

PROCEDURES COMMITTEE

Tuesday 5 September 2006

Session 2

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PROCEDURES COMMITTEE 12th Meeting 2006, 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)
Patrick Harvie (Glasgow) (Green)
Tricia Marwick (Mid Scotland and Fife) (SNP)
Irene Oldfather (Cunninghame South) (Lab)

*attended

THE FOLLOWING ALSO ATTENDED:

Irene Oldfather (Cunninghame South) (Lab)

CLERK TO THE COMMITTEE

Andrew Mylne

SENIOR ASSISTANT CLERK

Mary Dinsdale

LOCATION

Committee Room 6

Scottish Parliament

Procedures Committee

Tuesday 5 September 2006

[THE CONVENER *opened the meeting at 11:15*]

Interests

The Convener (Donald Gorrie): We will start the formal part of our proceedings. I hope that now that the recess is finished everyone is full of enthusiasm for procedures. I welcome Irene Oldfather as a Labour substitute member. Are you substituting for Karen Gillon?

Irene Oldfather (Cunninghame South) (Lab): Yes, I am substituting for Karen today.

The Convener: The first item is a declaration of interests by Chris Ballance, who has returned to the committee. He is obviously very interested and cannot keep away.

Chris Ballance (South of Scotland) (Green): I have no interests that are of particular relevance to procedures.

The Convener: Other than an interest in the subject.

Work Programme

11:16

The Convener: The next item is consideration of a paper on the committee's work programme, which sets out the issues that we will have to spend time considering between now and the end of the session. Most of the issues are not new—they are mentioned just to remind members.

We will discuss a paper on the review of parliamentary time later in the meeting. We aim to make progress with the review during the autumn. We are not sure whether we will get a parliamentary debate on the issue, but whether or not we do we must make progress and get a definite proposal out during the autumn.

On consolidation bills, the clerks will shortly give us a draft report on proposed changes to the standing orders.

Andrew Mylne (Clerk): Yes. We expect to produce further material on that at the next meeting.

The Convener: On members' bills and substitution, we have completed our inquiry and will soon have a revised draft report on proposed changes to the standing orders. The report will be produced soon, but it should not, we hope, take up too much time, as we have already had a lot of debate on the issue.

We now come to new issues. The convener of the Standards and Public Appointments Committee, Brian Adam, has raised an issue about parliamentary determinations. We will have to produce some changes to the standing orders to handle that issue properly. The matter will probably involve a small inquiry, taking evidence from Brian Adam and a report. It should not be very time consuming.

We also have the Transport and Works (Scotland) Bill, which we discussed earlier in an informal session. We have a minister coming next week, but I do not know who else we will want to see. Obviously, our interest is mainly in the parliamentary aspect of the proposed legislation. The Local Government and Transport Committee is the lead committee and it will deal with what we might call the transport aspects of the bill. In light of the difference between the bill and what we proposed, we will want to say something fairly trenchant on the subject.

There is a possible change to the remit of the Finance Committee, which might have some ramifications for this committee. Again, that may involve a small inquiry, presumably interviewing Des McNulty and a change to the rules. Remind

me, what is the next stage with regard to the Subordinate Legislation Committee?

Andrew Mylne: There was the possibility that a fairly major bit of work would come to the committee this session. Due to the timescale of the Subordinate Legislation Committee's own work that will not happen, but the referral of a small, effectively technical, change to standing orders is likely to come our way.

The Convener: It was agreed that there would be a trial of electronic voting in committees in the Communities Committee, partly to accommodate those of us who put in lots of amendments to the Planning etc (Scotland) Bill. That pilot exercise will be evaluated and may lead to a change to standing orders to enable electronic voting to be more common in committees. That piece of work might come to us.

The visit to Westminster is set out in our paper. Have we made any progress with the correspondence?

Andrew Mylne: We are waiting for replies from Westminster.

The Convener: Two other issues have arisen since the clerks wrote the paper, one of which concerns the volumes of guidance that are written by committee clerks for committee clerks. Technically, the committee has to approve those volumes of guidance. I am assured that there are no issues of great substance, so we will not have great debates about them. However, I warn members that a large quantity of reading may be required. Several of those volumes are coming through the system.

The other issue that may arise concerns a curious body that I had not heard of until this morning—the Scottish Commission for Public Audit. It is a committee of MSPs, but it is not a normal committee. Its members have a grumble that because it is not a normal committee its deliberations and so on are not properly publicised, so they might request that we change the rules about them. The subject is a total mystery to me, but I wanted to let members know about it in case something appears in your papers.

Mr Bruce McFee (West of Scotland) (SNP): That is based on the assumption that you can have a normal committee of MSPs.

The Convener: I said not “a committee of normal MSPs” but “a normal committee”.

Alex Johnstone (North East Scotland) (Con): Careful use of language, there.

The Convener: I have shown members that at least I can read. The paper is in front of members.

Chris Ballance: I have a question about the Finance Committee remit. Is it normal procedure

when a committee's remit is to be changed that the matter goes to the Procedures Committee? Why is it being referred to us?

Andrew Mylne: The Finance Committee is one of the mandatory committees. The definition of a mandatory committee is that its remit is set out in the standing orders, therefore any change requires to come through this committee. The remits of the subject committees are established by a motion at the beginning of the session. If there needs to be a change to a subject committee remit, it can be done by lodging a further motion and the matter need not come to this committee.

Chris Ballance: I understand. Thank you.

Richard Baker (North East Scotland) (Lab): Why are we aiming to introduce at the beginning of session 3 rule changes that are the result of a review of parliamentary time? The twilight end of the parliamentary session is a rather odd time to have a wholesale review of the parliamentary week. What is the thinking behind that? I wonder whether it might be sensible to delay such a review until the next full parliamentary session.

The Convener: My personal view is that it would be better for members who have experienced the various things that they like or dislike to comment on the review. If it were to be started by a new committee after the next election, many of the committee's members would not have given thought to the subject before, so the review would be postponed for a year or two for them to absorb the various points that they were debating. If the review could go through quickly enough, some of the rule changes could be brought into effect in this session. There is no rule against that.

Richard Baker: I am sorry, convener, but I did not quite catch the end of your comments. I was suggesting not that the review be held over for the next session's committee to take up, but that the rule changes might come into effect at the beginning of session 3. We are in the final stages of this parliamentary session, which is why I was thinking about whether the rule changes should come into effect now, rather than at the beginning of the new parliamentary session. I was not suggesting that the review should be held over to the next committee. I am just raising the question.

The Convener: So would your preference be that anything that we propose and to which the Parliament agrees should come into operation as soon as it can?

Richard Baker: No. If it does not come into effect at the beginning of session 3, it should do so at a later point. However, I want only to put that on the agenda for thought, rather than arrive at a decision now.

Mr McFee: Actually, it is on the agenda for thought. Under item 4 we will consider a consultation paper that lays out a number of options to which, I hope, MSPs will respond. Indeed, if they respond by saying that they do not wish there to be any changes to the rules, there will not be any changes, so perhaps we are putting the cart before the horse. I understand the rationale for saying that the changes—if there are to be any—should be made at the beginning of session 3, but I would like them to be made sooner, particularly if we are to trial any particular change. However, we will get to that when we see how keen MSPs are on some of the options in the paper.

Alex Johnstone: On that point, we are probably more likely to get our colleagues' approval if they feel that they are subjecting their successors to changes rather than themselves. There may be some mileage in that.

The Convener: The point is noted.

Given that all the items that we have agreed for the work programme will take time even though many of them are fairly minor, we will not have much time to spare. However, if committee members have issues that they think are important and that they would like to discuss, I ask them to mention them now or send a note to the clerk so that they can make a positive contribution to the workload. It is open season for suggesting interesting ideas.

I gather that Irene Oldfather is not officially entitled to attend as a substitute for Karen Gillon. We welcome her enthusiasm but, unfortunately, under the rules she is not able to stay.

Mr McFee: That might be something that the Procedures Committee should consider. It is not the first time that it has been raised. It has been raised with the Presiding Officer, because there are different interpretations of the rule. You may have answered the question of what your next inquiry should be.

Alex Johnstone: We must remember that she was entitled to be here as a member of the Parliament. We are simply calling into question her eligibility to vote, not to be present.

Chris Ballance: Yes, she could have stayed.

The Convener: The issue arose in our discussions about substitution for members' bills. We could discuss it under item 5.

Standing Orders

11:30

The Convener: Item 3 concerns proposed changes to the standing orders. It is all a bit peculiar, but the clerks have been trying to improve the rules on how we deal with these things. Rule 18 of the standing orders consists of a long list of defined expressions that are defined better elsewhere. The clerks argue that it is a nuisance to have to change it when things are changed elsewhere and that, as it exists, rule 18 is almost entirely unnecessary and unhelpful. They say that the two or three useful bits of the rule could be incorporated in rule 17 and that the rest of rule 18 could be deleted.

This is a new issue, so members might want to pursue it. However, I do not think that the suggestion affects our democratic system in any way. From the explanation that I have been given, it seems to me that the committee could reasonably agree to the proposals in the paper.

Mr McFee: I have read the paper a couple of times and it is starting to make sense. I am broadly in favour of clarifying the rules by deleting some of them. That sounds like a good idea and it might be a policy direction that could be recommended.

I was going to ask about unforeseen circumstances, but if you had been able to pick up on them they would not be unforeseen. However, are there any ramifications from the proposal that might have an ill effect?

Andrew Mylne: We have thought about this carefully and are pretty confident that what we are proposing will not reduce the usefulness of the standing orders document in any way and that everything that is important in those rules will be preserved. The exact rule changes that we are proposing are part of the papers for consideration in private later on and points of detail could be addressed then. However, in terms of the principle, we are confident that the changes are technical and uncontroversial.

Alex Johnstone: The paper says that a trial was conducted over the summer. Could you outline how extensive that trial was and whether it was 100 per cent successful?

Andrew Mylne: Some of that work is still under way. The professional indexers who work in the Scottish Parliament information centre produced the new index to the standing orders, which is a big and technical task. The next step was to get some feedback on it by sending it out to a number of clerks who are used to working with the document. They sent back comments on aspects

of what has been done. Those comments are being incorporated by the indexers, who aim to complete their work quite soon.

I should stress that the index is not part of the standing orders; it is merely something that gets published with the document as an aid to usefulness.

Alex Johnstone: Were any outstanding problems highlighted by the experiment?

Andrew Mylne: Some points were raised—obviously, you get feedback of various sorts. However, they are being acted on and we are confident that the index will be a good document and will have been reasonably robustly tested by the time it is published.

Alex Johnstone: I am content to approve the paper if the proposals will be successful. The only thing I will say is that we should have some kind of formal confirmation that a process has been followed and that no difficulties have been found.

The Convener: Presumably, the matter would reappear in the form of changes to standing orders. Is that right?

Andrew Mylne: The paper deals with proposed changes to chapters 17 and 18 of the rules. The context for proposing them was the preparation of the new index. However, the index itself is not part of the rules. Strictly speaking, the new index does not require the approval of this committee or the Parliament because it is not part of the rules; it is merely a useful adjunct to the document. I would be happy to circulate a copy of the index to committee members before it is published.

Alex Johnstone: I do not know whether that is necessarily what we need. However, it would be useful to have confirmation from those who are qualified to judge that this is an appropriate index to use. If we are going to delete most of chapter 18 and move the residue into chapter 17, I want to be confident that we are not imposing on people within the parliamentary structure a change to which they have not given their full approval.

Andrew Mylne: No one has raised any basic objections. There has been some feedback about ways in which the index could be improved, and it is being taken on board.

The Convener: If we agree to the paper, will it be implemented in the form of changes to standing orders?

Andrew Mylne: The actual rule changes will be dealt with under item 5 in private.

The Convener: Okay.

We have dealt with item 3. Items 4 and 5 are in private, so we thank people for their attendance and move into private session.

11:35

Meeting continued in private until 13:00.

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