership with the Scottish Civic Forum on the CSG principles is quite good, but the annual audit idea strikes me as a bit too much navel-gazing.

Several colleagues have commented on the private-public split in the way we work. Although we all endorse the idea that everything should be open and public, could a set of principles on when we meet in private be produced? If we take a pragmatic approach to ensuring good practice in the Parliament, we can say that many MSPs have found the evidence that witnesses from the public and the private sector have given in private briefings extremely constructive and informative—perhaps more informative than some open committee sessions. How could we take advantage of that and build on that good practice, without putting up barriers or hiding matters from the public? Can we frame a set of principles or a code of practice that encapsulates such occasions and says when such evidence can be heard, without detracting from the Parliament's principles?

Phillippa Bonella: Together, we can. At times, committees want to meet witnesses in private. There may be good reasons for doing that—particularly when a committee wants to talk to individuals who are affected by a policy and who might not want to talk in a room such as this committee room.

We suggest that the conveners liaison group is a good forum for such work, because it brings together the conveners of all the committees and means that good practice can be adopted across the board. Different committees work in different

ways, and some committees are more open than others. We could reach a compromise that allows committees to capture everything that is good about meeting—at times—in less open, less public sessions, while ensuring that committees are still accountable by being clear about how reports are arrived at when people give evidence to them.

Mr Macintosh: That involves the balance between being private and being secret.

Phillippa Bonella: Yes.

The Convener: I will take that a little further. Much of the evidence that we have received suggests that the people with whom we engage might be losing their enthusiasm for participating and engaging with us. It has been suggested that consultation overload could be taxing many organisations and that organisations are, or might become, demoralised because they do not receive adequate feedback on how their submissions were received—that relates to committees discussing evidence in private when they conclude their reports. Do you detect weariness among the organisations that you deal with? If there is any such fatigue, is it a work load issue or does it relate to feedback? Are there any other contributory factors?

Phillippa Bonella: It is always dangerous to talk about consultation fatigue, because we are still very grateful to be involved in policy making, but you are right—the smaller organisations with which we work are concerned about the amount of time that staff spend on consultations from the Parliament and the Executive. We are heading towards the summer, and I know that about 30 consultation documents will be on my desk by the end of May, as all the civil servants go on holiday. That is how the system works.

There are two reasons for that. The first is the poor timetabling of consultations, which are always published in the summer or at Christmas, when we have the least amount of time and ability to consult our members. Consultations from parliamentary committees tend to be speedy. Even if a committee has known for a year that it is likely to want to do such work, it still expects a turnaround of a few weeks for a consultation, which is difficult for organisations that want their views to be properly representative.

As you said, no clear feedback is provided. Some management of expectations in consultations is needed. Often, we see interesting blue-sky consultations that ask for our views on issue X, but do not set out the obvious political and financial constraints, so organisations do not know how their views can input into the policy development process.

The Convener: I have seen Executive consultation reports that summarise the responses

that have been received and give responses in turn. Do people feel that that is better practice or is that regarded as a bit of window dressing? Are there any lessons for the Parliament and its committees?

Phillippa Bonella: That system works well. We recently received the Executive's summary of the responses to last summer's consultation on the reform of charity law. I think that the Executive employed people from the Robert Gordon University to do that work. That was useful for us, but unfortunately the summary came out about eight months after the consultation had closed.

Such a summary does not set out what will happen next and how views that have been expressed will lead to developments in policy. Getting a summary of what others have said is useful for organisations such as ours, but what people really want to know is whether what they said will change anything and, if it will not change anything, why not.

The Convener: Among the organisations that you deal with, do you detect frustration—or anything stronger—with the lack of feedback, or are people happy to keep producing blue-sky reports?

Phillippa Bonella: There is frustration, not only with the lack of feedback but with the lack of real implementation. During this first session of the Parliament, good progress has been made on some issues, but many generic voluntary sector issues, which must be fixed before we can consider other policy areas, are stuck. People have been consulted five or 10 times on the same issue over the past 15 years but we have not moved towards change. Beyond simply getting feedback on what everybody has said, we need feedback on how consultation will lead towards change. That is what is lacking, and it does cause frustration.

The Convener: Thank you very much for your contribution. You are very welcome to stay for the rest of the meeting, or part of it, but you do not have to. There is no pressure one way or the other. If you want to stay and contribute further during anybody else's contribution, please feel free to do so.

Phillippa Bonella: I am afraid that I have to leave to get ready for a meeting of the Finance Committee later today.

The Convener: That is okay—it is only politicians and journalists who have unlimited time.

I now welcome our colleagues from the Scottish Parliamentary Journalists Association—Andrew Nicoll, Robbie Dinwoodie and Kenny Farquharson. We have received written submissions from two of you but not the third. I see that Robbie Dinwoodie will go first.

Robbie Dinwoodie (Scottish Parliamentary Journalists Association): I am the Scottish political correspondent for *The Herald* and I am prefacing the session simply because the initial invitation came to me as the convener, at the time, of the SPJA. I thank members for the invitation to contribute.

Members may recall that the SPJA, which is often wrongly referred to as the lobby, initially declined a request to enter a submission. That was because the views of its members were too diverse for such a submission to be meaningful. The three of us who will contribute today do so as individual members of the Parliament's regular press corps and not as spokesmen for the SPJA or our individual newspapers. We have all been involved in Scottish political journalism since well before the days of the CSG and we write for a daily broadsheet, a daily tabloid and a Sunday newspaper. We also carry with us some of the thoughts of our broadcast colleagues in the SPJA.

Andrew Nicoll, who succeeded me as convener of the SPJA, and Kenny Farquharson, who was the founding convener, have entered written submissions, both of which make points that I would endorse. I say only that I fear that the Parliament has diverged increasingly from CSG principles and that it is being squeezed by the ever-stronger grip of party imperatives. The Parliament must find ways to make its distinctive position heard over that of the Executive. Whatever the risks and doubts, journalists remain your best hope of getting that position through to the public. That will happen only if you engage with us, open up more and get back to CSG principles.

I am happy to expand on those thoughts, but first I will hand over to my colleagues.

Andrew Nicoll (Scottish Parliamentary Journalists Association): I have made a written submission and I do not want to add much to it as I know that the committee has things to do. However, one event—which would have come under the heading of accountability—may have overtaken the submission since I made it. That event was the Shirley McKie business that took place in Parliament the other day. I am at a loss to understand why news programmes such as “Panorama” and “Newsnight” were able to deal with the issue of why my tax dollars are being spent to continue the persecution of a woman who has been cleared by the courts and who has had an apology from the Minister for Justice but who cannot get a settlement from the state, but it was a closed book to us, in the cockpit of Scottish politics and public life. Members may want to address how accountable the Executive is through Parliament on the business of Scottish life.

Beyond that, I am happy to discuss anything that was in my submission.

10:15

Kenny Farquharson (Scottish Parliamentary Journalists Association): If members do not mind, I will go through my submission in a bit more detail, to bring out specific points.

When I was convener of the SPJA, I was a member of the CSG's expert panel on media issues. I would like to comment on how that panel's recommendations have, or have not, been followed up. On the panel, we were aware that we had a blank sheet of paper and that, unlike at Westminster, the media's work in the Scottish Parliament would not be beholden to centuries of tradition and precedent. I think that we succeeded in producing some innovations to be proud of, in particular two distinct departures from the way things work at Westminster. However, I am sorry to say that only one of those has really been put into practice.

The first innovation was the rejection of the idea of a closed shop of lobby correspondents. We decided that any bona fide journalist should have equal rights of access to the parliamentary precincts and to parliamentary proceedings, whether that journalist was the political editor of *The Scotsman* or the crofting correspondent of the *Caithness Courier*. That seems to have worked well, although some specialist correspondents do not pay as much attention to the Parliament as they could do. They could get a lot more benefit from it than they do at present.

The second innovation has not fared so well. We drew up a code of conduct for all journalists who want accreditation to report on the Parliament. Members will find that code of conduct in the submission. The key point is point 4, which was an attempt to ensure that the Scottish Parliament would be protected from lobbyists who use press credentials as a camouflage to allow them greater access to politicians. We thought that that was necessary because of anecdotal evidence of abuses at Westminster and in Strasbourg. In Strasbourg, it has been common for commercial lobbyists to use press accreditation to gain access to politicians and to embargoed policy papers: the correspondent with a press pass for, say, “Widget Monthly” would in fact be a paid lobbyist for the widget industry. In Westminster, the abuses were perhaps more subtle but no less worrying. We knew, anecdotally, of one highly respected political editor who was paid not by his newspaper but directly by his proprietor, and who used his privileged access to ministers to pursue the proprietor's personal and commercial interests. He was in fact a paid lobbyist in the Westminster lobby.

Another more subtle but no less worrying abuse that we wanted to guard against was that of a journalist abusing privileged access to politicians to question them as a favour to an interest group for which they felt an affinity or even simply as a favour to a friend. The wording that we came up with for the code of conduct required journalists to state that they

“should not act as lobbyists, paid or unpaid, for any individual or organisation which might seek to influence the political process or benefit from inside knowledge. Accredited journalists should not approach MSPs, civil servants, party officials or parliamentary staff either to seek information for such individuals or organisations, or to represent their views.”

The wording is quite specific and the CSG panel recommended that

“agreeing to abide by the code should be a condition of accreditation”.

We thought that that was progressive and innovative. To my knowledge, it was unprecedented anywhere else in the world. It was to be signed by every journalist seeking accreditation, but it simply has not been implemented, except in rare circumstances. I cannot recall having to sign it, nor can many of the political journalists I know. As far as I have been able to ascertain, the only time the Parliament's media office—and my colleague Mr MacLeod is sitting next to me—requires anyone to declare that they are not a lobbyist is when there is any real doubt that they work for a legitimate publication. Such people are simply sent a form to fill in. That covers a tiny minority of the journalists that cross the Parliament's threshold. The vast majority of parliamentary journalists are the people with which members come into contact day in, day out. They have not made the declaration and, frankly, I doubt whether most of them are aware of it.

I do not know whether that relaxed attitude has resulted in political journalists abusing their position, or whether it has resulted in a lot of questionable organisations getting a free run of the Parliament precincts. The only case of the latter of which I am aware involved a paid official of one of Scotland's biggest unions who tried to get press accreditation. I brought the matter to the attention of the media office and the application was subsequently blocked.

There is still a question in my mind about the acceptability of accrediting journalists of small news agencies or internet publications that are subsidiaries of public affairs companies that offer lobbying and information gathering on a commercial basis. I wonder whether they are bona fide journalists who are free of other pressures and whether they should have full press accreditation.

The code of conduct was a useful safeguard that

served the CSG principles. The committee should consider resurrecting it and ensuring that all accredited journalists sign it. That would be a badge of honour for the Parliament.

There was a heated debate in the media issues expert panel about the rules for conversations between journalists and politicians. The debate was about whether there should be a presumption that, within the parliamentary precincts, all conversations are unattributable unless agreed otherwise. I was one of those who believed that that would make it easier for MSPs who are wary of the media to feel more comfortable about being open about their true views. That would give our readers and us a more accurate picture of what goes on behind the scenes and make honest dissent easier.

I still believe that that is true although some of my colleagues, including the ones who are sitting next to me, do not share that view. We are three years into the Parliament and there are still MSPs who are wary of even the most innocent journalistic inquiry. For the Parliament's workings to be open and transparent, and for political machinations to be understood in full, MSPs have to feel comfortable when speaking to the press and, by extension, to our readers. Anything that makes that communication easier would serve the principles of openness.

As I have said, other journalists take a different view. The media issues panel did not take a view. At the moment, each journalist treats a matter as on or off the record in his or her own way. That might be satisfactory. Perhaps such a laissez-faire attitude is necessary. The committee may want to re-examine the issue.

On parliamentary openness, I refer back to the discussion that took place earlier. The distinction that the CSG inquiry makes between the Parliament and the Executive is false. By dint of its majority in the Parliament and its block vote in the Parliamentary Bureau and the SPCB, the Executive dictates the workings and conduct of the Parliament. Any inquiry into the Parliament must also be an inquiry into the Executive's actions in the Parliament, otherwise it is a meaningless examination of a set of rules and regulations, which is not the way that the Parliament works.

The Parliament talks about openness, accountability and transparency, but it does not adhere to those principles in its workings. If it does not do that, its sincerity is questionable. The smallest local authority in the land has to hold its business in public so that the public can hold it to account for its actions, but in the nation's Parliament, key decisions are still made behind closed doors.

I suspect that the Parliament could be

vulnerable to a legal challenge under public bodies legislation, as was the Scottish Development Agency in the 1970s or 1980s, when it tried to hold some of its meetings in private and was held to account by one of our colleagues, Vic Roderick. He successfully challenged the SDA and forced it to have its dealings in public because it was a public body. The recent freedom of information legislation might also make some of the Parliament's current practices questionable if not illegal. At the very least, the SPCB should publish verbatim accounts of its proceedings, and make accompanying paperwork available on the internet.

As Phillippa Bonella said, in the absence of openness, a kind of mystique has grown up about such bodies. That gives rise to suspicion and cynicism about what they do. That flies in the face of the CSG principles and it is unsustainable if those principles are to be anything other than mouth music. Whether the committee puts pressure on those bodies to open up will be a litmus test of the inquiry.

It is difficult to separate the Parliament's business from the Executive's business in the Parliament. Therefore, it is legitimate to consider how the press deals with the Executive. The media panel of the CSG recommended that the Executive holds

"regular briefings to ensure a steady flow of information and provide the opportunity for the media to question the Executive."

We receive regular briefings from the First Minister's spokespeople when the Parliament is in session. Those are useful, as far as they go, but the opportunity to question ministers is lacking. I stress that such an opportunity would not be for our benefit; we are proxies for our readers, so any information that we get is, by definition, information that should be available to the public.

I suggest two remedies, the first of which overlaps directly with parliamentary business. Every time a member of the Government makes a ministerial statement to Parliament, he or she should have to hold a press conference afterwards. They could then be held to account by MSPs and by the press and public. Any dubiety or questions about the statement could be cleared up to minimise misinterpretations.

I also suggest that there should be a regular—perhaps monthly—opportunity for the press to question the First Minister directly about the conduct and direction of his Administration.

That covers most of the things that I wanted to say and I am happy to answer questions.

The Convener: Thank you. I start by drawing Eric MacLeod into the discussion to deal with the code of conduct. That is something of which we

were not aware. Could you clarify the role of the code of conduct and give us an idea of who the accredited journalists are? Is there evidence that we should be concerned about inappropriate people obtaining access, particularly to embargoed documentation? I do not know exactly what that would be, other than SPCB or Parliamentary Bureau papers. I cannot imagine that "Widget Monthly" would want to have a handle on that. A real concern has been raised and we have to be satisfied that there is no abuse.

Eric MacLeod (Scottish Parliament Media Office): I will take each of those points in turn. As Kenny Farquharson explained, the code of conduct was drafted by the advisory panel to the CSG. At the time, there were concerns that we could be subject to the type of abuses that Kenny outlined. There was concern at Strasbourg and Westminster that lobbyists were using media accreditation as a way of getting inside the Parliaments under false pretences.

The code of conduct was geared to ensuring that only bona fide journalists representing bona fide newspapers and broadcasters were getting access and accreditation. It was also intended to ensure that journalists conducted themselves appropriately. Politicians of the time were concerned that journalists would be roving the parliamentary estates in packs, hunting down poor unsuspecting members of staff or politicians. The code of conduct had an element of setting ground rules for engagement with MSPs and Parliament staff. I was not working on the advisory panel at the time, but it is possible that it also set out rules for engagement with Executive staff—Kenny Farquharson is nodding.

The majority of accredited journalists represent the daily newspapers in Scotland and the rest of the United Kingdom. Most of the journalists who are based in the Lawnmarket are the political correspondents of the daily newspapers or the television and radio broadcasters. There are also media staff who have accreditation because they provide technical support facilities for the BBC, Scottish Television and Grampian Television.

The Convener: Is there a list that is publicly available? Could the SPJA see a list and say, for example "Wait a minute. That's 'Widget Monthly'?"

Eric MacLeod: I would be happy to make that list available.

The Convener: That should be a function of openness and we should all be able to find out that information.

Eric MacLeod: I could not advise you whether there is an issue to do with data protection. However, I would have no qualms about making available a list for journalists to scrutinise.

The Convener: Would the only data protection issue not be that people would have to agree to their information being on such a list? Surely any journalist who applies for accreditation is going to agree to being identified as a journalist with accreditation. We might consider carefully those who did not want it to be known that they were accredited journalists.

10:30

Eric MacLeod: I support that suggestion wholeheartedly, provided that we can put in place the correct procedures to ensure that all journalists are willing to be identified. If they were not willing, I would be suspicious. As long as Parliament complies with the law—as it must—I support wholly the idea of publishing the details of who has accreditation, or at least making that available on request.

The Convener: Could you do a bit of digging on that for us? Could you find out the issues and give us further feedback?

Eric MacLeod: Yes. I would be delighted to do so, especially if that would help to put Kenny Farquharson's mind at rest. I think that it is a good idea.

Donald Gorrie: Why did the code of conduct not progress? Was it because of a plot or because of normal incompetence?

The Convener: Or, indeed, any other possible explanation.

Eric MacLeod: I know that the code of conduct applies. When journalists sign up for accreditation, they have to sign up to abiding by the code of conduct.

Kenny Farquharson's paper refers to day accreditation, which covers journalists who do not cover the Parliament regularly but who might request access once every two or three months. I do not require such journalists to sign up to the code of conduct on every occasion. The reason for that is based on trust. I will know that the journalist in question is representing a bona fide organisation. If the political editor of *The Sunday Times*, for example, phones me and asks me to arrange a day access pass for the paper's arts correspondent, who wishes to watch a debate in the chamber on the arts, I will write a day access pass for that correspondent on the basis of trust. To have that person sign a piece of paper, which then has to be countersigned by their editor on every occasion, would be an extra administrative chore for the journalists.

The logic is that it is easier to grant access on trust. If a political editor asks me to get a pass for a correspondent, I will know that that correspondent and his organisation are bona fide.

If instructed, I could easily put in place procedures whereby every single person applying for a day pass must phone up at least 24 hours in advance, sign the form and have their editor sign it, but I do not think that that would be helpful.

The Convener: We are not necessarily saying that that should be done, but if day passes are given out in the manner in which you have explained, we should know about that and everybody should understand how it is done. There should be an understanding that we were dealing with established newspapers. We should all know what the rules are and who the individuals are.

We are more interested in identifying issues for discussion than having a rigorous set of recommendations, especially if they involve a lot of bureaucratic form filling. This is a matter that we did not know about and it is interesting to have it opened up. We should satisfy ourselves that things are being operated properly in that regard.

Susan Deacon: I am still trying to pick myself up from the depressing thought that Robbie Dinwoodie offered us—that journalists are our “best hope” for the future.

However, I genuinely appreciate the candid and robust oral and written submissions that our journalistic colleagues have made. The same applies to the evidence that we heard previously from representatives of the media. We have a huge area to explore, to which we cannot possibly do justice this morning.

I would like to touch on one or two strands of the discussion. It strikes me that there is something of a paradox between the aspirations that we all share and the practice that we all indulge in. The aspirations of the founding principles of the Parliament involve openness, accessibility, transparency, maximising the sharing of information and building trust between politicians and the press. Some of Kenny Farquharson's points were particularly useful with regard to how politicians might become more at ease in dealing with the press.

The reality, however, is often much more about spin, suspicion and cynicism on both sides. I would like to hear comments from any of the witnesses about how that cycle can be broken. I would strongly support practical measures that allow greater opportunities for politicians to be brought face to face with the press, to engage in arguments and to explain their case. That would apply to ministers as well as to back benchers.

The environment is often one of mistrust, and politicians tend to feel that the journalist is waiting for them to trip up. They therefore hold back on information. The journalist might be looking for the hard news line rather than the information and

facts that the politician would like to impart. Those two approaches are somewhat at odds.

Could you say a wee bit more about how we could break that cycle, which has developed fairly quickly here? There is a more traditional relationship between press and politicians than that which was aspired to by the CSG and the media expert panel prior to the election.

Robbie Dinwoodie: We are here to talk about whether the CSG principles are being upheld, but not for one minute do I deny that, if the whole thing becomes a shambles and if you are all at one another's throats, that makes great copy for us. It is true that bad news is good news from the media point of view. If things all become party politicised or if there is a great bun fight, we get great headlines. The question is whether you can put in place procedures to open things out and prevent that. Do not get me wrong: I am here to get stories that readers of *The Herald* will want to read. Conflict makes good copy.

Andrew Nicoll: At a wine and drinkies thing not long after Parliament opened, I tried to talk about this subject to Tom McCabe, who was then Minister for Parliament. The news had filtered through to us that Mr McCabe had issued an edict saying, "Don't talk to these guys. They're on the other side of the fence." The very divisive approach that Susan Deacon talks about set in very early on.

That approach may have been heightened among Labour MSPs because of the physical layout of the parliamentary headquarters building. When we come to get our bacon rolls in the morning, we walk along the Scottish National Party floor. We see that party's members and chat to them all the time, whereas the Executive parties are located in much loftier eyries, so we do not have as easy access to their members. Relationships with them have taken much longer to build up, if they have built up at all.

Kenny Farquharson: I can suggest one way in which the Parliament and MSPs can use the press as a resource in the parliamentary process. The specialist correspondents for the Scottish newspapers spend every working hour of their days reflecting on issues in health, education, agriculture or whatever and are among the best-informed, most thoughtful people on those subjects in Scotland. I see no reason why the Health and Community Care Committee or the Education, Culture and Sport Committee, for example, should not be tapping into those people's expertise. Some of those correspondents—I am thinking in particular of some of those who work for *The Times Educational Supplement*—have been doing their jobs for 15 or 20 years. They have an intellect and a store of knowledge and memory of the issues

that are unsurpassed, perhaps even by the professionals working in the relevant field. There is no reason why members should not be asking those people for their thoughts on the issues that are before you.

Susan Deacon: I raised this point at a previous evidence-taking session with some of your colleagues from other media outlets. I share the view about specialist correspondents. However, when as Minister for Health and Community Care, I asked them why they did not attend parliamentary debates on the relevant subjects more often and suggested that it would be helpful for them to go to more committee meetings, I was told by more than one specialist health correspondent that that was seen not as their territory but as the territory of the political press corps. Whether that is merely perception or is borne out by policy or guidance, I do not know—and I am obviously not going to mention specific titles in public.

The specialist correspondents told me on a number of occasions that they did not feel that the Parliament was their place to be, and that it was the preserve of the political corps. There is an issue in that, even if it is just a perception. It means that a number of issues become heavily party politicised. The politicians and the press do not get into the terrain in question or engage with the facts and the information; instead, the focus is on party-political spats.

The witnesses are all shaking their heads as if to indicate that that does not apply to them.

Andrew Nicoll: No—I agree with you.

Robbie Dinwoodie: I disagree.

Andrew Nicoll: I agree with that point and I also agree with what Susan Deacon said about ministers or MSPs confronting the press and talking to them—Kenny Farquharson asked for that and I remember such an approach from Susan Deacon's time as Minister for Health and Community Care. For example, when the smear scare arose, Susan Deacon just came right out and said, "Right boys—this is the situation, this is what we've got to deal with and this is what we're doing." The sting was taken out of the story almost immediately because of the frankness and openness.

Susan Deacon said that people are concerned that we will try to trip them up—we will, because we are looking for a story, but we do that only because we are trying to test the evidence and not because we are trying to make someone say that black is white. I encourage people to be a bit more daring in their relations with the press. The rule in Parliament is the same as that anywhere else. If we muck you about, betray your trust and make you look foolish, you do not talk to us again. You

find somebody else. It is a cut-throat business and we all want access to the information. If people are like that, you should take them out of the loop.

The Convener: Robbie Dinwoodie had a different point of view.

Robbie Dinwoodie: When several committees are held throughout the day or some are held simultaneously, we would welcome our specialist correspondents covering them, so the point about specialists being told that the Parliament is not their place does not apply.

I agree that MSPs must take that chance. I said that we might be your best hope, whatever the risks. You must engage, and you could engage at different levels. Ministers sometimes do that—Susan Deacon did it. As Kenny Farquharson said, we are pressing for more direct contact at ministerial level through briefings, but the Parliament must do its own thing. It is uncommon for committees to hold press sessions. That has been done, but I do not recall the conveners liaison group asking the press to talk to it.

Eric MacLeod will put me right, but I do not think that the Presiding Officer team meets the media regularly to give its side of the argument. That would have helped last week over the McKie affair. Different levels of the Parliament—not just of the Executive—could find ways of engaging directly with the media. That would assert the Parliament's part as a pillar, alongside the Executive. At present, the Executive has the access to the media. The Parliament must create its own access to the media.

Donald Gorrie: I have been seriously shafted by the media only three or four times since the Parliament started, which is quite a good record, because I stick my neck out a bit. I see life as a war between us and the Executive. What advice can you give us on how to win that war?

Andrew Nicoll: As one of Donald Gorrie's shafters—I apologise whole-heartedly for that again, as it was accidental and I am still sick about it—I advise you to stand up for yourselves. I hope that you can read that from my submission. The example that I cited in my submission involves poindings and warrant sales. You might take the view that the Parliament said that we should get rid of poindings and warrant sales and that the working group came up with a somewhat diluted proposal, which is now back before Parliament, and that we must go with its advice. That constraint was not felt about fox hunting. When Parliament said that fox hunting should be abolished, the Rural Development Committee said, "That's rubbish and will never work," but Parliament nonetheless said, "Actually, it damn well will."

Perhaps I am being idealistic, but no matter how

stupid the idea—suppose that Parliament ruled that we should declare war against the moon tomorrow—if it is the expressed will of the Scottish Parliament and the Scottish people through their representatives, we should damn well invade the moon. If you had a bit more smeddum, you might have a better relationship with the Executive.

Kenny Farquharson: I suggest that what is lacking is a voice for the Parliament. Who speaks for the Parliament? The Presiding Officer and occasionally the SPCB speaks for it, but apart from them, who presents a parliamentary view? The obvious source for that is the conveners liaison group. As the SCVO representative said, that is the most underdeveloped part of the committee structure and it could provide a coherent and broad-based voice for the Parliament. The convener of that group could become a significant figure.

10:45

Donald Gorrie: One other difficult issue concerns committees going into private session to consider how to write their reports. Could committees write reports openly without people on our side grandstanding or people on your side running slightly misleading stories?

Kenny Farquharson: I fail to understand why a committee reaches a point at which all arguments must be in private, when all previous arguments were in public and all arguments afterwards will be in public. If members have honestly held differences about how a committee should pursue its conclusions, why not discuss them in public?

The concern among individual MSPs is that their party whips will consider them not to have pursued a certain line or not argued a case strongly enough. The concern is more among you guys, rather than about what we might do with the information. What is wrong with a committee holding a public debate, which is informed by public comment, about the line that it should take?

Andrew Nicoll: If members are concerned about grandstanding, who are the bloody-minded refuseniks who will make such difficulty? Are your colleagues so difficult and so irrational that their opinions cannot be aired honestly and openly in public?

Robbie Dinwoodie: If a compromise is reached, is not it better that we see how it was reached? Is not it a matter of pride that a committee has reached a compromise, rather than gone into private and produced the outcome like a rabbit out of a hat? I do not see the problem.

Donald Gorrie: That was helpful.

Mr Paterson: I ask the journalists to comment on the Parliamentary Bureau and reflect on the

question that I posed to the witness from the SCVO.

Kenny Farquharson: The bureau does not just perform a managerial function for the Parliament. The decisions that are taken in the bureau are key to people's faith in what the Parliament is doing. For example, the bureau decides whether to allocate time to some legislative business. It decides whether members' bills should receive assistance, time or the backing of draftsmen. On controversial members' bills, such key decisions should be made in public. The bureau should be accountable for them.

Fiona Hyslop: There is a case for being more public about bureau and SPCB discussions, not least to dispel some disinformation. A good example of that is Kenny Farquharson's point about the allocation of resources for members' bills. The bureau has not agreed to any criteria or proposals on members' bills, although the corporate body has. Just as there is confusion between the Parliament and the Executive, there is confusion about who does what in the Parliament. The corporate body has a powerful role in the Parliament and the bureau has a different function. Perhaps we should put the record straight on that.

Andy Nicoll, I think, referred to the Shirley McKie case. I sat on the bureau and argued that the Parliament should debate that case. If that bureau discussion had been made public, it would have been an interesting revelation about how the Parliament deals with its business, but it was not.

What do you think of the partisan nature of the Parliamentary Bureau's voting system? You know how politicians work, particularly when they have party labels. Would it be realistic for the Parliamentary Bureau to function in the same way as the corporate body, where each member has one vote? If the bureau were more public and open, the Opposition would have to justify whether it was just "at it" and trying to stop things from proceeding, or, if there was equal voting, we would have to justify whether we were acting responsibly for the Parliament and not necessarily for party-political advantage. Is that proposal realistic or just naive?

Kenny Farquharson: I think that that is naive. That a member has been put on the bureau by their party to pursue a party view does not matter. Why not say, "We will elect members of the bureau in a parliamentary vote—individuals will therefore represent better the interests of the Parliament"? The reality is that members pursue a party agenda in the bureau. I do not see anything wrong with that.

Fiona Hyslop: The possibility that the conveners liaison group might be a powerful voice in the Parliament and that we are missing such a

voice was mentioned. What will happen when proposals to legitimise and bring into the standing orders a role for the conveners liaison group come to the bureau? The Labour party has a majority of votes in the bureau and we might wait many months for it to come back on that matter, as it may have concerns as to how that would operate. Again, an avenue for the Parliament may be restricted through a weighted block vote system that you said is only realistic. How can the Parliament have a voice of its own when, as you said, the issue relates to the basics of power and the fact that the Executive parties have the majority of power, even in the Parliament? How can the bureau be separate and distinct if all the votes lie with the Executive?

Kenny Farquharson: I would see the convener of the conveners liaison group being in a position that is almost commensurate with that of the Presiding Officer. They would do a different job, but would perhaps be elected in the same way as the Presiding Officer, and not just by the conveners.

Fiona Hyslop: I want to move to a different subject—the geography of the new Parliament building and access to it. Are you confident that you will have access in the new Parliament building? The Parliament buildings are under the control of the Parliament rather than the Executive. Will the Parliament have more opportunity to say that if there are briefings, they will be on the record and that we expect ministers and conveners to make full use of parliamentary resources to ensure that there is access and participation by the media? Are you confident that the new building will allow you the access that you want?

Robbie Dinwoodie: Historically, the issue that triggered the creation of the grouping was the original users' brief that was drawn up before the architectural competition. We were appalled by the original plan to create a hermetically sealed complex in respect of the part of the building that MSPs and their staff could get into as opposed to the part to which the public and the press could obtain access. We thought that that would not work—we are meant to work in the Parliament and to speak to MSPs. It would have been possible for MSPs to arrive at the underground car park, go up to their offices, go from their offices to the chamber, from the chamber back to their cars and out again without ever coming across any of us. That alarming prospect prompted the creation of the grouping and I think that we have won most of the battles. I am slightly worried about rumours about the inadequacy of the press's viewing position inside the main chamber. We can argue about such matters, but I think that we have won most of the battles—Eric MacLeod might want to confirm that. *[Laughter.]*

The Convener: Just hoist the white flag, Eric. Before he says anything, Kenny Farquharson's paper made a point that he did not touch on in his presentation—his concern that the MSP block might be off limits to journalists. Is that still a concern?

Kenny Farquharson: I have not seen the latest plans for the MSP block. At first, the suggestion was that the offices for MSPs' assistants would lead to the offices for MSPs. Those outer offices are open-plan and I understand that the parties may want to use them in different ways. That area may therefore have a party-political function and there may be resistance to us wandering in and knocking on doors. However, we have to have the right to knock on the door of any MSP, even if the party does not want us to speak to that MSP.

The Convener: My understanding is that an MSP's office will be fronted by an area where his or her immediate staff will sit. Pooled staff will sit elsewhere on the same floor. I had not envisaged things working any differently from the way they do now, with people wandering quite freely through our open-plan offices.

We are joined at the table by Bill Anderson, who is identified but not named in Kenny Farquharson's paper. He is our head of security. Bill, what do you know about access for journalists to the MSP block?

Bill Anderson (Scottish Parliament Corporate Affairs Directorate): From the way that things have worked on the present campus, I have no reason to say that anything should change. Things have worked well. There has been no bad behaviour from journalists. [*Laughter.*]

The Convener: We could report some.

Bill Anderson: Well, no bad behaviour from my point of view—just the odd difference of opinion. In Holyrood, journalists should have the same freedom to roam as they do now. We will be able to close down certain parts of the Holyrood building but, unless there is any real cause to do that, it will remain open.

The same restrictions will apply as do now: journalists will not be able to walk on to the floor of the chamber and they will not be able to walk into members' rooms unless invited. That system has worked well up to now and it would be silly to change it.

Paul Martin: Andrew Nicoll spoke about the fact that the Parliament did not debate the Shirley McKie case last week. Can we just clarify the point that the Parliament—as the Presiding Officer set out—is subject to legal action, whereas "Panorama" on the BBC is not subject to that legal action.

Andrew Nicoll: How so? If I publish things—

Paul Martin: The point is that, at the moment, legal action is being formed against the Scottish Executive—

Andrew Nicoll: But not against the Scottish Parliament.

Paul Martin: But against the Scottish Executive in respect of the Shirley McKie case, which prevented—

Andrew Nicoll: Absolutely, but not against the Scottish Parliament.

Paul Martin: The comparison is important. The Scottish Executive was asked to respond on the Shirley McKie case, but "Panorama" is not subject to the same legal action as the Scottish Executive. I have not formed a view on that, but can you clarify things?

Andrew Nicoll: "Panorama" is subject to contempt of court legislation, just as I would be if I published something that prejudiced the case. The Executive, as you say, is subject to legal action, but the Parliament is not. If the Executive chose not to respond to the debate, I do not see how that could prejudice the case. That is not a ruling that I make; it is a ruling—

Paul Martin: I appreciate that, but can we clarify the point that "Panorama" can take that chance of being in contempt of court? It can go down that route if it decides so to do. That is the comparison that I am trying to bring out.

Andrew Nicoll: It is absolutely the programme's decision. However, it will be subject to penalties. I cannot believe that the producer or director of "Panorama" has access to fantastic legal information that makes him feel that he can make a television programme—which is subject to the same legal penalties as anything else that is published—whereas the best legal brains in the Scottish Parliament and the Scottish Executive feel unable to conduct a debate and skate on that thin ice.

Robbie Dinwoodie: The Parliament has more legal protection than a television programme. It is a bona fide public body with qualified privilege. It is just not true to say that the debate could not have happened. I do not understand that view and I have talked to many lawyers and none of them understand it either.

The Convener: We are in danger of getting caught up in a dispute over a specific ruling.

Andy Nicoll discussed earlier whether that issue would arise in our inquiry. In the year that we have been working at this, the matter of the sub judice rule has not arisen. I am sure that somebody will ask the committee to look into the issue in the light of last week's ruling by the Presiding Officer. If

they do not, it is something that the committee should probably agree to consider anyway.

We will not encompass that matter in this inquiry; it is a further piece of work that we are likely to do some time over the next year. I honestly do not think that we want to go further down that path today.

Paul Martin: I respect that proposal, and would like to move on to a different point.

You spoke about committee members compromising, Robbie, but would you report those compromises? You are right to say—as politicians have said—that many compromises are reached in private session. That is a fair point, but would you expect journalists to report on such occasions in the long run? The divisive angle is a much sexier piece for either *The Sunday Times* or *The Sun* to report compared to a group of politicians reaching a compromise.

11:00

Robbie Dinwoodie: The point is that we do end up reporting the compromise that is reached, but we are not able to report how it was reached. I cannot see that doing the latter would be more harmful.

Paul Martin: Would that attract the same amount of copy? Would you give the front page of *The Herald* to the Scottish Parliament's Health and Community Care Committee reaching a compromise on a given issue? If an issue—perhaps concerning the Minister for Health and Community Care—divided the members of that committee, that would get on the front page. You are right to say that there are opportunities to make things more open to the public and the media, but they do not always get reported.

Robbie Dinwoodie: I conceded in my earlier remarks that conflict makes a better or sexier story. Nevertheless, if we are reporting the outcome of compromise, it seems wrong that we cannot report the mechanism by which that compromise was reached.

Andrew Nicoll: I agree with Paul Martin about the angle that we would be coming from. Would it necessarily be a bad thing for the reputation of the Health and Community Care Committee and the Parliament if the Parliament was seen to be flexing its muscles against Executive policy sometimes, or to be reaching a consensus on shearing the rough edges off Executive proposals and honing them down?

Paul Martin: I go along with that. Many committees do a lot of hard work, particularly the Public Petitions Committee, for example. A great deal is discussed at that committee that is of benefit to the public. Concerns might be raised by

its members that journalists do not report its business as effectively as they could. We need to look at both sides of that argument.

Mr Macintosh: I share the concern that has been voiced by my colleagues. We are examining the principles of the Parliament itself. The principles of sharing power, openness and accountability are designed to encourage a different—perhaps more consensual, but that is debatable—way of working compared to Westminster.

There are many facets to politics. It is argumentative and occasionally aggressive and competitive. Those are the qualities that I suggest the newspapers reflect, rather than the principles of the Parliament. I do not think that, in newspaper reporting, you in any way reflect or share our principles. Have we moved towards those principles, particularly in comparison to Westminster? Many of those principles are there to move us away from a certain kind of politics that Westminster embodies. Have we been progressed towards implementing them? Are you as journalists encountering a different style of working with politicians compared to Westminster?

Kenny Farquharson: I have never worked at Westminster, apart from the odd day here and there. However, after speaking to colleagues I suggest that journalists at Westminster have a better and more open relationship with politicians than we do here. That is partly for the wrong reasons, as the lobbying system at Westminster is a protection for politicians and journalists that allows a certain kind of free flow of information. I would not advocate the adoption of such a lobbying system here. However, we must recognise that, because of the spats in the first few years of the Parliament, the press and politicians here do not have a good relationship. Those spats happened because some of the press corps in Scotland were inexperienced in political journalism and because the MSPs were also inexperienced. The politicians were wary of making mistakes or saying the wrong thing, and they were whipped mercilessly by the parties.

Andrew Nicoll: My submission relates to the key points concerning the sharing of power, accountability, accessibility, openness and responsiveness. It is sometimes hard to find a positive thing to say. My experience of reporting politics, pre-devolution and post-devolution, has been that the accessibility here is in a different league altogether. Like Kenny Farquharson, I did not spend long at Westminster. I would go down for big events, but most of my interviews were conducted at the end of a wire. That made it easy for your Westminster colleagues not to be around. If they did not take the phone call, we could not get near them. However, there is no escape for

you chaps—which is great for us.

As far as the power sharing goes, I try to point to a division between the work of the Parliament in its committees and the work of the Parliament in the chamber. The establishment of a coalition at the beginning of the Parliament led to a Westminster-style majority, which does not really exist. That took all the fun out of the Parliament for us. No reporters wait around for decision time, because we know what the results will be. There is no power sharing whatever in the chamber—that is set in concrete before we even start the game.

That contrasts with what happens in committee, as you said, and the same thing happens behind closed doors. There is discussion, give and take, and compromise. The tone of the committee reports makes it clear that far less partisan attitudes are taken in committees than are taken in the chamber. I could go on about my submission, but that would be long and boring, and Robbie Dinwoodie wants to say something.

Robbie Dinwoodie: I take Kenny Farquharson's point about the degree of inexperience on both sides, with press and politicians feeling their way. It might be expected that, as we get to know each other a bit better, some of the barriers might come down. However, there are signs that the Executive is tightening its grip. My impression is that committees have become more tightly whipped. I know that that is not meant to be formal, but that is my impression and I do not know whether anyone who is involved would deny that.

Other patterns are emerging. The committees are there to gather evidence, but they gather evidence from quangos that are appointed by the Executive. Therefore, those witnesses will give the Executive's point of view. Voluntary organisations that come to give evidence similarly rely on the Executive for their funding. I have slight concerns about that aspect of things—although Susan Deacon is shaking her head.

Mr Macintosh: It is interesting that you are suspicious that we are moving in the wrong direction. Perhaps it is only my perception, but I agree with Kenny Farquharson that the relationship between journalists and MPs at Westminster is different. It is more open, perhaps because there is not a great deal of openness about Westminster itself. MPs and journalists have to establish a bond of trust and confidence, which I am sure is evolving here.

On the basis of that relationship, information is passed on and stories are written, whereas in the Scottish Parliament, everything is supposed to be on the record, whether or not there is trust. Kenny Farquharson also mentioned that MSPs are wary of what he described as the most "innocent journalistic inquiry". I would like to know what that

innocent journalistic inquiry is.

The Convener: It is when they ask what the time of day is.

Mr Macintosh: We are committed to openness and to sharing the power and we are trying to head in that direction with our procedures. Do you, as journalists, find that the defensiveness towards journalists that has crept into MSPs' behaviour is working in the opposite direction? Are we maintaining our commitment to openness and accessibility for journalists or are we becoming more defensive, less open, less transparent and less willing to share the power?

Robbie Dinwoodie: The longer that MSPs have been around, the more confident they have become. I am on the opposite side of the debate from Kenny Farquharson: the general assumption should be that, when someone speaks to a journalist, they are speaking on the record. That is not to say that an MSP cannot come to any one of us and say that they want to have a wee private chat about something because they want to explain the background to it but they do not want it to be reported as coming from them. If I broke my word in those circumstances, I would never expect that MSP to come back to me.

It comes down to the same thing. The relationship is about building trust, which takes time. Trust has to be earned. I accept that. In general, the procedures that are in place in the Scottish Parliament are better than those at Westminster. It is significant that the lobby at Westminster is being dismantled to some extent and that bona fide journalists who are not members of the lobby are being allowed in. To some extent, Westminster is following us on that.

Andrew Nicoll: In the latest edition of *The Spectator*, there are articles by my colleague Trevor Kavanagh and by Simon Heffer, which bemoan the death of the lobby because only through the lobby are ministers held accountable by probing, searching questioning from experts who know what they are talking about. Talk to Peter McMahon—the bloodied corpse of Peter McMahon—and ask him about probing, searching questioning from people who know what they are talking about. The journalists at Westminster cannot get rid of Stephen Byers, but Henry McLeish is gone. That speaks for itself.

The Convener: We will make that last remark the subtitle of our report.

I introduce Professor David McCrone, who is the committee's adviser. We have very contorted procedures in relation to advisers. He is entitled, by going through the chair, to raise points. He wishes to offer some advice.

Professor David McCrone (Adviser): I am by definition a biased academic, as the SCVO witness said. I notice that Frances Horsburgh is sitting in the public gallery. She is a member of the expert panel on media issues. Would it be possible to hear her views on the extent to which the CSG report has been implemented and whether she shares Kenny Farquharson's views on that? Would that be appropriate?

The Convener: Given where we are in the timetable for today, it is not appropriate. However, if, having heard the discussion, Frances Horsburgh felt that she wanted to submit a wee note similar to those that Kenny Farquharson and Andrew Nicoll submitted, I would be delighted for her to do that. The committee would be deeply appreciative of such a note.

Gil Paterson has a question. Is it desperate?

Mr Paterson: Aye—well I think it is.

The Convener: Go on then.

Mr Paterson: I have a train to catch.

Andrew Nicoll: An MSP has a packed day.

Mr Paterson: That is true; it is terrible.

I go back to Andrew Nicoll's submission and the negative aspects of it. Rolled into that is the point about Shirley McKie and what I call sharing the blame. My point, which was raised earlier, is simply that there are situations in which the Executive makes the decision, but the Parliament takes the blame. How do we overcome that?

At Westminster, when the Government does something that is good or bad, we know exactly who is to blame. The past three years' experience in this Parliament is that the press in general has been very negative towards the Parliament. The politicians blame the press and the press blames the politicians. Perhaps the blame lies somewhere in the middle. How do we deal with the Executive always blaming the Parliament for something that is really the Executive's decision?

Andrew Nicoll: I do not know how long I have been trying to explain to people the difference between the Parliament and the Executive. Nobody seems to get it. Journalists who work with me every day in the head office in Glasgow have trouble distinguishing between the Executive and the Parliament and, God knows, it is hard to get that difference over to the punters. As you say, people are very clear in their minds about what the job of the Government is at Westminster. I cannot understand why there has been a psychological barrier in relation to Holyrood. If members have any ideas about how I can explain such matters to people, please let me know, because I am at a loss.

The Convener: Intensive training courses for the people who write your headlines would probably be useful.

Robbie Dinwoodie: Part of the trouble could be the terminology—the terms that we use are lousy. At the time of the original act, I remember asking Donald Dewar whether the terms that were going to be used would be descriptive or prescriptive. He insisted that phrases such as “the Executive” and “the First Minister” were simply descriptive and that they were technical terms. We have ended up being lumbered with them.

I regret that we did not come up with a new lexicon for Scottish politics. That would have allowed us to use distinctive words, the meaning of which we understood. I admire the fact that the Irish use the word “Taoiseach”. Distinctive words that can mean only one thing are best. What does “Executive” mean? Does it mean a sales executive or a special kind of sauna? It is a bizarre term and I do not think that people equate it with the Government. When Tom McCabe tried to say that we should just call the Executive the Government, it ended up being referred to as “The White Heather Club”, as I recall.

11:15

The Convener: You guys, helped by half the political parties, blew him out of the water. Susan Deacon will ask a final question.

Susan Deacon: I would like to note something, as it is important that, in my condition, I keep my blood pressure down.

It is slightly ironic that, in the context of our discussions about the sharing of power, we have repeatedly used phrases such as “wars between the Executive and the Parliament” and have spoken about things such as the importance of the Parliament flexing its muscles against the Executive and the Parliament getting the blame for the Executive's mistakes. That raises substantive points about making improvements in the way in which the Executive and the Parliament work. However, I want to repeat a point that I have made before in this committee. If we do not move away from such divisions and distinctions, which, as our journalist colleagues have just said, the public do not recognise, we will not make sufficient progress in thinking about how we mature as organisations and as political institutions in the widest sense. I appreciate being given the chance to get that off my chest.

The Convener: We would all be delighted if the Executive would come forward to discuss those issues in precisely those terms.

We must bring your evidence to a close at that point, gentlemen. We deeply appreciate the time

that you spent on producing your reports and the time that you have given us this morning. You made some telling and pertinent points. We might not be able to concede on all your suggestions, as you suggested that Eric MacLeod had done. You have highlighted many useful issues and pointed us in the direction of progress. Thank you.

That evidence-taking session probably had more viewers among Parliamentary staff than anything else that the Procedures Committee has done so far. Everyone will switch off now because the Scottish Trades Union Congress is next; if they do, they will miss another gripping and interesting session.

I welcome Grahame Smith, the assistant Scottish secretary, and Tracy White, who is also described as an assistant Scottish secretary. I hope that that is an accurate description. You have submitted a paper. I am happy to give you whatever time you need to develop any points or to update anything that you said in your written submission. Who is going first?

Grahame Smith (Scottish Trades Union Congress): Thank you, convener. Just for the record, I am the deputy general secretary of the STUC and Tracy White is the assistant secretary of the STUC.

The Convener: I guessed that something like that might be the case. Obsessions with hierarchy are a very male thing.

Grahame Smith: We welcome the opportunity to speak to the committee. We were invited to give evidence at a meeting in February, but were unable to attend. We appreciate the fact that the committee changed its arrangements to accommodate us. Flexibility in enabling us to give evidence is one of the positive aspects of our engagement with committees of the Parliament.

We were invited at very short notice to give evidence to the Finance Committee this morning, at the same time as we were due to give evidence to the Procedures Committee. That illustrates one of the issues that we have highlighted for consideration: how invitations to organisations such as the STUC, which have limited resources, might be co-ordinated better.

We welcome the inquiry that the Procedures Committee is undertaking. As we know, the Scottish Parliament was established after a long campaign by many people in Scotland. The STUC considers itself to have been at the forefront of that campaign. It is important not to forget that one key reason that people supported the establishment of the Parliament was that it was to be a different type of Parliament. As has been said both this morning and on numerous other occasions, the Parliament was to be open, accessible, transparent and participative. It is

important that the key principles that were established by the consultative steering group should be in our minds as the Parliament develops. The STUC endorsed those principles.

As the convener said, the committee has received written evidence from us. I will not repeat all the points that we made in our submission, although we would be happy to expand on them. However, I would like to highlight a few issues.

Since the Parliament was established, the STUC has had numerous opportunities to engage with it—in particular, with its committees. Our written evidence is based on our experience of that relationship and in it we highlight a number of positive aspects of our engagement with committees. On the whole, our experience of committees has been good. At meetings that we have attended, dialogue has been non-adversarial. We see that as appropriate when the Parliament is dealing with organisations such as the STUC, which give evidence to inform policy and to assist committees in developing views. We accept that a different approach is necessary when Executive ministers are being held to account.

I mentioned the flexibility that conveners and clerks have shown in assisting us to give evidence, both written and oral. We have had good experiences of the different approaches that committees have taken. We find it helpful when committees give notice of their forward work plans. Some committees have organised conferences and conventions to allow wider engagement with issues that they are considering. Positive examples that we highlight are the decision of the Local Government Committee to hold a meeting that was devoted entirely to a dialogue with local government trade unions, and the decision of the Enterprise and Lifelong Learning Committee to undertake a wide consultation before establishing its first work plan. We would like to see more good practice of that sort.

We note the efforts that committees have made to accommodate people who have a variety of disabilities. That is important in ensuring that the Parliament and its committees are genuinely accessible.

Sometimes we receive limited notice of requests for us to submit written or oral evidence. In such circumstances, it is sometimes difficult for the STUC, which prides itself on being representative and democratic, to put together properly informed views on issues.

There is a lack of consistency in the approach that committees take towards the STUC and trade unions. We have very good experiences of some committees, such as the Enterprise and Lifelong Learning Committee and the Local Government

Committee. However, I was astounded to discover that the STUC has never been invited to participate in dialogue with the Health and Community Care Committee, and that one of our affiliates with membership in the health service has been invited to attend meetings of that committee on only two occasions. That situation needs to be examined, given the size of the resources that are deployed in relation to staff in the health service.

I should mention a couple of points that are not in our submission. There is an issue to be addressed regarding why committees have not been initiating legislation, which we considered to be a positive power of Scottish Parliament committees. The advisers to committees tend to be drawn from the academic community and perhaps there is scope for widening that out. We suggest that trade union representatives might participate in advising committees.

Finally, we would like to comment on the proposed reduction in the number of MSPs. We know that that is not within the committee's remit, but we want to put our views on the record. If the Parliament were to be reduced in size, it would have difficulty in functioning as it should. If there were fewer members, it would be difficult to carry through the important work of the committees, which would have a narrower perspective. It would also be difficult for committees to hold the Executive to account.

I am happy to answer any questions that members may have.

The Convener: Will you expand on the concern raised in your written submission that there is a

"lack of appreciation of the role of the STUC"

as an umbrella organisation, and of

"the relationship between the STUC and its individual affiliates?"

You gave an example from the Health and Community Care Committee to demonstrate your view that the committee is not dealing with issues that relate to the unions as a whole. You did not talk about the STUC as opposed to the individual unions. Clearly, there is an issue that you want to get across to committees about your role in relation to your member unions. Can you expand on that concern?

Grahame Smith: There are a couple of issues in that. The STUC has generally taken the view that it represents trade union members not just as workers, but as citizens. For example, the STUC has an interest in relation to those who provide public services, but our members are also consumers of public services as citizens of Scotland. They participate in the broad range of activity in Scottish life and we have something to

contribute in that respect, which is often unappreciated. We are usually pigeonholed as the representatives of workers, rather than as an organisation that has something to say about the views of our members as citizens.

We are an umbrella organisation—we have 43 affiliate unions. We are often asked to provide a view on behalf of all the unions in Scotland. We understand why that happens, but it can create difficulties, because we must ensure that we have a properly considered view that takes account of the different interests that exist among our affiliates. We would welcome the opportunity for individual affiliates to submit written and oral evidence to committees, too. I know that there seems to be nothing to prevent the affiliates from submitting written evidence—perhaps they should consider their internal procedures to ensure that they do that—but invitations to engage in dialogue with committees often go to the STUC on behalf of all affiliates. There is scope for us to perform that role, but it could be complemented by evidence from individual affiliates.

Tracy White (Scottish Trades Union Congress): That is particularly important where individual affiliated organisations have specialist knowledge and can add value to the process. I do not want to sound churlish, but I would ask the committee to reflect on the fact that although the STUC is the single umbrella organisation for trade unions operating in Scotland, our counterparts in the business community have upwards of six organisations and it is often the case that all six of those organisations have a separate opportunity to participate in an inquiry or to be involved in the process of scrutinising legislation. The STUC may be being disadvantaged by being the sole representative body. We represent about 630,000 trade union members in Scotland and there is an issue about the weight that is given to our evidence, particularly given that our opportunities to give oral evidence might be restricted.

The Convener: Would the STUC be a better organisation for encompassing the view of members, and of members as consumers, than the affiliates would be?

11:30

Grahame Smith: I am not sure that we could claim that we would be better than individual affiliates.

The Convener: I meant better at combining the two roles.

Grahame Smith: We would endeavour to present a broader perspective and a consensus view from our affiliates. As Tracy White said, some of our affiliates have members with specialist knowledge of particular areas of policy. We would

encourage committees to speak to those people and make use of that specialist knowledge. We STUC bureaucrats do not have that level of insight; we can only try to reflect our affiliates' positions and views. We can bring different things to the Parliament than can the affiliates. I would not say that one was better than the other.

The Convener: Is there any sense in which the STUC has a better capacity to create and express policy than some of the affiliates?

Grahame Smith: I am not sure that I can comment on whether we are better than our affiliates. Our policy is developed across a broad range of our affiliates' interests, which means that the views that we express are comprehensive. However, in relation to some detailed areas of policy, our affiliates, because of the nature of their engagement with their members, would be in a better position to provide detailed information.

Susan Deacon: You might be aware that we spent some time on the subject of how the Parliament could best engage with the unions when we spoke to people from various trade unions. They echoed the view that current practice was inconsistent and should be co-ordinated better. Could the STUC take on more of a global role in advising the Parliament? That might be done as a follow-up to our inquiry. I suspect that the Scottish Parliament would welcome guidance from the STUC on the most effective ways of engaging trade unions with the parliamentary processes at various levels.

Tracy White: We would be happy to take on that role. To be fair, we currently do work that is similar to that which you suggest, but there is an inconsistent approach to that across the committees. We are in regular contact with a number of committee clerks and conveners and have advance knowledge of the work that they plan to do. When it is appropriate to do so, we are always keen to advise them on the best way of getting a view from the trade union movement. We might tell them how to consult somebody or we might tell them how to structure an inquiry to ensure that they consider the aspects that we think should be considered. That is when decisions would be made about whether we present evidence from a collective STUC position or augment that with the specialist interest of certain unions in particular circumstances. However, that happens only when the relationship with the clerk and the convener has been developed over some time.

If you take anything from what we are saying, perhaps it should be that all the committees ought to adopt a consistent approach to union consultation. As Grahame Smith said, we pride ourselves on our democratic structures and on our attempts to bring to you a collective voice of the

trade union movement. However, we also pride ourselves on having something to say about absolutely every piece of public policy, whether it is on the current agenda or not. If both sides are to work as they should, we need to get together more and be more consistent in doing so.

Grahame Smith: I hesitate to introduce the next subject, as I have not consulted my colleague, and she might shoot me down in flames for mentioning it. Members of the committee may be aware of the memorandum of understanding that the STUC and the Executive signed recently. The memorandum addresses a number of issues that arise from the relationship between the STUC and the Executive. It does that using a partnership approach.

A number of areas in the memorandum could be examined in respect of the relationship between the STUC and the Parliament. The memorandum of understanding addresses the need to ensure that the departments of the Executive take a consistent approach to the unions. Some of the areas that the memorandum addresses could be considered as we try to ensure similar consistency across the Parliament.

Susan Deacon mentioned the issue of—I have forgotten what I was going to say.

Tracy White: You did not consult me, so I cannot help you.

Grahame Smith: I did not consult my colleague. Members will have to excuse me. I apologise; it will come back to me.

Donald Gorrie: Have any of your member unions commented on the timetable for bills and whether bills are given adequate time at stage 2 and before stage 3, when amendments are being lodged? That is when suggestions for amendments can be heard along with comments on amendments that have been lodged.

Is your member unions' experience of some committees better than it is of others? If so, what is the difference? I do not want to put any of the Parliament's committees in the dock, but it may be possible to compare good and bad committees.

Grahame Smith: The STUC's engagement in the legislative process has taken place only at stage 1. From dialogue that we have had with our affiliated unions, I know that they find the stage 2 process to be somewhat truncated. They have mentioned that a longer process would allow better consideration of amendments as they are lodged. I am not sure whether Tracy has anything to add.

Tracy White: In the main, our experience of legislation has been at the inquiry stage of public policy making. Even at that stage, our experience is that there can be huge inconsistencies in the approaches that committees take. The European

Committee, for example, has given us notice of an inquiry that it is to undertake over the next few months. The deadline for submitting evidence is after the summer recess. Like Donald Gorrie, I do not want to put a particular committee in the dock, but we have become involved in the Transport and the Environment Committee's inquiry into the future of the rail industry in Scotland. In that case, the deadline for written submissions was two or three weeks.

Grahame mentioned the fact that we have flexibility in our work with clerks and conveners. In the case of the rail inquiry, we have managed to negotiate an extension to the deadline for our written submission. We want to put together a robust position. The time scales are inconsistent, which puts pressure on our processes and on those of our individual affiliated organisations.

Grahame Smith: It is not always clear to us why some committees and not others invite us to submit evidence. When we are invited to participate at short notice, we suspect that the request was made as an afterthought. We suspect that someone has said, "We had better talk to the trade unions about that."

I now remember what I was going to say earlier. I wanted to return to the point about awareness. There is perhaps a need to make the Parliament's committees and MSPs more aware of the role that the STUC can play and the perspective that it can bring to the consideration of policy and legislation.

On the other side, we can play a role, perhaps in partnership, to ensure that our wider constituency, our affiliates and our members are much more aware of the work that the Parliament is doing. That work directly affects their daily lives, but is not always appreciated. We represent and have contact with a substantial constituency of 630,000 trade union members and their families. I would like to think that, by working together, we can ensure that the Parliament is more aware of what we are about and our membership is more aware of what the Parliament is about.

Donald Gorrie: If a committee were considering something that would have a big impact on local government employees, should it contact you, Unison and other local government unions, or is that an either/or situation?

Grahame Smith: Our relationship with local government unions means that they are comfortable with contact with the Parliament coming through the STUC. We have developed a relationship with the individuals involved in each of the unions. When we have given evidence—apart from the first time that we did so, when the committee invited all the unions to participate individually—we have been able to provide the committee with oral evidence from a variety of

unions that come at issues from different perspectives. To do that and to ensure that the appropriate people are present, we have to have flexibility with regard to the number of people who can come along, the time available for participation and the notice that we are given.

In other circumstances, it might be appropriate for committees to contact individual unions. I cite the case of the Education, Culture and Sport Committee's relationship with the Educational Institute of Scotland, which is the dominant education union in terms of membership, as it represents the vast majority of Scottish day school teachers. It is legitimate for the committee to engage with the EIS, given also that the STUC does not have the resources to engage with the committee on education. That creates no difficulty for the EIS or for the STUC. The STUC could bring to the committee's deliberations a perspective on the way in which people whom we represent, or their children, experience education, but that opportunity has perhaps been missed.

Fiona Hyslop: Given the number of members that your affiliates represent, you are a key body within Scottish society. I acknowledge the STUC's role in establishing the Parliament. There is an argument that the debate about democracy should not die with devolution and that we should have a continuous debate, not necessarily about the constitutional form of democracy—devolution or independence—but about the type of democracy that we have.

I want to find out whether the STUC has or plans to have more of a role in shaping our democracy. The Parliament has the challenge of developing participative democracy models, and the STUC could be key to that. Is that a regular point of discussion with your affiliate members?

You have a potential role in communicating the Parliament's successes. You have access to 630,000 people. We are trying to find a way to reach people to ensure that there is openness and accessibility. What opportunities are there to do that and are we exploiting them as best we can? Do you think that the STUC's relationship with the Parliament so far has just been about particular issues and inquiries? Is the STUC playing a wider role that we do not know about, or should it be playing a wider role?

Grahame Smith: There were an awful lot of questions and I am not sure that I caught them all, but I am sure that you will assist me as we go through them.

We are not having a regular conscious debate with our affiliates about how to improve Scottish democracy, although we are committed to that. The memorandum of understanding that we have developed with the Scottish Executive is about

how we improve the participation of trade union members and their families in the work of Government.

I said at the time—appropriately or not—that politics and political issues are too important to be left to politicians. Ordinary people can contribute a lot to the key issues that we face as a society in Scotland, and we have to find ways in which they can do that. That is not to say that politicians do not have legitimacy—they are elected and have an important role to play—but it is about a partnership between politicians and organisations, such as ours, that engage with a large constituency of the Scottish population in a variety of different ways. Tracy White may wish to comment. Other points were raised that I did not note down, but we can come back to them.

11:45

Tracy White: One point was about what we do to communicate what the Parliament is and what it is about. Over the course of any given year, we have a series of conferences for our various committees, which form part of the STUC's policy-making process. We have a youth committee, a women's committee, a black workers committee and a Highlands and Islands conference. We regularly invite cross-party parliamentarians to come along and engage in a dialogue with those conferences through, for example, question-and-answer panels. That gives MSPs the opportunity to talk directly to our members, rather than having to do so through the various journals that are produced by our colleagues who gave evidence earlier. We take that dialogue seriously, and our members have valued it over the past two or three years. I hope that the MSPs who have had the opportunity to be involved have also found it to be worth while.

Grahame Smith: In addition, many MSPs attend our annual congress as visitors, and take that opportunity to engage with our members. That has not happened on a cross-party basis, but we would like to encourage it on a cross-party basis. We want to engage with MSPs from all political parties on issues of concern. We hope that more MSPs will come.

When we were arguing for the establishment of the Parliament, one of the issues was how the committees would function. We envisaged that there could be a role for organisations such as the STUC to have members co-opted on to committees. I am not sure that that was ruled out of order in the early discussions on the establishment of committees, but it was indicated that it would not be appropriate, and it has not happened. It would help the flow of information between us and the Parliament about what we are about and what the Parliament is about if we

revisited how people from organisations such as ours can engage with committees.

Fiona Hyslop: How much does democracy cost the STUC?

Grahame Smith: Lots. Since devolution, we have not calculated the cost in pounds, shillings and pence, but a vast proportion of our resources is devoted to engaging with the Executive and the Parliament. We put a lot into the submissions that we make, both written and oral. We try as best we can to ensure that what we have to say is of quality. We recognise that if it is not, the credibility of our arguments will be affected and they will not be given due consideration. A lot of our resources are devoted to engaging with the Parliament.

The Convener: Do you feel frustration because of a lack of response from the Parliament to the representations that you make to committee inquiries? We have picked up suggestions that voluntary organisations feel that they do not get feedback. Do you feel that you get adequate feedback when you give a submission to a committee?

Grahame Smith: My experience is that we do not get adequate feedback. I do not know whether Tracy White's experience is different. My experience is also that, on occasion, we have been given limited time to provide oral evidence, which can be frustrating if you have spent a lot of time briefing yourself as best you can. It can be particularly frustrating when you are trying to take account of the views of a vast number of unions, and you come to a committee and are dismissed after 10 minutes. We appreciate that committee agendas can sometimes slip, but it would be useful to know the time scales for submitting evidence to ensure that we are adequately prepared for the debate.

Tracy White: The member asked about the cost of democracy. That is something that organisations such as ours probably underestimated when we were campaigning for the Parliament to be established. We thought about the number of times that we would write or speak to committees, but we had not foreseen the process that we would have to undertake thereafter to ensure that our views are at the forefront of MSPs' minds. We had not properly taken that into account.

As Grahame Smith said, we could be giving evidence to one committee and have a competing claim on our time from another committee the same day, and perhaps another evidence session in a different inquiry later that week. We must examine the follow-through that is required on our part to ensure that our position is reiterated regularly enough for committees to take it on board. The other side of the coin is that it is

incumbent on committee members to talk to us regularly. The approach should not always have to come from our side. That happens in certain cases but, as we say over and over again, there is not a consistent approach.

I return to Fiona Hyslop's question about the cost of democracy. For us, there is an issue about resources for dealing with Parliament and how we pursue our aspirations for public policy through the Parliament, but there is also a cost issue in terms of our internal democracy. We have an annual congress in April at which there are upwards of 400 delegates from all our unions. We cannot run an event on that scale for four days at no cost, but we would argue strongly that one of our organisation's great strengths is that the principles of our policy at least are established by that large gathering. Throughout the rest of the year, our committee structures allow us to develop the detail of our policy and to continue to articulate our position. The resource issues are connected not just with how we speak to the outside world, but how we pull together the views that we want to articulate to the outside world.

Mr Macintosh: Fiona Hyslop has already acknowledged the role of the STUC in establishing the Parliament. It is interesting that one of your dilemmas is how to satisfy the demands of the various committees that want to hear from you. I hope that that is quite a flattering position to be in.

I am rather more interested in whether you have the opportunity to shape the agenda. One of the general issues that have been raised is the relationship between the Parliament and the Executive and the extent to which the Executive can dominate the agenda. What scope is there for you to put issues on the agenda and what vehicle would you use to do that? You said that you had views on every subject under the sun—all those that we are considering and more besides. Are there issues that we are not considering that ought to be on our agenda? Do you have the opportunity proactively to inform committees, individual members or any other part of the Parliament about those issues to get them on the agenda?

Tracy White: In the past, we have gone to committee clerks or conveners when we are aware that they are about to undertake an inquiry and we have said, "It's really good that you're doing this inquiry, but your remit's not quite right. If you really want to tackle the issue, you might want to think about putting this in your remit and we'll help you investigate that aspect." To cite an example, the Enterprise and Lifelong Learning Committee decided some time ago to undertake an inquiry into the new economy in Scotland. The original remit focused on what dotcom companies were doing and what was happening at the high end of electronics. We approached the convener

and the clerk and said that, although from our point of view it was important that there was a policy on development in those areas, the new economy must also be about how we apply new processes and technologies to traditional areas of activity. If we do not get that right, we risk developing new strands of economic activity while allowing existing ones to wither on the vine. The committee understood the point that we were making and added another investigative strand to its activity. We welcomed that.

The system relies on individual organisations seeing what is coming and making representations to committees. It might be better for committees to take soundings before they finalise the remits of inquiries. Perhaps I am doing the Enterprise and Lifelong Learning Committee a disservice, but if in the case that I cited the committee had taken such soundings, we were not aware of them. From our point of view, the process was not sufficiently inclusive. Committee members, clerks and conveners should take on board views before introducing new lines of inquiry, instead of waiting for written submissions to be made after decisions have been taken.

Grahame Smith: The committee will be aware that a number of members of the Parliament are members of trade unions. I am sure that they take advantage of their union membership to ensure that they are aware of some of the issues on those unions' agenda, and that from time to time such issues emerge in the work plans of committees.

The Convener: We have covered all the issues that we wanted to raise. Thank you for giving evidence to us this morning. I hope that you feel that you had a long enough crack at putting across your points, and that the way in which we handle contacts with you and your affiliates is adequate. As you watch the Parliament grow and develop, you should feel free to raise procedural issues directly with the clerk and convener of the Procedures Committee.

Secondary Committee Reports (Publication)

The Convener: Item 3 on our agenda concerns the timing of lead and secondary committee stage 1 reports on bills. The matter was raised with me in a letter from Pauline McNeill, the convener of the Justice 2 Committee, who is represented here this morning by the committee clerk, Gillian Baxendine. We have also invited the clerk and convener of the Rural Development Committee to take part in our discussion on this item. Our aim is to get a grasp of the issues and to identify ways of handling any procedural difficulties that may exist. Gillian, will you explain briefly the issue that you would like to bring to the committee's attention?

Gillian Baxendine (Scottish Parliament Directorate of Clerking and Reporting): I convey the apologies of the convener of the Justice 2 Committee. She is unable to attend because she is in Glasgow this morning.

The letter to which you referred, convener, is reasonably self-explanatory. A number of secondary committees were involved in stage 1 consideration of the Land Reform (Scotland) Bill and the Rural Development Committee decided to publish its report to the Justice 2 Committee some weeks before the publication of the latter's stage 1 report. The convener of the Justice 2 Committee was concerned that that might lead to some confusion. She suggests in her letter that it may be helpful to put in place a convention for dealing with the matter.

The Convener: Has Pauline McNeill ventilated the issue with the conveners liaison group?

Gillian Baxendine: I do not think so.

The Convener: I am not trying to trip anyone up. I simply want to establish whether this is a matter for the Procedures Committee or whether committee conveners might resolve it among themselves. After we have heard the issues, we may decide that the latter option would be best.

I turn to the convener and clerk of the Rural Development Committee, which appears to have stolen the thunder of the Justice 2 Committee—although I am not sure how to represent the situation. Do you have a different view on how secondary committee reports to lead committees should be handled?

Alex Fergusson MSP (Convener, Rural Development Committee): Thank you for giving us the opportunity to appear before the committee. This is an important question and it is right that we should address it.

I do not think that Pauline McNeill is making a

complaint. We were aware that our stage 1 report on the Land Reform (Scotland) Bill was ready some weeks before the report of the Justice 2 Committee. We note that there were two precedents to that. The Transport and the Environment Committee published its report on the National Parks (Scotland) Bill in advance of the Rural Affairs Committee's report. Ironically, the Justice and Home Affairs Committee also published its report on the Protection of Wild Mammals (Scotland) Bill well in advance of the report of the Rural Development Committee, which was the lead committee.

In that second instance, our committee found it useful that the Justice and Home Affairs Committee had published its report on the Protection of Wild Mammals (Scotland) Bill some time in advance of our report, as that helped us in our questioning of witnesses. I would be uncomfortable with a ruling that a secondary committee's report should never be published in advance of the lead committee's report.

12:00

We decided to publish our report on the Land Reform (Scotland) Bill because there was no protocol or guidance and nothing in standing orders to say that a secondary committee should not publish its report before the publication of the lead committee's report. We were aware that the Justice 2 Committee was likely to have further evidence-taking sessions and would also have a meeting with the minister. The majority of our committee felt that, just as the Justice and Home Affairs Committee's advance publication of its report on the Protection of Wild Mammals (Scotland) Bill had been helpful to us, publication of our report on the Land Reform (Scotland) Bill might be helpful to the Justice 2 Committee.

Although I will go to my grave saying that we did nothing wrong, it would be helpful if the Procedures Committee came up with a procedure, perhaps to preclude the possibility of a secondary committee's report being published first by another committee.

The Convener: I presume that, in the case of the secondary committee report that was published in advance of your committee's report, your purposes would have been served equally well if that report had simply been made available to you. The publication of the secondary committee's report would scarcely have been an issue. Were the people from whom you were gathering evidence positively influenced by the fact that they had had access to the Justice and Home Affairs Committee report?

Alex Fergusson: I am not sure that the publication of the secondary committee's report

made any difference. Frankly, anyone who was keen to make use of that report to lobby us as the lead committee would have taken enough interest in the Justice and Home Affairs Committee's evidence gathering to have been able to lobby us anyway. In essence, the secondary committee's report was only a confirmation of the submissions that were made during the evidence-gathering sessions. If that report had not been published, I doubt whether anybody's attitude would have been altered. However, the fact that the report was published allowed people to come back to individual members of our committee in the certainty that they had in their possession the Justice and Home Affairs Committee's official committee report plus its conclusions. I do not think that that would or could have been used to exert undue influence.

The Convener: I did not suggest that. I was simply getting at whether it would have been equally advantageous to your committee to have had that report kicking around for weeks or even months in an unpublished form and not in the public domain.

Alex Fergusson: That could be true, but if such a report is kicking around—especially if the bill is controversial—we run the risk that it will be kicking around not just among the committee members.

The Convener: Granted. Finally, before I open up the discussion to other members, I want to be sure of one thing. In the case of the National Parks (Scotland) Bill, I seem to remember that the Rural Affairs Committee and the Transport and the Environment Committee divided the content of the bill between them. Therefore, although the Transport and the Environment Committee was reporting to the Rural Affairs Committee, which was the lead committee, in a sense the committees were acting independently. Whether that was a good decision still remains a sore point in some quarters.

Alex Fergusson: It was a brilliant decision.

The Convener: In the other example that you gave, which concerned the Protection of Wild Mammals (Scotland) Bill, was there a clear-cut division between the committees on the content of the bill?

Alex Fergusson: Yes. The Justice and Home Affairs Committee confined itself to the legal aspects and implications of the bill, so one could argue quite strongly that there was a clear division between the committees.

The Convener: Do members have any other comments or thoughts?

Fiona Hyslop: It is important that committees agree at the outset which of them will cover which areas. When the Parliamentary Bureau is

presented with a bill and is asked to designate the lead committee, we do so on the basis that a certain committee might be the most appropriate lead committee.

The purpose of the secondary committees is to give a different perspective. I would find it worrying if lead committees did not take into account the reports of secondary committees when reaching their conclusions. We must respect the right of individual committees to express their views on an issue and we must not compromise the role of the lead committee by saying that it must always accept the views of a secondary committee. However, it would be worrying if the lead committee did not have some awareness of the secondary committee's views.

There are different practices, but in some cases the secondary committee's report is included in the final report of the lead committee—perhaps the clerks can advise me on that. The report of the secondary committee might be included in order to reflect the fact that it gives a different perspective from that in the lead committee's report and so should be treated separately. I would respect the right of the lead committee to do that. If there is any point in asking secondary committees to consider a bill, it is that they bring a different perspective to it.

I do not want us to be too prescriptive about what can be published at certain times. We have just taken evidence on the CSG principles of openness and accessibility. If committee members and the general public are to have access to the opinions that committees express in their reports, it is better that that happens early in the process. There is a danger that everything might come out at the last minute.

My concern is that the proposal seems to be about the politics of the issue rather than the good practice of the Parliament. The job of the Procedures Committee is to protect the procedures of the Parliament and I am worried that we are getting drawn into something that is about a political difference on issues and that will probably arise only in particularly contentious areas.

The Convener: I should give the clerk an opportunity to respond.

Gillian Baxendine: Perhaps I can clarify the usual practice. Usually, we would liaise with the secondary committees and ask for a report, which would be available by the time the lead committee considered its report. When we publish the lead committee report, we usually publish all the secondary committee reports as annexes, with whatever cross-references the lead committee wishes to make. However, the package is usually integrated, so that the lead committee can benefit

from the views of the secondary committees when it reaches its conclusions.

Fiona Hyslop: That leaves the opportunity for the lead committee to cross-reference, with agreement or disagreement. However, that would be possible only if the secondary committee had published its report in advance. My understanding of the practice in most committees is that, as a general rule, the secondary committees agree to submit their report a certain time—two or three weeks—in advance of the final meeting of the lead committee on its report. Is that the general rule?

Gillian Baxendine: The secondary committees usually agree to provide their report as a private document to the lead committee. Usually, the secondary committee report would not be made public until the complete final report was made public. However, it would be available to the members of the lead committee as a private document. There have been some exceptions, the main one being the budget reports to the Finance Committee, which are all published and available on the website at the same time as they go to the Finance Committee.

The Convener: The procedure seems to imply the requirement for every committee to discuss every report in private, whether the committee wishes to do so or not. That seems excessively prescriptive. I know that most committees discuss reports in private, although we have taken a huge amount of evidence about that being bad practice. The Procedures Committee has never produced any legislation reports and we have never discussed or produced reports in private—we do it all publicly. If we were to be designated as a secondary committee on a bill—because it involved parliamentary procedures, for example—I would be very reluctant to be driven to meet in private if we felt that such matters should be discussed publicly. My concern is the prescriptiveness. I do not necessarily want a response to that comment. I am simply thinking through the matter as we go through the discussion.

Alex Fergusson: On the points that Fiona Hyslop raised, I cannot see how the publication or otherwise of a secondary committee's report prevents the lead committee from discussing the report publicly or privately or cross-referencing as much as it wants. I cannot see that it makes a huge difference whether the secondary committee's report is published. It certainly did not make a huge difference in this instance or, indeed, in the other two instances that I highlighted.

Mr Macintosh: Why was the decision taken to publish the Rural Development Committee's report in advance of the Justice 2 Committee's report? Was the Rural Development Committee aware of any concerns of the Justice 2 Committee about

that? If so, how was the situation resolved?

Alex Fergusson: Yes, we were aware that the Justice 2 Committee was concerned. However, my deputy convener, Fergus Ewing, and I had informal discussions with our clerks and the Justice 2 Committee's clerks. The Justice 2 Committee's slight concern was made known to us, but no objection was made known. Indeed, in discussing the issue, we realised that standing orders did not prevent us from publishing our report before the lead committee's report.

The majority of Rural Development Committee members were keen to publish the report on the website because the bill had excited interest and there had been much press and public interest in our deliberations. We knew that many people keenly awaited our report. Most committee members felt that publication of our report would do no harm; it would allow members of the public to read the report and the lead committee to take it on board.

We felt that, if our report were published as part of the lead committee's report, our report might be subsumed under the substantial points that the lead committee made—not all of which I agreed with—which would have come to the fore. We wanted to be as open and accessible as possible, particularly for members of the public. I think that that is what Parliament is meant to do.

Susan Deacon: I have two comments, one on the specific issue and the other on the general issue. On the specific issue—the particular case that we are discussing—I am uncomfortable about the fact that the matter is on our agenda today. The specific instance raises questions for me that are similar to those raised by Ken Macintosh. I wonder why the circumstances arose and why the respective conveners and clerks could not resolve the issues in advance of or during the process.

However, I do not feel that the Procedures Committee should explore that matter. Part of my concern is why the issue is on our agenda other than to raise a general point. There is a general issue, which merits further investigation by the committee at some stage, through due process. It should be properly discussed among, for example, committee conveners and a proper report should be compiled about the various instances that have arisen.

I am aware of two or three cases that have raised questions about relationships between lead committees and secondary committees—not just about the publication of reports, but about committees sharing evidence and information. It strikes me that that area of Parliament's activities could be improved. I will put it no more precisely than that.

The instance that we are discussing has raised

with us a general issue that merits, at some stage, further work and investigation. However, the point at which the Procedures Committee ought to become involved in such an examination is after earlier stages of discussion have taken place. I certainly do not think that we should comment to any extent on the specific issue that has arisen, which I regard as unfortunate, to be honest.

The Convener: The fact that the issue has been referred to this committee implies that it ought to be a matter for standing orders. I am not convinced that that is the case. The issue might legitimately be a matter for guidance. Much parliamentary guidance does not originate in this committee. We are often asked to comment on and approve changes to guidance when it relates to standing orders issues. However, guidance comes from the clerking department, not from this committee.

If committee conveners feel that there are guidance problems that they need to sort out, it might be advisable for them to sort them out. If there are implications for standing orders, we could subsequently consider translating them into effect. We try to keep standing orders minimal and to allow people to operate within a loose, rather than a prescriptive, framework. I must be absolutely fair, however, and ask whether anyone wants to progress the issue through a change to standing orders. Are we happy to refer the issue back to the conveners to progress as they see fit?

12:15

Alex Fergusson: You referred to the two precedents that I highlighted and said—rightly—that the secondary committee had a specific remit to consider. We had identified a specific remit with our colleagues on the Justice 2 Committee, so we did not make a general report on the bill. I should have made that clear, but I did not.

The Convener: All three situations were broadly similar. The committees divided the work among themselves and did not examine overlapping areas.

Fiona Hyslop: I suggest that we ask the conveners liaison group to discuss best practice, with the view from the committee that we are reluctant for the issue to be returned to us for any change to standing orders.

The Convener: I was trying to steer members away from recommending that we approach the conveners liaison group. It is for the participants to raise the issue. I see no difficulty with your suggestion, provided that we do not convey a request for the group to ask for standing orders to be changed. We should say, "Here is an issue that was referred to us. We think that you might want to consider it, but you should resolve it

yourselves." Is that acceptable?

Members indicated agreement.

Fiona Hyslop: The matter is up to the two conveners who are involved. If they feel strongly that the situation occurs regularly throughout all committees, they are free to take up the issue with the conveners liaison group. If, however, the issue is particular to the instance concerned, we hope that the two conveners can resolve it themselves without pulling the rest of the Parliament into a procedural change.

The Convener: That is a good point at which to leave the subject. I thank Alex Fergusson and the clerks for their time.

Temporary Conveners

The Convener: I will summarise item 4 quickly. Committees that have a designated deputy convener do not have the flexibility to appoint a temporary convener when the convener and the deputy convener are both absent. For example, if Kenneth Macintosh and I had had to go to another meeting this morning, the rest of you—even though you constitute a quorum—could not have appointed Susan Deacon as a temporary convener to allow business to continue. That rigidity seems unnecessary.

We are invited to raise the issue with the conveners liaison group and to produce a proposal to amend standing orders to give committees the flexibility to continue with their business. That seems perfectly reasonable and sensible. If we can agree to that quickly, I can close the meeting. Is that agreed?

Members *indicated agreement.*

The Convener: With that incentive, the proposal is agreed. I thank everyone for their attendance and their contributions.

Meeting closed at 12:18.

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