PROCEDURES COMMITTEE

Tuesday 25 May 2004
(*Morning*)

Session 2

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PROCEDURES COMMITTEE
9th Meeting 2004, Session 2

CONVENER

*Iain Smith (North East Fife) (LD)

DEPUTY CONVENER

*Karen Gillon (Clydesdale) (Lab)

COMMITTEE MEMBERS

*Richard Baker (North East Scotland) (Lab)
*Mark Ballard (Lothians) (Green)
*Bruce Crawford (Mid Scotland and Fife) (SNP)
*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)
*Mr Jamie McGrigor (Highlands and Islands) (Con)

COMMITTEE SUBSTITUTES

Linda Fabiani (Central Scotland) (SNP)
Robin Harper (Lothians) (Green)
Irene Oldfather (Cunninghame South) (Lab)
Mr Keith Raffan (Mid Scotland and Fife) (LD)
Murray Tosh (West of Scotland) (Con)

*attended

THE FOLLOWING GAVE EVIDENCE:

Jackie Baillie (Dumbarton) (Lab)
Graham Blount (Scottish Churches Parliamentary Office)
Bob Christie (Convention of Scottish Local Authorities)
Susan Elsley (Save the Children)
Jill Flye (Scottish Council for Voluntary Organisations)
Douglas Hamilton (Barnardo's Scotland)
Cathy Jamieson (Former Minister for Education and Young People)
Councillor Corrie McChord (Convention of Scottish Local Authorities)
Lucy McTernan (Scottish Council for Voluntary Organisations)
Rachel Sunderland (Former Branch Head, Scottish Executive Education Department)
Kay Tisdall (Former Director of Research and Policy, Children in Scotland)
Jennifer Turpie (Children in Scotland)

CLERK TO THE COMMITTEE

Andrew Mylne

SENIOR ASSISTANT CLERK

Jane McEwan

ASSISTANT CLERK

Lewis McNaughton

LOCATION

The Hub

Scottish Parliament

Procedures Committee

Tuesday 25 May 2004

(*Morning*)

[THE CONVENER *opened the meeting at 10:16*]

Bills (Timescales and Stages)

The Convener (Iain Smith): Good morning, colleagues, and welcome to the ninth meeting in 2004 of the Procedures Committee. I apologise because I have a bit of a cold and my voice may go, although that might be a great relief to all committee members. We have received apologies from Bruce Crawford.

The first item is our inquiry on the timescales and stages of bills. We have three panels of witnesses this morning. On the first we have Cathy Jamieson, who is currently the Minister for Justice but was the relevant minister when the Commissioner for Children and Young People (Scotland) Bill was going through Parliament, and Rachel Sunderland, who is the former branch head of the children's commissioner action team of the Scottish Executive children and families division. We also have Jackie Baillie MSP, who was a member of the Commissioner for Children and Young People (Scotland) Bill Committee. I invite Cathy or Jackie to make any opening remarks, after which I will open up the meeting to questions.

Cathy Jamieson (Former Minister for Education and Young People): Thank you, convener. I will try to keep my remarks short and focused. I welcome this opportunity to contribute to the committee's inquiry into the timescales and stages of bills. I will say a wee bit about the background and progress of the Commissioner for Children and Young People (Scotland) Bill from the Scottish Executive's perspective. At the outset, I should explain that I understood the desire of the Education, Culture and Sport Committee to ensure that the bill was passed before the end of the first session. That was the context in which we were operating. Everyone understood the necessity of keeping to timescales.

The committee will recall that in response to a request in January 2000 from Sam Galbraith, the then Minister for Children and Education, the Education, Culture and Sport Committee undertook an inquiry to consider the possibility of establishing a commissioner for children and young people. The committee took extensive evidence from a wide range of external agencies and organisations, as well as from children and young people. It published its report on the inquiry in February 2002 and a further report in July 2002, which outlined the key elements of a possible commissioner for children in Scotland bill. The Scottish Executive published its response in August 2002, welcoming the proposed establishment of a commissioner as an important voice for children and young people in Scotland.

The Education, Culture and Sport Committee was keen for the issue to be taken forward as a committee bill and we were pleased that approval was given by the Parliament following a debate on 25 September 2002 for the committee to introduce the bill. The timetable that the committee set to introduce and pass the bill before the end of the session was challenging. The bill was introduced on 4 December 2002 and no evidence was taken ahead of the stage 1 debate on 15 January. Scottish Executive officials were involved with parliamentary officials in discussing the preparation of the financial memorandum for the bill, as the Executive had undertaken to transfer funds to the Scottish Parliamentary Corporate Body for the cost of a commissioner.

The ad hoc Commissioner for Children and Young People (Scotland) Bill Committee met once to consider the bill, on 4 February 2003. Because of the tight timescale between publication of the bill on 5 December—the day after introduction—and the stage 1 debate on 15 January, which was followed by the committee's stage 2 consideration on 4 February, it was a significant challenge for everyone involved to consider and draft proposed amendments. There were a number of substantive issues on which we wanted to ensure clarity, especially in relation to the interaction of the commissioner with other relevant bodies. For that reason, the Executive lodged four amendments at stage 2. Those amendments were lodged on Friday 31 January for the committee meeting on the following Wednesday, which was 4 February. At that stage, I indicated that we supported three amendments lodged by Karen Gillon. Four other non-Executive amendments were lodged on Friday 31 January.

Stage 2 of the bill was completed on 4 February. The Executive did not lodge any amendments at stage 3, but officials had sight of the three non-Executive amendments, which were lodged on 21 March, ahead of the stage 3 debate on Wednesday 26 March. I apologise for referring to so many dates, but they are important because they indicate the compressed timetable for the bill.

The circumstances and timescale of the Commissioner for Children and Young People (Scotland) Bill were unique and I would be surprised if the process were repeated in quite the

same way. The bill placed particular demands on officials and ministers, as well as on those involved on the parliamentary side of matters, when considering whether to draft Executive and non-Executive amendments. However, a positive dialogue was maintained throughout the process between the Education, Culture and Sport Committee reporters and officials from the Education Department and the non-Executive bills unit.

I am happy to pick up any issues that members would like to raise. The main points that I have highlighted are the short timescale for the bill, the unique set of circumstances associated with it and, in particular, the fact that the Education, Culture and Sport Committee undertook a huge amount of consultation during the inquiry phase. However, some people had views about the fact that there was no opportunity to take further evidence at stage 1, which members may want to explore. Overall, the process worked because of positive co-operation between the Executive, the committee and parliamentary officials.

The Convener: Would Jackie Baillie like to add something at this point?

Jackie Baillie (Dumbarton) (Lab): It would be useful for me to set out the background to the bill. I will try not to reiterate the details with which we have been provided, but the unique nature of a committee bill is worth emphasising. Before I do that, I confess to feeling a bit of a fraud sitting here, because Karen Gillon was responsible for taking the bill through the Parliament. I am sure that she will correct me if I get anything wrong.

As members will be aware, no evidence is taken on a committee bill at stage 1. However, with this bill there was a year-long investigation by the Education, Culture and Sport Committee. That process was helpful in drawing together the different strands of opinion and enabling a consensus for legislation to be arrived at. The later stages of the bill were assisted by the sense of ownership that existed right from the beginning.

As members have heard, an ad hoc committee was established to consider the bill at stage 2. We benefited from the fact that some members of the Education, Culture and Sport Committee were appointed to the ad hoc committee, which allowed some of the background thinking to the bill to be explained more fully. It is also fair to say that generally a degree of cross-party support develops for committee bills over the piece. When that happens, it is less likely that during the later stages of a bill there will be flurries of amendments that make essentially political points.

The minister was right to pinpoint two areas in which the Commissioner for Children and Young People (Scotland) Bill was unique. First, we were conscious that, after the dissolution of Parliament in spring 2003, all the work would have to start again. We knew that we would not be able to pick up the bill where we had left off and that we would have to go back to first principles. We accepted that the timetable for the bill was demanding, pinpointed March 2003 as the date for the stage 3 debate and worked backwards. That explains why the timetable was tight in places.

However, we were aware of what we were doing and felt that it could be done. I have no doubt that that was possible only because of the relationships that existed. Both the Minister for Parliamentary Business and the Minister for Education and Young People were extraordinarily helpful, on timetables and on the substance of the policy respectively. The same is true of all the people with an interest in the bill. We ran a series of seminars and briefing sessions involving the voluntary sector, children's organisations and the private sector, to ensure that the bill was owned by them, too. Needless to say, that minimised the scope for amendments coming later on.

The Convener: Thank you for that, Jackie. I will start the questioning. I appreciate that there was a significant amount of pre-legislative work on the bill, but do you think that there was sufficient time between the introduction of the bill and the stage 1 process for people to reflect properly on whether the bill fully reflected what the Education, Culture and Sport Committee originally intended when it proposed the bill?

Jackie Baillie: In the case of the Commissioner for Children and Young People (Scotland) Bill, considerable time was given to pre-legislative scrutiny—as I recollect, the whole process of the inquiry went from May 2001 to February 2002. As part of that, we talked to virtually everybody with an interest in the subject to get a distillation of the views that were out there in order to arrive at a considered policy. When you go through such an inclusive process, you find that you usually end up with the right result and with everybody broadly agreeing about the way forward. Therefore, I felt that there was sufficient time.

Cathy Jamieson: Some external organisations that were involved in the process might have wanted additional time to refine some policy areas. Everyone was clear about what the broad policy agenda was, but as the bill started to go through its processes we needed to stop and think about a number of areas, particularly around relationships with other organisations and commissioners. Looking back, I think that, had there been more time, some of that could have been done in more depth. People might make that criticism. However, as Jackie Baillie pointed out, we made it clear that there was a deadline and that we were working back from that. It would have been difficult to do

that had there not been such an extensive consultation in the early stages. Without that consultation, we would have been in some difficulty with the policy agenda.

The Convener: I am sorry, but I might not have made my point clearly. The point that I was trying to make was that the bill, as introduced, was intended to reflect the policy that was agreed through the pre-legislative process. However, I wonder whether there was sufficient time after the bill was introduced for the Executive in particular and outside organisations to ensure that it properly reflected the policy aims. There were, effectively, only about three sitting weeks between the introduction of the bill and the stage 1 debate.

Jackie Baillie: There was enough time because as we were issuing drafting instructions, we were clear what the policy context would be. We held briefing seminars for voluntary and private sector organisations well before the bill was published to say, "Look, this is where we have taken the committee's draft report and this is where we are going with the bill." That was done in considerable detail, so people had an opportunity to look at not only emerging thinking, but settled thinking by and large. There was an opportunity to change focus. Also unique was the fact that the Executive sat alongside the members who were given the remit of working through the policy to draft the bill. Therefore, it is not as though there was just a short period of time. Right from the start, the Executive was sitting alongside us.

Cathy Jamieson: One of the areas that was perhaps an issue for the Executive was the timetable for lodging amendments. Members will know that, in most circumstances, the Executive tries to lodge amendments five days in advance of a committee meeting. We were in a slightly unusual position in that the bill was not an Executive one, but we were still trying to lodge amendments within the five-day timescale. However, we found it impossible to do that. Again, there was a lot of discussion between the parliamentary and Executive sides to try to resolve some of those issues so that we did not find ourselves in a situation in which we had a plethora of amendments that would have to be withdrawn. That is where the pressure came from for us. Trying to keep to our own guidelines was difficult because of the timescales.

Richard Baker (North East Scotland) (Lab): During the pre-legislative scrutiny you engaged in a wide consultation and that seems to have smoothed the process and made it a lot easier later on. Is there anything that the Executive could learn from the process of that committee bill for when it proposes bills? Alternatively, was the Commissioner for Children and Young People (Scotland) Bill an individual experience because of the type of bill that it was? Were there any examples of best practice that could be used to help to smooth the passage of Executive bills?

10:30

Cathy Jamieson: It is worth remembering that, when the Education, Culture and Sport Committee was initially asked to inquire into the subject, it was not clear what, if any, legislative route might be taken. It became clear, as the committee conducted the work that it had been asked to do, that committee members felt a considerable amount of ownership of the subject and wanted to bring forward a committee bill.

Despite the fact that we are often criticised for the amount of consultation that we carry out, the lesson appears to be that good consultation and an attempt to involve people at an early stage help to build a consensus around certain areas and mean that people feel ownership of the process.

Karen Gillon (Clydesdale) (Lab): One of the things that I found most useful was the conference that was held with young people from all the local authority areas, which gave us a different perspective. We continually hear from all the children's organisations and, although their views are important, it is sometimes equally important to hear from children and young people directly. The more often we consult in that way, the better our legislation will be. The emphasis that the children and young people put on aspects of the bill was slightly different from that which children's organisations placed on them. That sort of thing made the process a genuine learning experience for committee members. When bills particularly affect certain groups, it might be a useful addition to the consultation process if committees were to make efforts to go behind the umbrella organisations to talk directly to those groups.

Mr Jamie McGrigor (Highlands and Islands) (Con): With hindsight, do you think that, because the bill required a negotiation about an increase in the resources that were available to NEBU, more time should have been allowed for the preparation and consideration of the bill?

Jackie Baillie: The basis of that question is a comment in the note that members have before them from the clerk who was involved with the committee's work on the bill. I disagree with the comment, especially when I consider that the committee spent almost a year deliberating on and arriving at a policy conclusion and six months going through our work in fine detail in order to issue drafting instructions.

The fact that NEBU required more resources is, I suggest, a matter for the Parliament to consider more widely because of the pressure of committee bills and members' bills. NEBU spent something

like 4,000 hours on the preparations for the bill. That is a substantial amount of time. The pace was set by the desire of MSPs to get the bill through before the elections. However, because of our inclusive style and the fact that a consensus had been reached early on, a considerable amount of preparation for the bill had been done—a great deal of consideration was given to it. I think that that is reflected in the robust nature of the bill, both in technical and policy terms.

Karen Gillon: I am sure that lessons can be learned, but I think that the process of producing the bill revealed the need to beef up the resources that were available to committees and members to help them to produce legislation. That is partly why the Procedures Committee has undertaken an inquiry into non-Executive bills. I am sure that, at times, the Executive has similar pressures on its legislative programme, but we do not hear about them because we are not involved in that.

At the point at which it became clear that we needed more resources, we had to negotiate for them, but they were made available. That is an important point. The resources were not ordinarily available and I think that we need to continue to examine how we provide resources to members and committees that are producing legislation. In the end, the fact that NEBU needed more office hours and legislation-drafting time was a good thing, not a bad thing. It was also a good thing that we were able to secure those resources without the SPCB putting up a fight.

Cathy Jamieson: The Executive sought to ensure that Rachel Sunderland's team was adequately resourced so that an appropriate level of back-up was available from our side. Perhaps Rachel would like to say something about that experience.

Rachel Sunderland (Former Branch Head, Scottish Executive Education Department): From the civil service point of view, it was a unique experience, which involved sitting down with NEBU and with Jackie Baillie and Irene McGugan to go over the policy intentions, to try to distil the key statements in the committee's report and to tease out what they meant so that they could be put into legislation. That process was lengthy and it continued even while we were drafting, because things came up that we needed to think about and talk through. Those issues were not about changing the key policy objectives—rather, they were about how to achieve those objectives in the best possible way. We had a partnership approach to that.

Karen Gillon: Perhaps the easy answer would have been to say, "Let the Executive do it." The Executive could have employed its resources to do the work but, as Cathy Jamieson said, the committee had taken ownership of the bill and, to be blunt, it simply was not prepared to allow that to happen. It was important for the committee to see the bill through, so it was important for resources to be made available to non-Executive areas of the Parliament as well as to the Executive. The co-operation that existed in the collaboration was unique and worth while. Together, we created a good piece of legislation that will serve us well for the future. Kathleen Marshall is already beginning to make an impact on children and young people in Scotland.

Cathy Jamieson: On the issue about lodging amendments, the Executive was clear that we did not want to come in at stage 3 with a raft of what would be seen as Executive amendments. That is why it was important to have discussions all the way through and to work on refining the wording and getting it right. The committee could then take the work forward, so that the process was not seen as an Executive takeover. We were clear that we did not want that to happen.

The Convener: Given that the bill was a committee bill rather than an Executive bill, to what extent did the Executive have any influence on the timetabling? Did the Executive face particular problems at any point, for example with the lodging of amendments?

Cathy Jamieson: As I said, we were well aware of the time pressures. As Karen Gillon outlined, the idea that we would not get the bill through and that the matter would go back to square one was a pressure on us all, because the Executive supported the principles of the bill. The critical point for us was the lodging of amendments. With the best will in the world, the Executive tried to keep to the deadlines in its guidelines, but it found that to be impossible while keeping to the spirit of the bill being a committee bill, so that created a tension.

Jackie Baillie: We were aware that, while we were negotiating additional resources from the corporate body to ensure the passage of the bill, we were also negotiating with the Minister for Parliamentary Business on the timetable. However, I have to say that we were pushing at an open door. Early on, there was tacit agreement that we were aiming for the bill to be considered at stage 3 in the last week of March. We based all our timetable calculations on that slot and we worked backwards. There was a negotiation, but it was an easy one.

The Convener: I appreciate that the circumstances of the bill were unique, but given that members normally use stage 1 to get fully up to speed with a bill and its problems, and given that there is no stage 1 for a committee bill, did the members of the ad hoc committee who were not members of the Education, Culture and Sport Committee have enough time to come to terms

with the complexity of the bill and the issues that surrounded it?

Jackie Baillie: I do not want to speak for them because, as a member of the ad hoc committee who was also a member of the Education, Culture and Sport Committee, I was fairly up to speed with the issues. However, there were several parliamentary opportunities for members to become aware of the details of the proposal before the ad hoc committee was set up. First, there was the publication of the committee report. Secondly, in such cases the committee is required to present to Parliament a second report, on the proposal for a bill. There is a debate at that point and a consultation period thereafter before we move anywhere near establishing an ad hoc committee. Moreover, Karen Gillon helpfully held a briefing session for members of the ad hoc committee in advance so that they became aware of the detail of the bill.

We must put the matter into perspective. I think that the bill had 17 sections and two schedules, which made it quite small. It was written in plain English and was therefore an easy read, unlike most proposed legislation. Therefore, I thought that it was reasonable for the ad hoc committee to become familiar with the bill in the timescale that was outlined. Compared with other bills—for example, the Housing (Scotland) Bill, which I think had 117 sections and 10 schedules—the scale of the Commissioner for Children and Young People (Scotland) Bill was manageable.

Cathy Jamieson: Moreover, the Executive was able to ensure that Executive officials were in part of the briefing process with the ad hoc committee. Again, that was a useful example of partnership working in which we were all clear about the objectives.

Mr McGrigor: Martin Verity states in his case-study note:

"There were some practical difficulties involved in relationships with the Executive, who were in the unusual position of wishing to make minor changes to a Bill which was not their own."

What were those practical difficulties?

Cathy Jamieson: Apart from the issue of timescales for lodging amendments, I am not sure what the practical difficulties were. It is not unusual for the Executive to want to amend a bill that is not its own. I am not sure what point Martin Verity is getting at, other than the issue relating to the timetabling of amendments.

Jackie Baillie: The minister is absolutely right. Creative tensions arise—I would put things no more strongly than that. With the committee and the bill team naturally wanting to move forward with the bill, the Executive will say, "Have you thought about this? Can we look at this again?" It will have perfectly legitimate questions, but those will create a creative tension that I think will improve the bill.

I welcome the fact that, uniquely, the Executive sat alongside the team as we were drafting instructions for the bill—I repeat that point because it is important. That meant that we tried to minimise any opportunities of getting things wrong early on, which was enormously helpful. Tensions are bound to arise in such a process, particularly as the roles were reversed, if you like, and the Executive was trying to lodge amendments in a short timescale that we did not particularly want it to lodge. However, through dialogue, a much improved position was reached.

Mr McGrigor: In this case, the committee was committed to the principles of the bill and to the principle of a commissioner.

Jackie Baillie: Absolutely—including Brian Monteith.

Mr McGrigor: He was not a member of the Executive.

Jackie Baillie: You said that the committee was committed to the principles of the bill, which it was.

Mr McGrigor: I am sorry—I meant that the Executive was committed, which made things easy in some respects. However, if the Executive had been less keen on the bill, would that have resulted in delays preventing the bill from reaching stage 3 in time?

Jackie Baillie: That might have caused additional tensions, but it is inconceivable that a committee would unanimously support a policy position and move forward to proposing a committee bill if there was not a degree of support from the Executive. I cannot conceive of circumstances in which that would happen.

Cathy Jamieson: If a committee brought forward a bill for which there was no broad cross-party consensus, or if there was no indication that the Executive would broadly support the bill, there would, of course, be potential difficulties, particularly at stage 2 if a whole raft of amendments was lodged. However, Jackie Baillie is absolutely correct. By the time that a committee bill is introduced, the fact that so much work has been done previously means that a number of issues are likely to have been ironed out.

Karen Gillon: I assure Jamie McGrigor that I could have been as stroppy as any minister about amendments at stage 2 or stage 3.

The Convener: Somehow I believe that.

Was there sufficient time between stages 2 and 3 for organisations outwith the Parliament that had an interest in the bill to consider and comment on

the amendments that were lodged during those stages?

10:45

Cathy Jamieson: Obviously, organisations will have their views on that question. I acknowledge that the timescales were tight. Organisations probably understood that attempts to lodge amendments that would introduce a raft of new measures could at that stage have jeopardised the bill and they might not have particularly wanted to take that approach. As I have said, the Executive sometimes had to try to lodge amendments but be prepared to withdraw them when the committee had clarified particular points. I was fairly comfortable with that approach, but I am sure that outside organisations probably wondered whether they had as much influence at that stage as they would have wanted.

Jackie Baillie: The minister is right. Our approach represented acknowledgement that we had signed up to ensuring that the bill completed its passage in March 2003; indeed, it probably brought to the process discipline that might not ordinarily have been there. As far as having more time at stage 2 is concerned, I have to say that the bill was short and the scope for lodging amendments more limited. However, I know from other experiences that having more time at stage 2—whether for the Executive in a reversed role, or for MSPs and other organisations to have an influence—is critical. The timing is quite tight.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): We have heard about the close working relationship that was built up with the voluntary sector and all interested parties when the committee took evidence during its inquiry, and in preparation for scrutinising the bill. How closely did you work with those organisations during the crucial stages 2 and 3 when amendments were lodged?

Jackie Baillie: We engaged with them much earlier in the process—indeed, we gave organisations an open invitation to come and talk to members of the bill team and the non-Executive bills unit. We also asked them to flag up any concerns early on to ensure that we could address them or be prepared for any amendments that might be lodged. I am sure that the organisations also talked to the Executive through existing channels to ensure that we got the legislation right.

We also organised the three seminars that I mentioned earlier, two of which were for voluntary organisations and children's organisations. Given that they had spent decades arguing and campaigning for the children's commissioner post to be established, we felt that it was important for them to understand the direction of travel, the bill's detail and our reasons for making certain choices. They felt, in turn, that such an approach was valuable. Furthermore, we talked to some of the private sector agencies that might have been affected by the bill to reassure them and to explain the thinking behind the policy. That helped to ensure that a number of hares that might have been set off were stopped in their tracks.

We took very much an open-door approach. At any stage, people could have spoken to committee members or to NEBU. Indeed, I know that NEBU was also proactive in speaking to some organisations and that that dialogue assisted the process.

Karen Gillon: At stage 2, members lodged only a limited number of amendments, none of which came as a surprise. After all, the amendments had all been widely debated at the briefing sessions. As with any bill, some members went further than they would have wanted and others did not go as far as they would have liked, but that's life. Because they had been involved in all the processes beforehand, they understood why certain decisions were made, which is why there were not many surprises at stage 2. That was important, because it would have been difficult to handle many surprises at stage 2. However, as I said, the process ensured that the amendments that were lodged had been debated previously, which made it easier for members to engage in the debate and to accept, reject or withdraw amendments at that point.

The Convener: Are there any other questions?

Mr McGrigor: I have a general question. Johann Lamont's submission says that the documentation that is produced as part of the legislative process is too complicated. In other words, members can find it difficult to follow stage 2 and 3 proceedings because they have to work from three separate documents: a groupings list; a marshalled list; and the bill. As you have experience of such proceedings, do you have any comment to make? Did the issue affect you in any way or did it have an effect on the Commissioner for Children and Young People (Scotland) Bill?

Jackie Baillie: The bill was short and there were very few amendments. We were able to cope with the process because the bill was incredibly concise.

In more general terms, particularly in relation to large and complicated bills, I recognise the point that Johann Lamont makes. It is different when a bill is absolutely new, but with a bill that will amend existing legislation there exists the additional complexity that you must have in front of you not only the new bill but the old legislation that it will amend, which could be difficult.

Cathy Jamieson: I can add nothing to those comments. Jackie Baillie is correct to say that the process was, in relation to the Commissioner for Children and Young People (Scotland) Bill, fairly straightforward, but we all have experience of other bills in which there have been complexities.

The Convener: As there are no other questions, I thank Cathy Jamieson and Jackie Baillie for an excellent example of Executive and non-Executive co-operation. I thank them for giving evidence to the committee; it has been very helpful. Our next witnesses will be here shortly; I suspend the meeting briefly until they arrive.

10:51

Meeting suspended.

10:54

On resuming—

The Convener: I am happy to welcome our second panel of witnesses today in our inquiry into timescales and stages of bills: Douglas Hamilton is the policy and research officer with Barnardo's Scotland; Susan Elsley is assistant director of policy with Save the Children; Jennifer Turpie is director of research and policy with Children in Scotland; and Kay Tisdall is the former director of research and policy with Children in Scotland. I welcome you all. We will hear any opening remarks you wish to make and then open up the meeting for questions.

Douglas Hamilton (Barnardo's Scotland): I think that we all have a wee bit to say by way of introduction. I will kick off by talking about the present context. I apologise that I was not able to provide written evidence, although in the context of this inquiry it is worth saying that we struggled to find the time to produce written evidence. I hope that our opening remarks will be helpful.

Our experience of the process that led to the passing of the Commissioner for Children and Young People (Scotland) bill was generally very positive. At the time of the stage 1 debate, our briefing congratulated the Education, Culture and Sport Committee and stated that we were impressed by the level of transparency, openness and consultation that accompanied the bill. The committee clearly listened to the wide range of evidence that was presented during its inquiry. We also said that the process had been a good example of the way in which we felt Parliament should work, with Parliament taking control of an issue and following it through. That we took that view is largely to the credit of MSPs, clerks and staff at the non-Executive bills unit.

The fact that the bill was a committee bill was important to us as a campaign group. A key principle of the office of the commissioner is that it should be independent of the Executive and accountable to Parliament. By taking control of the issue, and by taking ownership of the legislation, Parliament helped to ensure that that principle was, from the word go, central to how the commissioner would operate.

I imagine that the bill that became the Commissioner for Children and Young People (Scotland) Act 2003 will be unique in the committee's inquiry. Because Parliament spent so much time preparing the bill there was, if you like, almost a two-year stage 1 process. Many contentious issues were discussed, debated and resolved during that time, which ensured that all interested parties—including children and young people—were involved. The process was open and ample opportunity was allowed for everyone who wanted to be involved. There was a variety of public events in Parliament, as well as work in focus groups, a video and informal seminars.

That period of inquiry had a significant impact. As I said, there was no proper stage 1 process, so considerable consensus was reached before that stage. The bill also benefited from having cross-party support and support from the Executive. However, one key issue that will be relevant to the committee's inquiry is time. Once the bill was introduced, the timescale was very limited if the bill was to be passed before Parliament's dissolution before the election. We were made aware that the timescale was tight and that not much time would be available for stage 2—I see that Karen Gillon is smiling. We were informed that there would be no time for any of our amendments to be accepted. However, as a campaign group, we wanted to ensure that the bill was passed and it was in our interest to ensure that there was no delay. We were therefore happy to play along.

The positive aspect of the limited timescale was that we were extremely focused. We ensured that we lodged only a limited number of amendments that were especially important to us. The negative aspect was that we probably did not push all the points at stage 2 that we might normally have pushed. As a result, we lodged only two amendments—one on a point of clarification, and the other on a significant power that we felt should be included in the bill. If more time had been available, we would probably have pushed on a number of other issues at stage 2, to get the debate on the record and to test out various amendments. That we did not may mean that some issues were not debated and explored to their full extent at stage 2.

However, the level of communication between MSPs, clerks, the non-Executive bills unit and ourselves ensured that we had the opportunity to discuss and debate the issues in other forums.

The informal seminars were particularly helpful in that regard. Potential difficulties were dealt with then, which meant that there was not as much to be dealt with at stage 2.

By the time we got to stage 3, we were satisfied with the state of the bill and we were aware that, at that point, no significant changes were likely to be supported. Our reflection on the process is that it was largely positive; we believe that it could be useful in consideration of future bills.

11:00

Susan Elsley (Save the Children): I will speak only briefly. Many of the comments that I will make will echo Douglas Hamilton.

We warmly welcomed the Education, Culture and Sport Committee's approach to the bill. It is useful to highlight that, from our point of view, the bill was not controversial. It was well supported by children's and young people's organisations. We had been campaigning for a children's and young people's commissioner for a long time, so the fact that support existed meant that much groundwork had already been done.

The Commissioner for Children and Young People (Scotland) Bill was quite simple when one compares it with, for example, the Criminal Justice (Scotland) Bill from last year, or the Antisocial Behaviour etc (Scotland) Bill, which is being considered at the moment. Those bills are complex and cover a variety of different areas. It is important to recognise the particular circumstances of the Commissioner for Children and Young People (Scotland) Bill. As a result of the preparatory work that was done at the inquiry stage, there was strong consensus among organisations; we feel that it is important to acknowledge that. In addition, the cross-party group flagged up at an early stage that it wanted to have a children's commissioner.

We felt that there was a sympathetic context for the bill and we also acknowledge that, from our point of view, it was a much simpler bill than many others on which we have worked with members.

Jennifer Turpie (Children in Scotland): I thank the committee for the opportunity to speak today. I was not involved in the inquiry because I did not work for Children in Scotland at that time, but I followed the process from the outside. Since then, I have had the opportunity to speak to colleagues to review the process in relation to the bill.

The bill offers a good and positive example of how children and young people can be engaged in the legislative process. As Douglas Hamilton and Susan Elsley said, the reason for that positive experience was that time was made to engage them. There was a fairly extensive inquiry stage prior to the introduction of the bill in which children and young people were involved; events and seminars were held and time was given for proper consultation of children and young people.

With other bills, such a consistent and systematic approach has not always been taken to consultation of children and young people, which is—as we agree—important. When we talk about time periods for consultation, a period of six to eight weeks is sometimes thrown around. We argue that that is not always enough time if we want properly to consult children and young people.

Kay Tisdall (Former Director of Research and Policy, Children in Scotland): The committee has been examining time issues and Douglas Hamilton spoke about particular pressures to pass the bill before the end of the parliamentary session. In our experience, such pressures at stages 2 and 3 are common; members have heard much about that in evidence.

In our discussions, we might make the radical suggestion to extend consideration of a bill by six months so that there is an opportunity to discuss amendments fully at stage 2. That would also allow an opportunity, if one were needed, to take evidence on new issues that emerge, which has been done already. If a Government amendment were lodged before stage 3, such an extension would allow time to consider it and the possibility of lodging another amendment to improve it. In short, there are incredible time pressures once a bill is introduced, so more time for detailed scrutiny would be very helpful.

The Convener: Thank you all very much for those opening remarks. I now invite questions from members.

The committee is clearly shy this morning, so I will throw a question in to start. The Commissioner for Children and Young People (Scotland) Bill was slightly different from a normal bill in that the stage 1 inquiry was, in effect, carried out before the bill was introduced—I am referring to the Education, Culture and Sport Committee's report that led to the bill. Once the bill was introduced, was there sufficient time for organisations such as yours to examine the bill to ensure that it reflected what the Education, Culture and Sport Committee had intended when it decided to introduce a committee bill?

Douglas Hamilton: The timescales were tight: I think that the bill was introduced in early December and there were six weeks, including the Christmas holidays, before the stage 1 debate, so there was not a lot of time. There were just three weeks between the stage 1 debate and the start of stage 2. In normal circumstances, lodging of detailed stage 2 amendments would have been

impossible. The pressure that was put on us to get the bill through before the election was one reason why we ended up lodging only one or two amendments at that point.

Bruce Crawford (Mid Scotland and Fife) (SNP): The matter of consultation of children and young people has been raised. We are trying to use the passage of the Commissioner for Children and Young People (Scotland) Bill as an exemplar for how things can be done well. Could you say a bit more in that regard? Could you tell us about the areas that were not dealt with well, so that we can get a handle on how the process that was used for that bill was beneficial compared with the normal legislative process?

Susan Elsley: I will respond first, although I am sure that my colleagues will have more to say. The bill was an exemplar because of the variety of different methods that were used to consult children and young people. Children in Scotland carried out some work and children and young people attended informal seminars. Those processes perhaps enabled children and young people to take part in the process more easily than would have been the case had they attended a committee meeting.

As children and young people's organisations, our experience is that there is not among the Parliament's committees necessarily a consistent approach to engaging with children and young people in scrutiny of bills. We have an opportunity to establish some kind of collective learning in Parliament and to consider the best ways of doing that. Formal processes tend to favour young people who have had the opportunity to debate and discuss the issues in advance, and who are at a time in the school year when they can take time out of school. The more formal processes also tend to favour slightly older young people. They are not necessarily conducive to, say, involving under-12s. The committee might reflect on the question of Parliament promoting best practice in consulting children and young people during the bill scrutiny process.

Kay Tisdall: Parliament helped financially during scrutiny of the Commissioner for Children and Young People (Scotland) Bill. At events, organisations often need to ask about particular transport requirements for a child with a disability, for example, and want to know about whether the cost of that can be covered. That can become an issue, but Parliament recognised that such financial investments were necessary to ensure good consultation.

Douglas Hamilton: The involvement of children and young people is important to note, especially when comparing the Commissioner for Children and Young People (Scotland) Bill with other bills and when considering time factors in the inquiry process. Our organisation is sometimes asked to produce young people to give evidence at stage 1 and we are given two weeks to turn that request around. Time was important when preparing young people to come to the Commissioner for Children and Young People (Scotland) Bill Committee to explain what the issues were.

Mr McGrigor: One of the submissions that we have received states:

"it is important that committees consider the impact of the legislation on children and we would encourage MSPs to consider the introduction of a 'child impact statement' on each Bill at Stage 1."

Will you comment on that?

The Convener: That probably goes outwith the scope of our inquiry, but I am happy for witnesses to comment briefly.

Susan Elsley: We would be keen on any approach that ensured that consideration was given to legislation's impact on children and young people. We are keen to ensure that the responsibilities that the United Kingdom Government and Scottish Executive have under the United Nations Convention on the Rights of the Child are taken into account in Scottish Parliament legislation.

Mark Ballard (Lothians) (Green): The submission from the chief executive of Children 1st states:

"Involvement in this Bill was overall a very positive experience. The extensive discussions and consultation prior to the publication of the Bill was an inclusive process and resulted in views being heard."

It is important that we consider the outcomes of consultation as well as the process. To what extent did the consultation result in changes to the bill's working mechanisms? To what extent did the process lead to outcomes?

Kay Tisdall: There were some clear examples of that. Douglas Hamilton and I did some of the work with young people that was requested by the Education, Culture and Sport Committee. In the groups in which I participated, young people said that there was no point in having a commissioner unless the commissioner would fundamentally be able to listen to them. It was noticeable that the committee's report put that as its top recommendation, which has been followed through in the legislation. That is why I think that there were good examples of outcomes being changed through consultation.

Douglas Hamilton: I agree with that. The bill was introduced on the back of a Scottish Alliance for Children's Rights report, which set out early on our expectations of the commissioner. Throughout the process, we were able to set our key principles. In the briefing that we submitted to

Parliament before the stage 1 debate, we set out the four key principles that we wanted. I think that everything that our organisations hoped for at the start was included within the bill, apart from the power to investigate individual cases, which was one of the sticking points. By and large, the bill's emphasis very much reflected the submissions that were made and the discussions that took place with children and young people.

Susan Elsley: It is also fair to say that both the committee in its inquiry and the non-Executive bills unit took account of legislation elsewhere in the UK, especially the legislation for the children's commissioners in Wales and in Northern Ireland. We found that information helpful. That kind of sharing of experience across the UK was useful.

Cathie Craigie: Your oral evidence this morning suggests that the experience of the passage of the bill was positive. When the minister gave evidence, she and a former member of the ad hoc committee seemed to make excuses for the fact that no evidence was taken on the bill at stage 1. However, Douglas Hamilton explained that by saying that there was, in effect, a two-year stage 1 process, which seems to have been positive.

As organisations that represent young people, do your organisations believe that evidence that is gathered that is not on the record is just as important in shaping the final legislation or the report that is produced by a committee?

Douglas Hamilton: Yes, I think so. If I may make one comment, I will say that I believe that some of that evidence should have been on the record; it would have been helpful if it had been reported. Many of the most useful discussions took place in public forums rather than behind closed doors, but those were not recorded so they are missing from the public record of the debate. The informal seminars were really useful, in that a lot of business was done during those. We heard from many people in a short timescale, so we were able to take more evidence than could be accommodated in a normal stage 1 evidence-taking process. However, we should have had a record of that important part of the process.

Some of the outcomes of the children and young people's events were featured in the committee report. However, it would have been equally valid to have had those events recorded in the *Official Report*. That would need to be done in a way that was more accessible for children and young people. Currently, for children and young people to feature in the *Official Report*, they would have to sit at a table to give evidence, as we are doing. Some of the events involved children and young people in group discussions and it would have been great if those had been recorded.

11:15

Jennifer Turpie: It is important to ensure that when children and young people are consulted, they see the outcome of their labours. To support what Douglas Hamilton said, recording the children and young people's events in a more official way might have been beneficial to those who participated.

Cathie Craigie: We have heard evidence about how tight the timescale was for getting the bill through. Everybody who was involved knows about that. Douglas Hamilton said that we wanted to get the bill through before the election, but in fact what we wanted was to get the bill through before the Parliament dissolved for the election; otherwise, we would have had to start the bill again.

Kay Tisdall said that one criticism is that there should have been more opportunity for detailed scrutiny at stage 3. That seems to contradict evidence that we heard earlier—and from Kay's colleagues—that there were discussions, dialogue and engagement with people all the way through, which meant that there was less likelihood of significant amendments being proposed at stage 3. Could you expand on what you thought was missing from that stage?

Kay Tisdall: I have two points. First, because of the pressures at stages 2 and 3 of the Commissioner for Children and Young People (Scotland) Bill, there were agreements not to press certain issues because doing so would hold up the bill and prevent it from becoming an act. Decisions were made that meant that issues that our organisations wanted to discuss more thoroughly were not discussed further. That was done with our agreement because our higher priority was for the bill to become an act.

Secondly, although the bill faced an unusual situation in that it came up against the dissolution of the Parliament, our experience of working on other bills is that there is usually insufficient time to have a good discussion on all the amendments. There tend to be incredible time pressures even when we are not facing the dissolution of the Parliament.

Susan Elsley: We had positive experiences with the Commissioner for Children and Young People (Scotland) Bill. However, we want a transparent and accountable process for all bills. As Douglas Hamilton highlighted, we would like all the processes of every bill to be fully recorded. As a matter of course, we would not want any bill's stage 1 process to be jumped over too rapidly. Further, we feel that there needs to be sufficient time for scrutiny of a bill. Perhaps parliamentary timetables need to stretch sometimes beyond terms, where that is appropriate, in order to fulfil

the purpose of having public scrutiny. For example, a lot of time is being given to the scrutiny of a piece of legislation that is going through Westminster that will affect children and some of which will indirectly impact on Scotland. We want there to be sufficient time for in-depth scrutiny of bills, instead of their processes being cut short by the needs of the parliamentary timetable.

The Convener: Clearly, this bill was up against the end of the first session. Obviously, one session of Parliament cannot bind the next, so if the bill had fallen before the end of the first session, it would have had to be resurrected as a new issue in this session. Given that similar situations will be a problem once every four years, do you think that, to allow time for scrutiny, there should be a minimum time before the end of a session for a bill to be introduced?

Susan Elsley: That would be a useful idea to explore because some bills might not be as straightforward, simple and consensual as this one was.

Karen Gillon: I have a couple of questions. I am interested in the idea that the Commissioner for Children and Young People (Scotland) Bill was not controversial. From where I was sitting on the committee, the bill was controversial at the beginning. Perhaps it was not controversial for children's organisations, but certainly the evidence that we took suggested otherwise. When we began the bill's process, there was not a majority in favour of it on the committee. However, the process itself convinced members about the bill, so I am interested in where the idea that it was not controversial comes from. From a parliamentary perspective, a lot of work had to be done with colleagues to convince them of the bill's merits, even as far on as stage 3.

On the issue of stage 2 and stage 3 amendments, I am well aware of how stroppy I was at stages 2 and 3 and of what was and was not possible. However, do you think that the tight timescale helped you to be more focused and push only the important issues rather than to fly kites on things that you would have liked to have been in the bill?

Douglas Hamilton: I am happy to kick off. As Karen Gillon is aware, she was particularly opposed to the bill at the start—or she was unsure of it at the start, but was then persuaded of its merits. Is that fair, Karen?

Karen Gillon: Yes.

Douglas Hamilton: On the question of the bill being uncontroversial, I think that there was a fair degree of consensus by the time that we got to the stage 1 debate. According to the record, there were only 11 abstentions at decision time after the stage 1 debate. Therefore, by the time we got to the legislative process there was consensus. However, I take Karen Gillon's point that at the earlier stage of the inquiry there were a lot of arguments. I accept that there was not necessarily cross-party support for the bill right from the word go. However, as the process continued, we felt that we were working with the committee members rather than against them. We probably felt that all the way through, but we felt it even more so as we got to stage 1. That perhaps reflects why we felt that the bill was not so controversial at that stage.

On the second point, I think that in some ways the tight timescale made us more focused on the amendments that we pursued. However, that could also be viewed negatively because it meant that other issues did not get a proper airing in the stage 2 debate. A balance needs to be struck. Certainly, as a campaign group we decided which issues we wanted to press, but we did so with the clock ticking. We knew that if we proposed 30 amendments at stage 2, that could prolong the discussion and mean that the bill would not be passed before the Parliament dissolved.

The Convener: Could I perhaps explore that a bit further? There was a lengthy lead-in process for the bill. A year-and-a-half committee inquiry led up to the agreement to introduce the bill and to consensus on what it should contain. Is there not a danger that people start to reopen issues at stage 2 that were resolved at stage 1—or at the pre-legislative stage in this case—so that you end up having the same debates again and again at all three stages?

Douglas Hamilton: I suppose that it depends on where you see the stage 2 process in the democratic process as a whole. The stage 2 amendment process is a key one within that. Even if there is general agreement about a bill, people should still have the opportunity to change something at stage 2 if they want to. That is the rightful place for such discussions to take place. Although MSPs might have engaged with a debate and had the discussion, if one MSP thinks that a bit of a bill needs to be amended, they should still have the opportunity to lodge and vote on an amendment at stage 2.

The Convener: Is stage 2 not about a bill's detail and ensuring that it meets its policy objectives rather than about changing those objectives?

Douglas Hamilton: Some members might still want to use the stage 2 opportunity for an attempt to test the objectives because, although there might have been agreement at the stage 1 debate, members would still not have had the chance to vote on the issue. We have seen examples of policy changes being made through amendments being debated and voted on at stage 2. It is important to retain that opportunity.

Kay Tisdall: On the subject of detail, sometimes the loss of a particular word or definition can be very important. That is true for the powers that Kathleen Marshall will now have as commissioner. It is critical that there is time to go into detail and that the significance of the detail is acknowledged. Focus is important, but the detail is equally important.

The Convener: The process that the Commissioner for Children and Young People (Scotland) Bill went through was almost unique, because of the lengthy pre-legislative process. Can we apply any lessons to other legislation—Executive legislation in particular? Should there be more of a parallel between the way in which Executive legislation is handled and the way in which this bill was handled, or are the two things very separate?

Kay Tisdall: To reiterate, the consultation of children and young people was very important and got them involved with the Parliament because, of course, we were dealing with a piece of legislation.

Susan Elsley: The pre-legislative process gave an opportunity to raise issues in an informal way and to consider the implications of the bill in depth. That was very positive, especially for a committee bill.

Douglas Hamilton: I agree. The time made available for pre-legislative scrutiny, the variety of opportunities offered for discussion, and the variety of mechanisms offered for submitting evidence and engaging with the process could be replicated in other situations.

The Convener: I will phrase the question slightly differently to tease out this issue a little more. Some people have suggested that committees should be more involved with the Executive in the consultation that leads up to Executive legislation; but a counter-argument is that that would leave the committees less able to carry out their scrutiny role because they had been too involved in the earlier process. What are your views on that?

Douglas Hamilton: The committees have to maintain their scrutiny role. Executive consultation is for the Executive to deal with, and the scrutiny is quite separate. Two separate bodies should pursue those two separate functions. Obviously, there have been occasions in which the response that we have submitted to an Executive consultation process has been very similar to the evidence that we have subsequently given to the Parliament. However, the purpose of consultation is for the Executive to change what it presents to the Parliament for scrutiny. I would not be comfortable with a merging of the two processes.

Jennifer Turpie: I would concur with what Douglas Hamilton has said. Having an additional, objective, scrutinising look at a bill is important. If the consultation and the scrutiny were to merge, that could be problematic.

The time that is allowed can strongly affect how much influence an inquiry or consultation process will have on the end result. There have been examples of bills where the consultation period did not have as much influence on the outcome as it might have, but the Commissioner for Children and Young People (Scotland) Bill is an example of a bill where enough time was allowed for the inquiry preceding it to be thorough.

Kay Tisdall: That bill is a good example because the MSPs on the committee—Karen Gillon and others—became very well informed on the issues. One way of dealing with the issue of consultation versus evidence is for the committee to take evidence and learn about the issues at the same time as consultation is going on. The separate remit of the committee can be recognised. A central objective would be that the committee should become very informed.

The Convener: I have a final, more general, question. Your organisations have been involved with bills other than the Commissioner for Children and Young People (Scotland) Bill. Do you have any concerns about the timetabling of legislation at particular stages causing problems for external organisations to fully engage in the process?

11:30

Susan Elsley: What made the Commissioner for Children and Young People (Scotland) Bill positive can be looked at conversely—what makes other bills more complex? We highlighted the issue of consulting children and young people and how timescales and formal processes make it difficult for them to participate adequately. A fundamental question is whether the amount of time that is given to the different stages of bills allows an opportunity for in-depth debate and discussion. We feel that that happened during consideration of the Commissioner for Children and Young People (Scotland) Bill.

Douglas Hamilton: I agree that there should be more time at stage 1 for submitting written evidence from organisations such as ours that do not come along to speak just for themselves—we try to take on board the views of our service users. In order to collect those views before we submit evidence to Parliament, it would be helpful to have a wee bit more time than we have currently. It would also be useful to have more time to pull together witnesses for oral evidence. That is perhaps more important because certain committees seem to have a desire to have real people appear before them as opposed to

representatives of organisations. That requires more time and effort.

Stage 2 is a key stage for lodging amendments. I would like more time at that stage to allow a better debate on the amendments and for MSPs to be better prepared for that. I like the idea that more use of evidence could be made when considering particular amendments, especially when additions to the bill are made by the Executive at stage 2, as Kay Tisdall mentioned.

The Convener: When you refer to more time, do you mean that amendments should be lodged further in advance of when they are debated?

Douglas Hamilton: That is partly the reason, but it would help the process to have more time between stages 1 and 2 to formulate the text of the amendments and to allow MSPs to have the briefings so that they may debate and reflect once an amendment has been passed. There could also be more time after stage 2 is completed so that members can decide whether they need to take further evidence or make further comment on the amended bill at that stage.

Kay Tisdall: As well as the stage 2 timetable we need to look at the timetable for the stage 3 debate. Frequently, there seem to be incredible time pressures so that, as the day's consideration progresses, debates on amendments get shorter and shorter. That is unfortunate because some of the later amendments might be critical. Somebody said in evidence that speakers had 90 seconds in which to support their amendments at stage 3. That makes it difficult to have a really good debate on what can be fairly complex issues.

The Convener: If there are no more questions, I thank the witnesses for giving evidence, which has been very helpful to the committee. I am sure that some of your comments will be reflected in our report in due course.

11:33

Meeting suspended.

11:35

On resuming—

The Convener: Okay, colleagues, let us resume. I welcome our final panel of witnesses to give general evidence on the inquiry into the timescales and stages of bills. We have with us from the Scottish Council for Voluntary Organisations Jill Flye, who is parliamentary information officer, and Lucy McTernan, who is director of corporate affairs. We also have Graham Blount from the Scottish Churches Parliamentary Office and, from the Convention of Scottish Local Authorities, Councillor Corrie McChord, who is vice-president and spokesman on modern governance, and Bob Christie, who is corporate adviser. I invite the representatives of the SCVO to make a brief opening statement, to be followed by the COSLA representatives.

Jill Flye (Scottish Council for Voluntary Organisations): Good morning and thank you for inviting us to speak to the committee. I will spend a few minutes introducing our response to the inquiry before we move on to answer questions. I am the parliamentary information officer at the SCVO and I co-ordinate the third sector policy officer network, which is an informal network of voluntary sector people throughout Scotland whose work involves policy. Some of them are parliamentary officers or full-time policy officers, but many of them just have a policy element in their work.

The network is keen to keep an eye on the Scottish Parliament's founding principles of accessibility, participation, power sharing, accountability and equal opportunities. We consider those to be of paramount importance for the making of good legislation. The network is keen to participate with the Scottish Parliament and many of our members have been involved with the legislative process. I consulted the network when putting together the SCVO's response to the inquiry.

Network members came back with three main areas of response. The first was pre-legislative consultation. The network would welcome much more input from parliamentary committees at that stage. Network members are alert to the fact that the most effective time to work on a bill is before it is drafted. Some network members have the opportunity to do that via Executive working groups and consultations, but there was a strong call for more opportunities for engagement at that stage and for committees to follow what has been going on in the Executive consultations to identify any gaps and to find out where other voices need to be heard. We also want to identify the issues that come out of Executive consultations and the independent parliamentary committee inquiries into those issues.

The second area of response concerns the time that is allowed for consultation. There was a strong call for more time for consultation in committee inquiries. The smaller organisations in particular suffer from not having enough time to participate. As I mentioned before, they might not have full-time policy staff and, indeed, they might not have full-time staff at all. It is therefore hard for them to keep up with what is happening in the Parliament. It must be remembered that a holiday will impact on smaller organisations more than on other organisations. There is a chance that they will miss the consultation process if it runs for only

a few weeks on the Parliament website, particularly if that happens in a holiday period. When such organisations find out about a consultation, it might be too late to consult their members when putting together a response. Those organisations advocated that the committee should look at other ways of reaching out to smaller organisations.

Another issue that came up frequently is the transparency of the process. I know that this inquiry focuses on timescales, but the network and the SCVO were of the opinion that consultative steering group principles need to be considered when one looks at any area of work in the Parliament. To encourage good engagement in the limited time available, the transparency of the process must be considered.

To return to timescales more directly, there was a general response that the stages are rushed and that the further down the stages we go, the faster things get and the harder it is for organisations outside to keep up with what is happening and to engage in the process.

There was a call for a pause to draw breath between the publication of the stage 1 report and the stage 1 debate so that outside organisations have time to read the report and communicate any concerns to their MSPs before the debate. Many organisations could benefit from receiving the report as soon as it is published. Some of our members found that that happened, but others found that it happened less.

There was a call for a similar break between each of the stages to allow for reflection on the progress of the legislation, for the identification of possible amendments and for work on the amendments to be carried out.

To sum up, a vision emerged from the policy officer network of a process that would allow as broad and effective an input as possible from the voluntary sector. That could be done in various ways. People in the sector would link into the pre-legislative process to make more time at stages 1 and 2. The network felt that there would be less need for substantial amendments at those stages if there had been more input as the bill was being drafted.

There should be more time for consultation at stage 1, and a slot should be set aside at stage 1 to allow organisations that have submitted written submissions to expand on them. It is felt that decisions on who is to give evidence are often taken earlier in the process.

It is suggested that organisations that work in the same area should be invited to give joint presentations, instead of one organisation being chosen over another, as sometimes happens. Also, committees that are working on the same bill could hold joint evidence-taking sessions, rather than asking organisations to come to give evidence twice. As I said before, organisations are interested in the idea of committees keeping an e-mail list of interested organisations that could be used to keep people informed at all stages of the process. Small organisations as well as the intermediary bodies should have the opportunity to engage in the process.

More time should be allowed for the consideration of substantive amendments in the later stages and addressing transparency issues would encourage participation from across the sector.

Graham Blount is a member of the policy officer network. He contributed to the SCVO response and also put together the response of the Scottish Churches Parliamentary Office. Lucy McTernan is director of corporate affairs at SCVO; she will help to give the SCVO perspective on working with the legislative process. We will do our best to answer your questions.

The Convener: Thank you. Councillor McChord, do you wish to make some opening remarks on behalf of COSLA?

Councillor Corrie McChord (Convention of Scottish Local Authorities): Yes, thank you. First of all, I thank the committee for inviting us along today and giving us an opportunity to influence this process.

COSLA is a member-led organisation and we try to be efficient in our decision-making processes. To that end, the leaders group meets monthly, which is quite often, given that members have a lot to do in their own authorities. However, we have difficulties in the consultative process because we have to consult 31 councils and various units and departments in those councils. That process can be difficult and time consuming but there is no way of cutting it short. Because of that, we would like the Executive's 12-week consultation period before stage 1 to be replicated in stage 1.

Of course, local government is a multiservice provider and the majority of bills have strategic, operational and financial implications for us. Previously, we have been given support in that regard by the committees of the Scottish Parliament and Westminster and we have no reason to believe that that will change. We will continue to rely on their scrutiny of the legislation and we therefore agree that committees need the fullest powers possible to ensure that they are influential in their attempts to ensure that good legislation is delivered.

Like other organisations, we believe that there should be a pause for reflection between stages 1 and 2. We think that there should be a wider input during stage 2 because of the implications of

amendments that are accepted at that point. It is quite possible that COSLA would have something useful to say at that point.

Further, we would like to introduce some sort of post-legislative review, where practical, of large pieces of legislation with significant implications for local government. We are all aware of the discussions that are taking place in Europe about regions—as Scotland is often referred to as being, although we are a nation—being involved in systematic dialogue with the institutions of the European Union. We feel that that could be reflected in systematic dialogue between the conveners of parliamentary committees and COSLA.

The issue is all about relationships. We attempt to develop good relationships with committees and the Scottish Executive—although, sometimes, our press releases might not suggest that that is the case. The key to building good relationships is an understanding on all sides of what is practical and possible.

The committee has our written submission and we are happy to answer questions on it.

The Convener: Thank you.

I suggest that we break up the questioning into stages, starting with the pre-legislative process and going up to the end of stage 1.

Karen Gillon: I have a general point that probably refers to all the stages. I was a bit confused about what Jill Flye meant when she referred to transparency and the bill process. As far as I am aware, everything is done in public and people are aware of what is happening and the decisions that are made.

11:45

Jill Flye: Evidence-taking sessions are certainly held in public, but there is concern about there being a gap between those sessions and the publication of the committee report, which means that people cannot see where the legislation is going and how their public evidence is being considered. The consideration of draft committee reports is often done in private.

Graham Blount (Scottish Churches Parliamentary Office): There are concerns about proposals that are made in evidence but which, for one reason or another, are not only not accepted but are not even referred to in the committee's stage 1 report, which means that there is no official record of the committee's discussion of that evidence. Anybody who gives evidence to a committee on a bill is entitled to know at least why the committee rejected their proposals. Obviously, proposals for changes are not automatically accepted, but at least there should be some reflection in the stage 1 report of the grounds on which a proposal by a group that gave evidence was rejected.

Karen Gillon: Have you any idea how many pieces of evidence a committee may receive at stage 1 of a bill? If committees were to comment on every single piece of evidence, that would result in a document that would be impossible for anybody to manage.

Graham Blount: I appreciate that, but in this context I am thinking particularly of oral evidence. There should be at least some reflection of the main points—not every detail—that people make in their oral evidence.

Cathie Craigie: Are you saying that oral evidence to a committee should be given more weight than written evidence?

Graham Blount: I would assume that a committee invites to give oral evidence those whom it regards as being particularly important to the passage of a bill. I presume that that is the basis on which a decision is made about who gives oral evidence.

Cathie Craigie: Well, no—certainly not as far as the committees on which I have sat are concerned. Oral evidence that is on the record and written submissions are equally important in members' deliberations.

Jill Flye: The network is happy for written submissions and oral evidence to be given equal weight. However, it is particularly concerned that the discussion of evidence and the consideration of draft reports should, wherever possible, be done in public. If the substance of a report is far too controversial for that to be politically possible, we would like to have a full minute of what has gone on, rather than the few lines that appear in parliamentary committee minutes. We would like a good description of what has happened in a meeting so that we can follow the process and see how decisions have been reached. We do not expect every piece of evidence to be gone into in detail, but we need to see how the final report was reached from the public evidence that was given. There is a gap between the public oral evidence, the published written evidence and the published report at the end. That gap bothers people in the network, which is why they asked us to bring it up with you.

The Convener: While I thank the witnesses for their answers, I point out that we are straying into areas that are outwith the scope of this inquiry, which is on timescales. By going into the detail of how committees draw up reports, we are getting into territory that we do not necessarily want to get into at the moment.

Richard Baker: Getting back to the issue of pre-legislative scrutiny, we have heard opinions that the legislative process itself should be extended to increase scrutiny at that point. We heard that the pre-legislative scrutiny of the Commissioner for Children and Young People (Scotland) Bill was an example of how such scrutiny can help to ease the legislative process itself and make it more effective. What are your opinions on how that process could be improved? Jill Flye said that, in relation to committee inquiries, there was not enough time for consultation. Do you think that the key to improving pre-legislative scrutiny is to extend the consultation period, or should the Executive engage in new ways of consulting organisations such as yours?

Jill Flye: We would like the Scottish Parliament to run pre-legislative consultations, but not with the Executive. We are not for a merging of the consultation processes. We want independent, pre-legislative investigation of issues that the Parliament sees will be coming up through Executive consultations or that are brought to the Parliament's attention from outwith the Executive's consultation process.

Richard Baker: Would the lead committee on a bill deal with that consultation?

Jill Flye: The committees involved with the bill would deal with it. I understand that it is not always 100 per cent certain which committee will be the lead committee, but there is usually an understanding of which committees will be involved with a bill. Any of those committees could feed into the consultation process.

Richard Baker: So a parliamentary consultation would be run in parallel with an Executive consultation.

Jill Flye: Yes.

Richard Baker: Is the current Executive consultation period long enough? Corrie McChord referred to that issue. I know that the Executive's consultations are always being improved, but are there ways in which the Executive can further improve them?

Jill Flye: We have the compact between the voluntary sector and the Executive, which works well for most organisations. The difficulty is that not all organisations will get involved with an Executive consultation—they will not all get into the working groups, for example—and no consultation will reach everybody. However, voluntary organisations seek more opportunities to engage at the pre-legislative stage because they know that their input will count at that stage. They would like to do that through independent parliamentary committee inquiries on issues that arise.

Lucy McTernan (Scottish Council for Voluntary Organisations): It is fair to say that an Executive consultation, however much it follows good practice in terms of timescales, will always be steered to a degree by the position that the Executive has taken. We would like voluntary organisations to be given the opportunity to air openly issues that may be contrary to the Executive's position. That is all part of having an open, transparent debate to ensure that everybody is as fully informed as possible.

A particular concern that has come to our attention around a number of bills in which voluntary organisations have been involved is the amount of learning that the MSPs involved are required to put in. MSPs deal with a great spread of issues day in, day out. It is difficult for them to get to grips with issues that may be extremely complex and on which people have been working as a specialism for a number of years. Therefore, adding a parliamentary dimension to the pre-legislative process would allow both MSPs and those of us who get otherwise controversial issues out in the open to warm up for a debate.

Mark Ballard: How do you view the relationship between a committee's pre-legislative scrutiny and a stage 1 inquiry? How could a committee avoid repeating the same work?

Jill Flye: Conducting pre-legislative scrutiny would allow a committee a little more time in the stage 1 inquiry to cover issues that arose from the pre-legislative consultation. I do not think that we should skip the stage 1 inquiry, a point raised in earlier evidence. I want the stage 1 inquiry to remain and members to use the pre-legislative scrutiny to go into the issues initially, to ensure that everybody knows what they are and that all the relevant voices have been heard. Pre-legislative scrutiny would allow committees to influence what is being written into a bill while it is being drafted. I imagine that stage 1 would be shorter because of the amount of scrutiny that would go on in the pre-legislative consultation.

Lucy McTernan: Committee pre-legislative scrutiny would also be a way of getting details of pre-legislative consideration on the record, so that those details would be available for the review of the legislative process over the piece. I argue that that would also create an opportunity not only for wider debates within Scotland but for connecting debates on forthcoming legislation with what is happening elsewhere in the UK and beyond. That point was also raised in earlier evidence. I am thinking now not of a bill that has been and gone but of one that is forthcoming. This week, we have in prospect a reform of charity law at exactly the same time that the Westminster Parliament is starting its pre-legislative scrutiny of its draft charities bill. It seems to me that an informal

sharing of pre-legislative scrutiny in the two processes would make an awful lot of sense. Divergence is possible—indeed, it may be desirable—but at least that would be an informed divergence of the legislative process across the UK.

Jill Flye: I would hope that committee pre-legislative scrutiny would result in a bill that would look more like what people were looking for, but it would be unlikely for a bill not to need further work on it. Stage 1 is important in that process, but taking some of the work out of that stage would allow for longer consultation periods and more effective public scrutiny.

Mr McGrigor: Jill Flye talked about committees having more input at the pre-legislative stage. She also talked about identifying gaps for which fresh witnesses might be needed. Can you think of practical examples of that?

Jill Flye: I cannot give you an example from a particular bill, but the feedback that I got from members of the network when I consulted them on the issue was that many organisations feel that the Executive pre-legislative process misses them—they want to engage more with the process.

Mr McGrigor: You are talking about committees identifying such people. You said that you wanted more input from committees at that stage.

Jill Flye: Committees could follow what is going on with Executive consultations and identify gaps where they feel that there are voices to be heard. For example, people might contact a committee rather than go to the Executive; or committees might realise, from evidence given to the Executive, that particular areas need further investigation. It would not always mean calling in new witnesses; committees could delve into areas that the Executive is already exploring. A committee could delve into an area in a different way and at a different level.

Cathie Craigie: I want to keep on this path. I am interested in the idea of committees doing pre-legislative scrutiny, but I envisage a couple of difficulties. People have suggested to the Procedures Committee that, if committees entered into what could be deemed a consultation process, they could be regarded as being tied too closely to the Scottish Executive. You said that committees could perhaps consult other organisations or ones that the Executive had already consulted, but people could regard the link between a committee and the Executive as being too close.

It was also suggested that scrutinising legislation is not the committees' only role; another is to instigate inquiries. For example, the Social Justice Committee, of which I was a member in the previous session, held an inquiry into the voluntary sector. If committees were to involve themselves more in the consultation process, that would mean that their timetables for inquiries would have to be curtailed. How would you balance that? Would that be a price worth paying to get what you would see as better legislation?

Jill Flye: Committees would not necessarily need to curtail time spent on other work. We are asking for committees to have more input at a certain stage, which we think would mean the need for less committee input at a later stage. Substantive policy amendments are moved at stages 2 and 3. However, we imagine that, if a committee had done more pre-legislative work that was reflected in a bill as introduced, there would be less need for debating substantive amendments further down the line—although there might still be such amendments. The proposal is to replace committee time at one stage with committee time at another stage; doing so should not cut into a committee's other work.

To return to your point about committees linking with the Executive and perhaps losing their independence, we are keen for committees to keep their independent role and for them to remain separate from the Executive. However, I do not see how parallel pre-legislative consultations must mean that the Executive would have influence over a committee. From what I have seen, I do not believe that it would be so easy to lean on Scottish Parliament committees—I do not believe that that would necessarily happen. People may feel more ownership of a bill when the issues that they have addressed are reflected in it. From my point of view, it would be positive for committees to do pre-legislative work: it would mean less comeback further down the line, but it would not mean that a committee had caved in to the Executive. It would also mean that the concerns of voluntary organisations and the communities that they represent would be better reflected in a bill. That would, in my mind, be a healthier legislative process.

Cathie Craigie: I do not disagree with you about the value of committees involving themselves in pre-legislative scrutiny. I think that it was Lucy McTernan who said that that would equip members with more knowledge of the subjects that they would be taking up. However, on your point about timescales and committees' work loads being lessened, my experience of working on the Housing (Scotland) Act 2001 was that we engaged in a load of work before the bill was actually published, yet there were still 500 or so amendments when we came to stage 2. It would not necessarily be the case that pre-legislative scrutiny would cut down on work at another stage. How would voluntary organisations feel if committees spent more time on legislation and less on inquiries?

12:00

Lucy McTernan: The simple point is that good law takes time. It may take up MSPs' time in committee and may seem frustrating for a period, but bad law results in everybody else spending a lot of time clearing up the mess or in the law not being implemented properly, which is not a terribly good outcome. The SCVO favours the legislative process taking the time that it needs to take and not being rushed, so that we do not end up cleaning up the consequences of bad law when it is implemented. We also favour the suggestion, which was made earlier, of not tying the process too much to parliamentary years. We take the point that the dissolution of Parliament is a separate case, but as the legislative process can carry on from one parliamentary year to the next, why should that not happen if doing so will result in all the relevant communities engaging in the debate at the pre-legislative stage and the more formal stages that come later?

Jill Flye: The network is also calling for breaks between the different stages to give committees an opportunity to step out of the headlong rush to legislate in which they would otherwise be involved. We are asking for pauses for time to reflect. During those pauses, there would be opportunities for committees to be involved in other areas of work.

Karen Gillon: A couple of issues are emerging. If the Executive's consultation process is not working, that is a problem, but simply to supplement it with a new parliamentary process is not the answer. The answer is to make the Executive's consultation process work, which is something that the Executive needs to do. It is not right to put more burdens on the Parliament because the Executive is not doing its job. Instead, we should put the burden back on the Executive and say, "Sorry guys, your consultation is not working: it is not reaching the people it is meant to reach. Change it."

I am interested in the idea of committee members getting up to speed on proposed legislation. I am quite happy with that idea, but it is a different issue from having separate pre-legislative scrutiny that runs alongside the Executive's pre-legislative scrutiny. If you are saying that the Executive's consultation process is not working, the answer is to fix it, not to make it the Parliament's job to supplement the Executive's consultation process.

Lucy McTernan: That is not the point that we are making. We have been and will continue to be critical of Executive consultations that fail. In the Scottish compact, we now have an agreement with the Executive that, among other things, commits it to a 12-week consultation process. We have done a lot of work with different Executive departments to find more creative ways beyond the standard, glossy document to consult the communities that are potentially affected by proposed legislation. We will continue to do that work, but the Parliament's role is different, and we understand it to be different. All we are saying is that you can undertake and fulfil that role better by considering proposed legislation before it hits the formal committee stage, not least—on the point with which you agree—to encourage the learning process and get the members of the relevant committee to a point at which they can engage in the debate constructively.

Graham Blount: Perhaps there is a slightly artificial distinction between pre-legislative scrutiny and the stage 1 committee inquiry. We are saying that the committees' role in proposed legislation is different from the Executive's, but that the committees should take up their role slightly earlier in the process, when legislation is in the pipeline, rather than wait until a bill is introduced to Parliament and a lead committee is designated. Our primary concern is to give the committees more space.

Karen Gillon: There are occasions when that is possible—it is for committees to determine whether it is appropriate—but there are other occasions when a committee simply could not take that approach because of the scrutiny of other bills that it has running at the same time.

Lucy McTernan mentioned bad law. I am interested in whether all the law that she would describe that way is bad law or law with which she does not agree.

Lucy McTernan: The problem is often that, although everybody would agree with the intention behind certain legislation, its impact has not been fully considered, which means that, when we come to implement the law, it cannot take proper hold. I will give you an example from an act with which we are dealing at the moment: the Protection of Children (Scotland) Act 2003. When an amendment was lodged at stage 2, there was a brief, rushed discussion about the extent to which the legislation applied to the voluntary sector. No one in the voluntary sector was opposed to the general intention, but because the issue was not debated fully the resource implications for the voluntary sector of extending the remit of the bill and what needed to be done to make it effective were not given proper consideration. The Executive did not have the opportunity to commit resources to the issue. The bill has now been enacted and voluntary organisations are required to implement its terms, but they are not equipped to do so. Had there been more time and a pause for reflection at stage 2, the issues could have been teased out and the implementation process would have been far easier.

The Convener: That is a useful example. We will return in a moment to the issue of what should take place between the legislative stages. Does COSLA have any concerns about stage 1? When more than one committee is dealing with a bill, as happens occasionally, and you are asked to give evidence to more than one of those committees on the same legislation, does that cause particular problems? Could the situation be dealt with better?

Councillor McChord: Having to give evidence to more than one committee causes us problems. As I have already mentioned, there can be difficulties in consulting our member organisations and getting people to the Parliament to give evidence at a particular time. I will let Bob Christie handle the question.

Bob Christie (Convention of Scottish Local Authorities): To us it seems sensible and efficient for committees to meet jointly to consider legislation. Despite the clear functional distinctions between the work of the lead committee and the work of the Finance Committee, we are often asked almost exactly the same questions by each committee. There may be scope for considering whether joint meetings may be appropriate at some point during stage 1.

I want to make a point about pre-legislative scrutiny. COSLA has no real discomfort with the 12 weeks that the Scottish Executive allows for consultations. However, as Councillor McChord indicated, we believe that there is a need for 12 weeks' consultation during stage 1, once we see a bill, so that oral and written evidence can be considered properly alongside the funding implications of the financial memorandum. I am conscious that the debate has become slightly polarised between pre-legislative scrutiny and consideration of bills at stage 1. Often we seem to lose sight of the opportunity of having a draft bill to consider. For us there is quite a leap between the policy intentions in a white paper, which are the subject of pre-legislative scrutiny, and what appears on the face of the resulting bill. To take a cautious approach, we may not be confident that we have the funding for or understand the service implications of delivering such legislation. It would be hugely helpful if the Executive could find resources for the bill drafting teams and time to allow genuine pre-legislative scrutiny to take place, on the basis of a draft bill.

Councillor McChord: A draft bill is not always appropriate. However, good practice was established by the Local Governance (Scotland) Bill. In that case, a document that was virtually a draft bill was issued first, signifying the intentions of the legislation before the bill itself, with its general principles, was published. Although not everything appeared on the face of the draft bill—as we know, we still do not have all the details—at least it gave us signals in the pre-legislative process about what to expect. That may be deemed good practice, where possible.

Mr McGrigor: Councillor McChord, you are the COSLA spokesman on modern governance.

Councillor McChord: Yes.

Mr McGrigor: The arrangements that we have are quite new, so I hope that they are quite modern. Do you consider them modern enough?

Councillor McChord: I am probably not the best person to answer that question. COSLA pressed for the Local Government in Scotland Bill to refer to governance, rather than government, because we thought that community planning processes and best value for the public sector were governance issues. We thought that the Local Governance (Scotland) Bill was rather misnamed. We began by saying that my role was one of modernising government, but we decided that neither "modernising" nor "government" was appropriate, because we are not in the business of telling other sections of government what to do and because "modernising" was not the right word to use because at the time it was linked with one political party.

Most of what happens in the Scottish Parliament's committees is an example of good practice. That is certainly the case when their practice is compared with Westminster practices, which are being reviewed. I would agree fully that the young Scottish Parliament's practice suggests that it is an example of best practice—but there is always room for improvement.

The Convener: In Jill Flye's opening comments, she suggested that there should be a longer gap between the publication of a stage 1 report and the stage 1 debate. What sort of timescale would be required for that?

Jill Flye: It would depend on the complexity of a bill and on the length and complexity of the stage 1 report. There was a general call from the network for there to be enough of a gap for members of the network to read a stage 1 report, discuss the issues, work out whether they had been covered and communicate with MSPs about that. Graham Blount might want to expand on that.

Graham Blount: As far as we can see—we are open to correction on this—there is nothing in standing orders about the gap between a stage 1 report being published and the debate on the report. On a couple of occasions, a report appeared the day before the stage 1 debate, but the normal practice is for the gap to be a wee bit longer than that. To have a week to consider a stage 1 report—even a report for a relatively straightforward bill—would not place an undue

burden on the process and would give time for MSPs and those who give evidence on a bill at stage 1 to consider the report and for outside organisations to make representations to MSPs about it.

Bob Christie: As we said in our written submission, we have no strong view about the gap between stage 1 and stage 2. We, too, could not detect whether the gap had been allowed for in standing orders. However, it would be preferable for any organisation to have enough time to consider a stage 1 report and, from our perspective at least, to provide, if appropriate, a briefing on the report's implications for members' consideration in the full debate in the Parliament.

If I may take the opportunity at this stage of our evidence, I wonder whether the committee has any view on the efficacy and helpfulness of the briefings that COSLA occasionally produces at different points in a bill's process. It would be valuable to us, if not to the committee, to know what the committee's view is.

The Convener: I am not sure that it would be appropriate for the Procedures Committee to make such a comment. However, I am sure that members will let you know their views.

Can I move us on to the stage 2 process? Does the current timetable for the lodging of amendments cause particular problems for either the voluntary sector or COSLA?

Councillor McChord: Yes, it does, in relation to our response to amendments. We need time to assess whether we could implement the proposals and whether they would be feasible operationally and, indeed, strategically for local government. That aspect is important. The question is also whether committees have time to reflect and respond properly to amendments through the concertina-ed process of stage 2. Bob Christie might want to comment further on that.

Bob Christie: We have expressed our clear view that stage 2 appears to us to be a rushed process, although not as rushed as the consideration of amendments at stage 3. That means that it is difficult to get a feel for the policy intention behind an amendment and for what it might mean for the bill and its impact on local government's service delivery. That is our concern.

Jill Flye: I echo those points. The further down the process we go, the faster things become and the harder it is for organisations to engage. Certainly, it is difficult for organisations to keep up with what happens at stages 2 and 3.

Graham Blount: On timetabling, the more important issue is the time between the lodging of an amendment and a committee's consideration of it, rather than the gap between a stage 1 debate and the commencement of stage 2, although, in the case of the first committee meeting at stage 2, those times are obviously related. However, for complex bills, there will be several stage 2 meetings and the crucial timescale is the gap between an amendment being officially lodged and the committee considering it. The greatest rush is at stage 2 in that respect.

Karen Gillon: Obviously, if we continue with weekly committee meetings, there are limits to what can be done. However, there was a suggestion to make the deadline for lodging amendments 24 hours earlier, which would give people more time to consider them.

I would be interested in your comments on another issue that was raised, which is that every amendment should be accompanied by a policy intention statement—a simple paragraph or something longer—so that people could see what the intention behind the amendment was. That could be particularly valuable at stage 3, when members perhaps have only 90 seconds to comment on an amendment or do not debate an amendment at all. If every amendment were accompanied by a policy statement, members would know what either the Executive or an outside body was trying to achieve with it. I would be interested to hear your views on that suggestion and its implications for you.

12:15

Jill Flye: We would support such an approach. We are in favour of anything that would make the process more transparent. We have talked about transparency in relation to public meetings, but transparency is about more than that. Sometimes it is about being able to follow what is happening. Anything that would make the process clearer for outside organisations would be welcomed.

Bob Christie: COSLA endorses those comments. Sometimes we see an amendment and wonder what on earth it is about. I am sure that members have the same concern. At a deeper level, we have a concern about the whole bill process. Stage 1 allows for the general principles of the bill to be considered and stage 2 allows for amendments to be lodged. However, there does not seem to be a stage at which the Parliament is supposed to consider the detailed provisions on the face of the bill, rather than amendments to those provisions. In a rushed process, the Parliament may focus on sections to which amendments have been lodged and discuss their workability, but sections to which amendments have not been lodged may not receive appropriate scrutiny. Such scrutiny is not built into stage 1 and may not be triggered at stage 2, if amendments have not been lodged.

The Convener: That is a fair point. It may go beyond the scope of this inquiry, as it relates to how committees consider amendments, rather than the timescale that is available to them. Technically, there could be a debate on a section to which no amendment has been lodged, because each section must be agreed to. In practice, that does not happen.

Cathie Craigie: I understand that at any point during the stage 2 process a committee could stop to take further evidence on an amendment.

The Convener: That is correct.

Mr McGrigor: We have received much evidence that there is not enough time to consider amendments at stage 2. How much extra working time is needed for you to digest, understand and respond to amendments?

Councillor McChord: Although COSLA tries to be efficient, gathering information is a problem. Local government legislation is also a problem. We receive seven days' notice of committee meetings. Especially when we are dealing with a large piece of legislation, it can take some time to feed information back into local government processes once a committee meeting has taken place. Some councils meet only every eight weeks, rather than every four or five weeks. It can be difficult for local government to respond. However, if committees wished to clarify their position, they could request written evidence on amendments and invite parts of the public and private sectors to respond to amendments at stage 2.

Bob Christie: I agree with that point. From a technical perspective, we might want an open-ended amount of time to bottom out an amendment, but that is not practical for the Parliament. Our experience with bills has been that, when a committee restricts itself to considering amendments once a week, we are able to deal with the amendments effectively. We have real difficulties when committees try to get through stage 2 by meeting twice a week.

The Convener: It has been suggested that when a committee meets twice a week to consider the same bill there should be one date by which to lodge amendments. At present, there are different lodging dates for each meeting. Would having one lodging date for each week simplify the process for outside organisations?

Bob Christie: Yes.

Lucy McTernan: That would make a huge difference. We are not tied by local government legislation, but in voluntary organisations people do not get together every day of the week in an office, as more professional lobbying organisations do. There must be a practical, sensible timetable to allow information to get through and people to get together to discuss their response and communicate it to committees. If we give our response but are caught out in the process by a further lodging date later in the week, that can be inefficient and we do not get across the messages that we want to.

Graham Blount: I wonder whether it might be possible under standing orders, in relation to committees that deal with substantial bills over several weeks, to extend the notice period for lodging amendments and to have a session at the end in which amendments that, for one reason or another, could not be submitted within the more generous period are dealt with out of sequence, as it were.

The Convener: The answer to that is no. Stage 3 deals with anything that is outstanding.

Karen Gillon: Occasionally, a particularly controversial part of a bill is dealt with early in the process. A committee gets all that over with, which gives people more time to work on the other parts. During consideration of, I think, the Standards in Scotland's Schools etc Bill, the controversial amendments to the sections on the General Teaching Council for Scotland were dealt with out of sequence. We should perhaps be a bit more creative with the order of consideration of sections.

The Convener: That is a fair point. A committee can determine the order in which it considers a bill. However, once a section has been considered, the committee cannot go back to it.

There are no further questions on the stage 2 process, so we will move on to stage 3. I think that Jill Flye suggested that perhaps there needs to be time for reflection between stages 2 and 3. What sort of time do you have in mind for that?

Jill Flye: Again, that would depend on a bill's size and complexity and on how controversial it was. Graham Blount might have further thoughts on that.

Graham Blount: The practical difficulties vary with the complexity of bills. I appreciate that it is difficult to frame standing orders in a way that would take account of that. However, it would be good to have, as normal practice, two weeks between stages 2 and 3.

Bob Christie: I am not sure that we have a particular view on the number of working days between stages 2 and 3. However, within that period, we would want a lead committee and, if appropriate, other committees to be able to consider what had happened before they went forward to the next stage. That would be the key issue for us.

Councillor McChord: I made that point earlier. The opportunity to reflect should be built into the timetable so that a committee or committees can have a further input before stage 3.

Mr McGrigor: Do you think that the debates are long enough at stage 3 to allow proper consideration to take place?

Councillor McChord: That is a matter for Parliament. As far as local government is concerned, the business has been done and a bill is signed, sealed and delivered at stage 3.

Mr McGrigor: I suppose that I am asking about your concerns. Do you reckon that members who might represent your interests have enough time to express them?

Councillor McChord: I have no personal experience of that and I have had no feedback to suggest that they do not have enough time at stage 3.

Lucy McTernan: The general view is that time at stage 3 is less important if the work has been done at the pre-legislative stage, stage 1 and stage 2 and there has been ample opportunity to have all issues and opinions aired at those stages. By stage 3, if the job has been done right, there should be almost a final product.

Mr McGrigor: Whether the job has been done right is an important point to consider. Amendments are lodged at stage 3, but it appears difficult to get them through because by then a bill is a bit of a done deal. However, if somebody spots something and there is a need for an amendment, I wonder whether there is enough time for the amendment to be delivered to the Parliament, especially given that there are often few members in the Parliament when such matters are discussed.

Jill Flye: There is sometimes not enough time to consider substantive amendments on the odd occasion when one is lodged at stage 3. Stage 3 is not the ideal time to lodge such amendments. As Lucy McTernan said, if the work is done at an earlier stage, we would hope that there would be no big amendments to deal with at that stage. When, on occasions, substantive amendments are lodged at stage 3, there is never enough time to deal with them properly. We also call for a safety-valve gap between debating amendments and voting on the amended bill.

The Convener: My final question relates to that point. Is there merit in having a gap between the consideration of amendments at stage 3 and the stage 3 debate on a bill? Should the gap be half an hour, a day or a week?

Jill Flye: For a small bill, half an hour or an hour or two might suffice. Often it would be good to have an overnight break. We would not want there to be a stage 4 process, but the Parliament should have time to reflect on the bill, as amended, before voting on it.

Councillor McChord: Past practice has been for local government organisations to use their local MSPs, rather than COSLA, at stage 3. I do not want to quantify any gap between the consideration of amendments and the stage 3 debate.

Bob Christie: When many amendments are made at stage 3, there may be a case for giving the lead committee the opportunity to consider the cumulative effect of those amendments before the motion to pass the bill is moved. There is value in the lead committee retaining a steer over the process and having some accountability for the final product.

Graham Blount: That point ties in well with what I see as the difficulty at stage 3, when members who have spent time in committee discussing a bill, are deeply aware of the issues and have a good knowledge of what is proposed debate the bill alongside members who have not been able to devote the same amount of time to it. There is an element of trusting colleagues that is entirely appropriate at that stage, but there is a real difficulty unless the lead committee gives a steer on amendments that are lodged at stage 3.

Karen Gillon: I do not want to get into the detail of it, but I am interested in Corrie McChord's idea that there should be a stage for reporting back. Perhaps you could provide us with evidence on that in writing.

Councillor McChord: We will certainly try to do that. It is legitimate for committees to consider the efficacy of bills. Local government is audited on performance, finance and best value. As the committee knows, much of that process stems from legislation. However, there is no stage at which everyone involved gets together to discuss the efficacy of a bill. That could happen. It would not be hard to arrange for parts of the public and private sectors to consider the matter in an informal way.

The Convener: As there are no further questions, I thank all our witnesses for their evidence, which has been very helpful. I am sure that their comments will be reflected in some way in our report.

That was the last main evidence-taking session in our inquiry. At our next meeting, we are due to take evidence for the second time from the Minister for Parliamentary Business. I ask the clerks to produce for that meeting a brief note of the key issues that have arisen from the evidence that we have received, which we can use as a basis for questions.

Minor Procedural Issues

12:28

The Convener: Agenda item 2 concerns a report on some minor procedural issues. We have with us David McGill, who is the head of the parliamentary business team, to answer questions about rule 2.7.1, and Susan Duffy, the clerk to the Finance Committee, to answer questions about rule 5.8.1. As no member has indicated that they wish to ask questions, can I take it that we are content with the note from the clerk?

Members *indicated agreement*.

The Convener: A draft report will be considered at the next meeting.

Items in Private

12:29

The Convener: Item 3 concerns consideration at our next meeting of draft reports on non-Executive bills and minor procedural issues. Do we agree to take those reports in private?

Members *indicated agreement*.

The Convener: I thank colleagues for their support. The agenda for our next meeting is quite heavy, so we may have to start at 9.30 am in order to get through the business. We will see you in two weeks' time.

Meeting closed at 12:30.

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