

PROCEDURES COMMITTEE

Tuesday 20 December 2005

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2005.

Applications for reproduction should be made in writing to the Licensing Division,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by Astron.

CONTENTS

Tuesday 20 December 2005

Col.

PARLIAMENTARY TIME	1273
WORK PROGRAMME	1276
PROCEDURAL GUIDANCE	1286

PROCEDURES COMMITTEE

16th Meeting 2005, Session 2

CONVENER

*Donald Gorrie (Central Scotland) (LD)

DEPUTY CONVENER

*Karen Gillon (Clydesdale) (Lab)

COMMITTEE MEMBERS

*Richard Baker (North East Scotland) (Lab)

*Chris Ballance (South of Scotland) (Green)

*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

*Alex Johnstone (North East Scotland) (Con)

*Mr Bruce McFee (West of Scotland) (SNP)

COMMITTEE SUBSTITUTES

Murdo Fraser (Mid Scotland and Fife) (Con)

Robin Harper (Lothians) (Green)

Tricia Marwick (Mid Scotland and Fife) (SNP)

Irene Oldfather (Cunninghame South) (Lab)

*attended

THE FOLLOWING ALSO ATTENDED:

Fergus Cochrane (Scottish Parliament Directorate of Clerking and Reporting)

Elsbeth MacDonald (Scottish Parliament Directorate of Legal Services)

CLERK TO THE COMMITTEE

Andrew Mylne

SENIOR ASSISTANT CLERK

Jane McEwan

ASSISTANT CLERK

Jonathan Elliott

LOCATION

Committee Room 1

Scottish Parliament

Procedures Committee

Tuesday 20 December 2005

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

Parliamentary Time

The Convener (Donald Gorrie): Welcome to the 16th meeting in 2005 of the Procedures Committee. Under agenda item 1, which is on our review of parliamentary time, Alex Johnstone, the clerks and I will briefly comment on the visit to the Norwegian Parliament and the videoconference with officials of the New Zealand Parliament.

The visit to Norway was extremely productive. Many things are done well in the Norwegian Parliament, although some things are done less well than they are in the Scottish Parliament. We can learn many lessons from Norway about members' rights, for example. The Norwegian Parliament has more control over its own affairs. The Government there drives the legislation and business, but the Norwegian Parliament has much more control over how it deals with that business than the Scottish Parliament has over how it deals with the Executive's business. We can learn a bit from the Norwegian Parliament in that respect.

The Norwegian Parliament has many interesting ideas. For example, at the end of main debates, when all the party speakers and others have done their bit, there are open sessions in which any member can speak for up to three minutes—in fact, they can do so twice. We were told that that part of the proceedings is often the best, because it allows proper debate to take place, as opposed to members making stodgy speeches.

The Norwegian Parliament takes the budget very seriously. Its committees sometimes meet several times a day at this time of the year, which is the height of the budget season. Members get much more stuck into the budget than we do. That is an interesting process, which we can study.

A proper report will be produced. People in the Norwegian Parliament were kind to us and the officials, with whom we mainly dealt, and the conveners were extremely switched on. The trip was worth while. I invite Alex Johnstone to add to what I have said.

Alex Johnstone (North East Scotland) (Con): There is only one thing that I want to add. The Norwegian Parliament has responsibilities in addition to those of the Scottish Parliament, but it has the same objectives in trying to be family

friendly in the conduct of its business; it tries to make itself suitable for younger people and to encourage women with children to be members, which was interesting.

The Norwegian Parliament has existed for a long time and, rather than establishing principles at the outset, has had to arrive at its position by moving from other traditions. Consequently, it has had to go through a number of processes. It seems to have reached the same conclusions as we have reached with respect to, for example, the need to limit members' speaking time in the chamber in order to keep to timescales for debates. Unfortunately, in order to ensure that everybody's views are properly represented, it has not been able to restrict the total amount of chamber time that is needed and, consequently, despite its efforts, it still has occasional evening meetings, especially at this time of the year.

The visit helped to highlight our dilemma. We cannot severely restrict overall times if we want to allow people's views to be properly represented in the chamber. We must accept time restrictions or create more time for debates in the chamber.

The Convener: Does Andrew Mylne want to add anything to what has been said?

Andrew Mylne (Clerk): I cannot think of anything to add.

The Convener: Andrew Mylne will produce a full written report for us. As I said, the visit was worth while.

Jane McEwan and I took part in the videoconference with two leading officials of the New Zealand Parliament. The Scottish Parliament has many things in common with the New Zealand Parliament, from which we can learn. For example, quite a number of smaller parties are represented in the New Zealand Parliament. If a smaller party does not have a member on a committee, it can add a non-voting member so that it can have a say on the committee without affecting the vote. I think that the pro rata divvying up of speaking times among parties in New Zealand and Norway is somewhat more generous to the smaller parties than it is here. Therefore, the smaller parties have proper opportunities to put their points of view.

The New Zealanders made an amusing point. Like that of the Norwegian Parliament, the New Zealand Parliament's business is not so tightly bound into slices as it is here and there is great pressure from the Government whips on Government members to speak briefly, whereas Opposition members use the full time that they are given and speak at great length. As a result, people thought that the debates tend to be a bit unbalanced because, in the interest of getting business through, the Government side will not fully put its case.

Jane McEwan will produce a note on the meeting. Are there any points that you want to make about the videoconference, Jane?

Jane McEwan (Clerk): No.

The Convener: The videoconference was worth while. We are looking forward to a similar videoconference with the Queensland Parliament to supplement our European studies. Members will receive a full report of the meetings and videoconferences in due course.

Paper PR/S2/05/16/1, on later sittings on Thursdays, has been produced by the clerk, who has pointed out that the Parliament has twice used the device of pretending that Thursday is Wednesday as a way of extending business times on Thursdays. He fairly points out that using such a device occasionally is okay but that, if the device is used regularly, it would be more sensible to change the rules and accept that times on Thursdays as well as on Wednesdays can be extended. Do members have views on that? We could write to the Minister for Parliamentary Business to ask whether she intends the procedure to be more frequently used. If she does, perhaps we should regularise the procedure, whereas, if it is to be used only occasionally, we could let things lie.

Mr Bruce McFee (West of Scotland) (SNP): The paper is interesting. We should consider what it says with the other options when we are drawing up recommendations. The technique that has been used is worth noting.

The Convener: Okay. We will mull things over and put the options into the system for consideration in our inquiry on parliamentary time.

Work Programme

10:24

The Convener: Item 2 is the forward work programme. Although this is not mentioned, I asked which committee will run with the proposed Government transport and works bill to sort out the railways. I am assured that the Procedures Committee will not do so, although we will have some input. However, the bill will be mainly practical, dealing with infrastructure, and so presumably it will go to the Local Government and Transport Committee. The matter will have some effect on our future, but not much.

It might be best if members commented on paper PR/S2/05/16/2 as we go through it bit by bit. We hope to finish our consideration of private bill committee assessors at this meeting and the procedures for Crown appointees either now or at the next meeting.

Mr McFee: I understand the position on private bills and the procedure on Crown appointees. The review of parliamentary time is discussed in paragraphs 8, 9 and 10 of the paper. Paragraphs 8 and 9, which reflect some of the issues that you raised, are neatly split into what is incorporated into the present review and what is not. The matters raised are worthy of consideration, but frankly I am dubious about the merits of completing the inquiry and potentially reopening it to consider the points in paragraph 9. I was simply wondering whether there is a method of incorporating some of those matters into the present inquiry. We have already considered stage 3—on reflection, I do not think that we have arrived at the right balance, although I thought so at the time—but it is nonsensical for us to consider part of stage 3 in this inquiry and another part of it in a separate inquiry. We should consider stage 3 at the one time.

The Convener: I agree with the members who made the point in previous discussions that, in addition to the technical aspects, it is concerning that so few non-members of the relevant committee participate in debates or lodge amendments. We should perhaps also examine that, as it relates to the use of parliamentary time. It is desirable that as many members as possible take an intelligent and active part in the passage of bills.

Mr McFee: Are you referring to the third bullet point in paragraph 9?

The Convener: Yes.

Mr McFee: That reflects my view. There is no point in having two reviews: first, making recommendations from our review of

parliamentary time that would be potentially agreed to; and, secondly, having a separate review that would go back over matters that would affect either the allocation or amount of parliamentary time and for which a further report on parliamentary time would then be required. There is no logic in doing things twice. If we are going to do it, let us do it; if not, we should dismiss it now. I do not see how the issue in that bullet point can be dismissed now, as it will have an impact on parliamentary time. I hear what has been said in previous meetings about the remit of the current inquiry, but is there a way of extending our remit? I am not sure how we worked out that some of those elements should have been excluded from the present review, because the definition of parliamentary time is wide. Is there any way that the items listed in paragraph 9 could be considered in the present inquiry? It is sensible to consider those issues in this inquiry, rather than having two inquiries. I seek your assistance.

The Convener: We have not come to a decision, but if the committee is minded to pursue the line that Bruce McFee has suggested, what mechanism would be applied?

10:30

Andrew Mylne: The note is structured as it is because we were trying to explain that once the inquiry work that is nearly completed is completed, the committee can take on new business. The idea was that that new business would sit alongside the review of parliamentary time, which will run for some time. The committee can do more than one thing at a time. One option is to reconsider some of the specific procedural aspects of legislation—particularly stage 3—that are not so directly about parliamentary time. That would not necessarily have to be done after the review of parliamentary time; it can be done alongside it. It becomes a technicality as to whether to call that a separate inquiry or to expand the remit of the existing inquiry to include it. There was certainly no suggestion that that would be done after the review of parliamentary time.

Mr McFee: I do not want to nit-pick, but paragraph 10 uses the words

“by means of a separate inquiry at a later stage.”

I accept that “later” might mean two weeks later, but I do not see the need for a separate inquiry, because elements of what we are talking about can easily be incorporated into the present inquiry. Evidence in the inquiry has already touched on those issues, in particular what we heard in the round-table discussion. It seems strange to say that we will ignore those contributions for now but will consider them later in a separate inquiry. These things have to be dovetailed and

considered as a whole, otherwise we will just be having inquiries for the sake of it. Those inquiries could reach different conclusions or conclusions that would negate each other. That would not make sense.

Karen Gillon (Clydesdale) (Lab): It is only a year since the debate on and publication of a report on these issues. We looked then at the issues that have been raised now. I am concerned that we will keep returning to them until people get the answer that they want. We considered changes to minimum intervals between stages of bills, we looked at the notice periods for lodging amendments and we made changes. I am not convinced that in the intervening year the issues that have been mentioned have caused our stage 3 problems. I am not convinced about the final bullet point in paragraph 9, which would guarantee

“all members who wish to speak during Stage 2 and Stage 3 proceedings a right to do so.”

That cannot be done within a fixed timetable, because we do not know how many members wish to speak until they press their buttons on the day. Twenty members could say that they wished to speak because they wanted to stop the passage of a bill and we know that we have to go to decision time at a certain time. Both of those cannot be done.

I am not persuaded that the points about minimum intervals and notice periods for lodging amendments were not properly discussed in our previous inquiry. The matters were debated in the Parliament only a year ago and the approach to them has changed substantially. No amendments were proposed to that report and no suggestions were made to the committee at the time, so we must ask what has fundamentally changed.

Mr McFee: I am not advocating the merits of any of those bullet points; one of them in particular could not be achieved unless we allowed open-ended debate. I am merely saying that, if we are going to consider those issues, we should do so as part of the current review and not as part of another inquiry. We need to work out the logistics of doing that without passing judgment on whether we would like to see the changes that are being advocated.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I have made the same points as Karen Gillon in the committee before. We have considered all these items and we should not go over them again after such a short time. I agree that we must keep the points in mind before we finalise our report on the current inquiry. However, when we make changes, we have to let them settle in. Last week, the stage 3 debate on the Family Law (Scotland) Bill ran for the whole day and the business managers seem to agree that

that allocation of time for stage 3 should be tried for the next wee while. We should wait and see how that works out.

As Bruce McFee and Karen Gillon indicated, we will probably never be able to agree to the rules that are suggested in the third bullet point in paragraph 9. To do so would take us back to the way things were at Westminster when Parliament sat until the final member stopped speaking and sat down. Even when MPs had all that time to speak, the level of debates did not keep people up watching proceedings on Sky television in the middle of the night. We should keep the issues in mind as we proceed with our inquiry, but we should certainly not open them up again.

Chris Ballance (South of Scotland) (Green): I was not a member of the Procedures Committee during its previous inquiry, but there are still concerns about stages 2 and 3. In particular, there are concerns about the lack of time for lodging amendments. As Cathie Craigie says, it would be as well to keep that in mind during the inquiry as one of the things that we can touch on.

Karen Gillon: For the next meeting, can the clerks give us a breakdown of the submissions that we received from members in response to the questionnaire that we issued during our previous inquiry? I would like to examine what members said at that time and the basis on which we made our decisions.

Andrew Mylne: We can do that.

Mr McFee: Convener, will you clarify that, as we proceed with our review of parliamentary time, there will be an option to expand its remit if we find that any of the issues that are mentioned in paragraph 9 is a recurring theme? I am keen for them to be considered, if only in the interest of dismissing one or two of them. They merit consideration, but we should not make them the subject of a separate inquiry. It is logical to consider them while we are examining the overall issue—indeed, they are arising during our review. As Chris Ballance said, it has come across strongly, particularly during our round-table discussions, that there are concerns. I would not like to think that a smaller rule somewhere would prevent us from considering issues more deeply and doing a better job.

The Convener: We have agreed to have two open sessions with members, which will presumably give us a steer on what members are concerned about now rather than what they were concerned about at some stage in the past. We should pursue the issues that were raised at the two round-table discussions—otherwise, there was no point in having them. We can build up an agenda that is based on those two discussions and on what members tell us during the two

forthcoming discussions and we can then decide which points to focus on in our deliberations.

Does anyone want to say anything else about the review of parliamentary time?

Members: No.

The Convener: We move on to the issue of members' bills, which is covered in paragraphs 11 to 14. As the clerk says in the paper,

"This is a relatively specific point".

Do we want to pursue it? Do we want simply to make a decision or do we want to hear other people's views first?

Cathie Craigie: I have some experience of the matter because I took a member's bill on housing through the Social Justice Committee. It was not controversial but, as a member of the committee, I sometimes felt uncomfortable. I do not think that we need to carry out a full inquiry into the matter, but it would be sensible to have a general discussion on it and to make a change to standing orders so that a substitute member could stand in for a committee member who was taking a member's bill through the committee. We do not need to make a big issue of it, but that would be the sensible thing to do.

The Convener: Do you think that the member who is promoting the bill should not be an active member of the committee that is dealing with it?

Cathie Craigie: I certainly did not feel compromised in any way, but in the interest of proper scrutiny it is right for the committee to have a full complement of members who can question the member who is promoting the bill. I found myself in the position of being questioned by the committee for part of the meeting and then joining the committee members for the rest of the meeting. In that situation, the committee is one member down when it scrutinises the bill.

When a member introduces a member's bill, it is usually on a subject in which they have a specific interest—for example, I have a specific interest in housing. I would not want the fact that I was promoting a member's bill on housing to bar me from being a member of the committee that dealt with that issue. It would be reasonable to change the rules that state that a substitute member can attend a committee only in an emergency. Such a change would allow a substitute to attend when a member was taking a member's bill through the committee.

The Convener: To be clear, do you propose that the substitute member would attend the committee meeting only for the relevant agenda item? Are you suggesting that the promoter of the bill would not be a member of the committee for that item but that they would be a member of it for the rest of the meeting?

Cathie Craigie: I do not see why that approach would not be possible, but we should examine the rules and discuss the matter. I repeat that the committee does not need to undertake a full inquiry into the issue. It would be sensible to make a small change to deal with it.

Karen Gillon: I have a slightly different view. I do not think that the member who is promoting the bill should sit on the committee while it is considering the bill. In the interests of openness and transparency, the committee should be allowed to get on with its work without that member. The substitute should take over for the whole meeting when the bill is being considered.

I have experience of the matter from the other side. It is difficult to detach oneself from a close colleague on a committee and thoroughly to scrutinise their bill in the way that one would scrutinise other bills if that colleague is sitting around the table for the other five items on the agenda. In those circumstances, it should be possible for a substitute to attend the meeting. I think that the rules currently state that the substitute has to attend the whole meeting. That would be appropriate in the circumstances that we are discussing. It would also mean that the member promoting the bill would have more time to focus on the bill, which will bring an additional workload.

There are implications for the substitute member's commitments to other committees and there are particular implications for the smaller parties, but we must consider the interests of openness and transparency. Executive ministers are not members of committees and they do not vote on their own bills, so it is inappropriate for members from the back benches to do so.

10:45

Mr McFee: I have a slightly different view. We should not tell members who are promoting a member's bill that is being considered by a particular committee that they must be removed from that committee when it is considering the bill. Substitution is done on a voluntary basis when an individual is unable to go to a meeting and they notify their substitute that that is the case.

I would not welcome a situation in which, because a member was in charge of a member's bill, they had to be excluded from the committee, especially if they were a member of one of the smaller parties. It should be a matter for the member's discretion whether they decided to stand down for that specific meeting—and it would have to be for the whole meeting, rather than just for an item. At the moment, substitution is permitted in cases of illness, pressing family circumstances, adverse weather conditions, blah,

blah, blah. If the rules on substitution were changed so that it was allowed also when a member was leading on a member's bill, it could be left to the member's discretion whether they stood down from a meeting. That is a sensible way in which to proceed. We should not force people down a specific route. It would be entirely different for us to say that someone could be a member of a certain committee only at a certain time.

Chris Ballance: We are in danger of discussing the issue rather than the question whether we should discuss it. The point has been well made that there are grounds for considering the proposal. I note the clerk's suggestion that it would not be necessary to take oral or written evidence. However, if we were to consider the item at a future meeting, we could say that if any MSPs had views that they would like to pass on to the committee, they could do so.

The Convener: Would it be possible for the clerks to set out the options that are available?

Andrew Mylne: Yes. If the committee agrees that the issue is worth considering, we will produce a full issues paper that will discuss the options and the considerations in more depth. If members wished, it would be possible to invite any member who had specific concerns about the issue to submit comments to the committee.

The Convener: Right, but we are not making a big meal of the thing.

Andrew Mylne: It is up to the committee.

Mr McFee: Where has the pressure come from for this? Has it come from members who have taken bills through, or has it come from conveners?

The Convener: Paragraph 11 of the clerk's paper tells us that the convener of the Local Government and Transport Committee has asked us to consider the matter.

Mr McFee: I understand that the request has come from Bristow Muldoon, but I am asking what has driven it. Was the concern raised by a member who was promoting a bill, by the Local Government and Transport Committee, or by the convener of that committee? I am concerned that the proposal may be tailored to one incident, which is probably a bad basis on which to consider making changes. I would like to know what the driver is behind the proposal. I presume that more than one convener has shown interest in the matter.

The Convener: Perhaps Andrew Mylne can enlighten us.

Andrew Mylne: My recollection from the letter that we received is that the matter was raised in the Local Government and Transport Committee.

The question initially arose as to what the procedures were, which led to a discussion about the appropriateness of the situation. That committee agreed to write to the Procedures Committee and I understand that the member in charge of the bill in question was content for that to happen and said so. There was consensus among the members present, who could see no clear resolution to the issue and who recognised it as a procedural matter, which is why they referred it to the Procedures Committee. I believe that similar concerns have been raised in the past but that the issue has never been raised formally with the Procedures Committee.

Karen Gillon: It will increasingly become an issue as more bills go through the system. Relatively few members' bills got through the system in the previous parliamentary session, but that situation will change in this session and the next, so the issue is worthy of further consideration. There is a potential conflict of interest if someone votes at stages 1 and 2 if they are the member in charge of the bill.

The Convener: The clerk will set all that out in a paper and we will discuss how to proceed.

The next item is consolidation bills. The clerk suggests that we hold one short oral evidence session with the people who were involved in the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Bill Committee. I am happy to accede to the clerk's recommendations.

Cathie Craigie: Could I have a wee bit more information on why we would want to do that?

Andrew Mylne: The issue has been around for a while. It is now some time since that first and only consolidation bill went through the Parliament. The matter is on the list of issues for the committee to consider because, in its report, the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Bill Committee raised several procedural issues that it had encountered in working through the procedure for consolidation bills for the first time. Those were flagged up as issues to be looked into, with a view to making small adjustments to the procedure. I took note of those issues at the time and have kept the item on a list of items that this committee may want to address at some point.

Cathie Craigie: Can you remind the committee what the procedures are for dealing with a consolidation bill?

Andrew Mylne: There are specific rules on consolidation bills in chapter 9 of the standing orders. Consolidation bills are a specific type of bill that restates existing law all in one place for the sake of convenience, making only minor changes that might have been recommended by the Scottish Law Commission. Because such bills do

not, to any significant extent, make new law, they are subject to a much more limited scrutiny process that does not allow the same opportunity for evidence taking and the lodging of amendments. There is a more technical consideration of the issues.

There are specific rules that bite on this kind of bill. When the procedure was run for the first time, one or two concerns were raised that it was perhaps too inflexible in some respects and the suggestion was made that the Procedures Committee might review the procedure.

Cathie Craigie: This would probably be a good time for us to do that, as there is a possibility that the Scottish Executive may produce some consolidation bills on housing. We have passed some excellent legislation on housing, but there is a thought that the issue might be best dealt with through a consolidation bill. We need to have the correct procedure in place.

Andrew Mylne: The idea was that any changes to the procedure should be implemented before the next consolidation bill was introduced. I am not aware of any imminent consolidation bill. However, I am not fully up to speed on that and it may be that there is one in preparation.

The Convener: Do we agree to speak to the people who know about these things and act accordingly?

Members indicated agreement.

The Convener: On hybrid bills, would it not be more sensible to let the proposed public works bill progress? This seems to cover the same ground. If the Government wants to introduce hybridism—or whatever the word is—it can do that.

Karen Gillon: Agreed.

The Convener: For God's sake, let us not get into that now.

Paragraph 21 deals with subordinate legislation procedure. We are told merely that it is necessary for us to be aware of the Subordinate Legislation Committee's review in our long-term planning. I do not think that we need to make a decision on it today.

There is a separate paper on the guidance on motions. The clerk's paper merely tells us of a train that is trundling along the track in our direction.

Andrew Mylne: Yes. The guidance on motions is being revised and will be brought to the committee in due course. Small changes may also be made to the standing orders, which will be useful in tidying up aspects of the procedure. It is suggested that that might be done as a small technical exercise before the guidance is signed off.

Karen Gillon: Who signs off the guidance?

Andrew Mylne: A separate note has been circulated in the committee papers that describes the process that has been used in the past. Essentially, the Procedures Committee is invited to clear the guidance that has been prepared by the clerks as a way of conferring additional authority on it. The practice has been to bring substantial revisions to guidance volumes before the Procedures Committee.

Cathie Craigie: So the Procedures Committee will sign it off.

The Convener: We do not just comment on it; we must agree it.

Andrew Mylne: The practice has been to run volumes of guidance through the committee to enable members to comment on them, as part of the committee's general remit to oversee the procedure of the Parliament. The guidance is published after that process so that it has received the committee's stamp of authority.

Karen Gillon: How much sway does the Procedures Committee have in that process?

Andrew Mylne: The clerks who are responsible for the guidance will address any comments that members make when the guidance is put in front of them.

Karen Gillon: There is growing concern in the Parliament that things happen without members making decisions on them. We would be prepared to sign something off only if we were to have some input into and authority over what is put before us.

Andrew Mylne: Indeed.

Procedural Guidance

10:55

The Convener: The next item concerns the revised "Guidance on Private Bills", which is a substantial document. The new bits in the guidance are highlighted in grey. In light of what Karen Gillon was saying, do we want to go more carefully through the grey bits? The guidance is fairly detailed. Could we agree that members who have concerns about the guidance could submit them to the clerk?

Fergus Cochrane from the private bills unit is here to tell us about the revisions to the guidance. Could you focus on what, in your view, is most important in the grey bits, so that the committee has a better introduction to the issues that they raise?

Fergus Cochrane (Scottish Parliament Directorate of Clerking and Reporting): Essentially, the guidance seeks to implement the changes that were outlined in the committee's fourth report of 2005, on private legislation. The main changes appear in parts 2, 3, 4 and 5 of the guidance. The changes are mainly to do with consultation with mandatory consultees—organisations such as the Scottish Environment Protection Agency, Scottish Natural Heritage and Historic Scotland.

Changes have also been made on the need for promoters of private bills to consult more widely with potential objectors as a way of reducing the number of objections that are made. There are also changes to the criteria for eligibility for membership of a private bill committee and changes to do with the register of members' interests, attendance at meetings and change of promoter once a private bill has been introduced. Page 2 of the guidance sets out in bold where the main changes appear.

Karen Gillon: I assume that you know much of what is proposed in our next report. How will that affect the guidance?

Fergus Cochrane: This version of the guidance was prepared on the back of the committee's fourth report. We understand that, in the light of the committee's next report, on the role of assessors at consideration stage, a further edition of the guidance will need to be prepared to reflect—

Karen Gillon: Would it not make more sense to issue revised guidance on the back of both reports? It seems a bit premature to issue new guidance on a procedure that we know is about to change.

Fergus Cochrane: We considered that point. However, some of the changes that we have incorporated into the new version of the guidance are to do with requirements that promoters of private bills will need to address in advance of the next batch of private bills coming forward. The changes affect consultation with the mandatory consultees and the notification of affected persons. We need to publish the guidance now so that promoters are aware of their requirements and obligations.

The Convener: Therefore, publishing the guidance is related to the hoped-for timetable for putting the three new bills into effect.

Fergus Cochrane: Yes.

Karen Gillon: When did we publish our previous report on private bills and when was it debated by Parliament? It was some time ago. I am concerned at the time that it has taken to produce the revised guidance. I am also concerned that if the guidance has to be revised again, that will not be done in time for us to produce a report that is to be debated by the Parliament at the start of next year.

Andrew Mylne: I think that the committee's fourth report was debated in May.

Karen Gillon: Therefore, there was a lag of six months in getting the guidance published.

Fergus Cochrane: Not all the changes that this version of the guidance contains were made solely on the back of the Procedures Committee's report. Many of the changes came about through the private bills unit's experience of putting four works bills through. Others were made as a result of the report of the Waverley Railway (Scotland) Bill Committee that came out in July. The Parliament agreed the general principles of the Waverley (Scotland) Bill, including the notification arrangements, at the end of September. A succession of issues has meant that it has taken several months to finalise the guidance.

11:00

The Convener: I would like to pursue Karen Gillon's point. Say, for the sake of argument, that we approve this revised guidance so that it can be sent to the promoters, even though it may have to be revised again in future. Can promoters pursue their bills on the basis of this revised guidance, unaffected by any decision that is taken to have assessors to hear objections?

Fergus Cochrane: I think so. I suspect that many of the changes to this version of the guidance will carry forward to a future version. I suspect that most of the changes to do with assessors will be in part 5 of the guidance, but the other parts may stay largely the same.

The guidance has been put together to follow the chronology of a bill's progress. Therefore, parts 1, 2, 3 and 4 largely concern what needs to be done before a bill is introduced, once it has been introduced, when a committee is established, and at the preliminary stage. However, the assessor function does not kick in until the consideration stage. Much of the guidance may stay the same in the next version, but we monitor the position regularly.

The Convener: If we agree this guidance and, in half an hour's time, we agree another set of proposals, will the cumulative effect be to delay the bills by another six months while the private bills unit rewrites the guidance for them?

Fergus Cochrane: No.

Karen Gillon: What would be the timescale for producing revised guidance? I assume that guidance will have to be issued before our report is published and debated by Parliament at the beginning of January.

Fergus Cochrane: I have not given much thought to how long publishing the guidance will take. I suspect that it may take another two or three months to prepare guidance on the exact role of assessors. We need to consult fairly widely on the issues that the guidance covers.

We have a requirement to get a version of the guidance out to promoters who have bills in the sidelines so that they know what their obligations to Parliament are and what Parliament expects from them.

The Convener: Therefore, the guidance is mostly based on the previous report by this committee, but it has been influenced by proposals of the Waverley Railway (Scotland) Bill Committee and by other proposals.

Fergus Cochrane: Yes.

Karen Gillon: I am concerned that if we agree the guidance today, there will be no impetus for the next report to get through the guidance process timeously. I am concerned about the time lag that there was in getting this version of the guidance to us. If there is a similar time lag in producing the next guidance, the work that we have done will have been pointless. I will be looking for some guarantees on timescale to ensure that it can be enforced. If Parliament makes its views known at the beginning of January, guidance should be available in a reasonable timeframe, given the amount of discussion and consultation in which we have been involved.

The Convener: If we agree the revised guidance now and the proposal to have someone hear the objections goes through Parliament, can the forthcoming railway bills progress before you

have written your guidance on the basis of our future decision?

Fergus Cochrane: Yes. The preparation of a further version of the guidance to reflect the role of assessors would need to be prioritised in order not to delay any of the bills that we know will be coming forward. We could not have a situation where there was no guidance to expand on the standing orders to inform people exactly how the process was going to operate. If any of the bills was going to be delayed, we in the private bills unit would prioritise the preparation of that guidance and would ensure that it was available well in advance of the bill getting to the relevant stage.

Karen Gillon: I suppose that my question is for the Scottish Parliament directorate of legal services. If we issue guidance that people use on the introduction of a bill and then we move the goalposts after it has been issued to them, how does that affect the process? If we assume that the Parliament approves the revised guidance, when will people be informed that the guidance has changed?

Elsbeth MacDonald (Scottish Parliament Directorate of Legal Services): If the Parliament approves the revised guidance, it can indicate at the time of approval when it wants the changes to the standing orders to come into effect. The changes would come into effect from the date specified. Guidance is a supplementary issue. The changes would take effect, but it would be helpful to everybody concerned if the guidance were available as soon as possible thereafter.

Karen Gillon: Could the standing orders be applied retrospectively to bills that had just been introduced?

The Convener: Our report will be debated in January and any changes to the standing orders will be agreed to at that time. The new standing orders will take effect, allowing people to hear the—

Karen Gillon: If, for example, the Glasgow airport rail link bill is introduced in the first week in January and the debate on the revised guidance takes place in the second week in January, would it be dealt with under the new procedures or would it have to be dealt with under the old procedures?

Elsbeth MacDonald: It could be dealt with under the new procedures if the Parliament made it clear that that is what it wanted. It is not a retrospective—

Karen Gillon: It would be a matter for the text of the motion that the Procedures Committee lodged.

Elsbeth MacDonald: Yes.

Karen Gillon: I just wanted to be clear about that. You guys would then get on with the guidance, but that is not legally required.

The Convener: Do we accept that the guidance reflects reasonably the committee's previous decisions and the advice from the Waverley Railway (Scotland) Bill Committee people and that we should therefore approve it?

Members indicated agreement.

The Convener: We approve the revised guidance on private bills. That ends the public part of the meeting. We are going to deal with two draft reports, which will see the light of day quite soon but which at the moment will be discussed in private.

11:09

Meeting continued in private until 12:03.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Monday 9 January 2006

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at Document Supply.

Published in Edinburgh by Astron and available from:

Blackwell's Bookshop
53 South Bridge
Edinburgh EH1 1YS
0131 622 8222

Blackwell's Bookshops:
243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh

Blackwell's Scottish Parliament Documentation
Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

RNID Typetalk calls welcome on
18001 0131 348 5412
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers

Printed in Scotland by Astron