

PROCEDURES COMMITTEE

Tuesday 3 October 2006

Session 2

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PROCEDURES COMMITTEE

15th 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 GAVE EVIDENCE:

Brian Adam (Aberdeen North) (SNP)

CLERK TO THE COMMITTEE

Andrew Mylne

SENIOR ASSISTANT CLERK

Mary Dinsdale

LOCATION

Committee Room 6

Scottish Parliament

Procedures Committee

Tuesday 3 October 2006

[THE CONVENER *opened the meeting at 11:02*]

Interests of Members of the Scottish Parliament Act 2006

The Convener (Donald Gorrie): I open today's meeting. We have apologies from Chris Ballance, who is ill; I expect Patrick Harvie to attend as a substitute. I hope that the laggards will appear shortly.

I welcome Brian Adam, the convener of the Standards and Public Appointments Committee and Sarah Robertson, the senior assistant clerk to that committee. We agreed to listen to Brian explain to us the change that his committee wants to make to standing orders.

Patrick Harvie has appeared, so I welcome him as a substitute. If you have not been to the committee before, you might have to declare any interests.

Patrick Harvie (Glasgow) (Green): I do not think that I have attended the committee as a formal substitute, but I have no interests relevant to the work of the Procedures Committee that I need to declare.

The Convener: Over to you, Brian.

Brian Adam (Aberdeen North) (SNP): Thank you for inviting me to appear before the Procedures Committee today. The Interests of Members of the Scottish Parliament Act 2006 confers powers of determination on the Parliament. Some of you might well remember that we had a little hiccup when people found it difficult to understand what determinations were all about.

Most determinations set out procedural and administrative arrangements that can be amended and replaced from time to time to ensure that such arrangements remain current, relevant and pertinent without our having to go back to primary legislation. Determinations in relation to members' interests are not new, but the procedure for approving determinations under the 2006 act is new. Determinations already exist under the Scotland Act 1998 (Transitory and Transitional Provisions) (Members' Interests) Order 1999 (SI 1999/1350), but they were made by the Presiding Officer. The 2006 act has taken that power away from the Presiding Officer and given it to the Parliament.

In constructing the 2006 act, the Standards and Public Appointments Committee sought a transparent and accountable way of making those various determinations or decisions by including all members in the decision-making process. Because determinations set out subordinate provision under the 2006 act, or provide for the imposition of sanctions on a particular member, it is important that there is some means by which the determination or resolution, whatever the case might be, is made public.

There is also a power for the Parliament to modify the schedule to the 2006 act by resolution if it considers that to be necessary. It is important that that process is open and transparent.

How would the process operate in practice? To a large extent, I am looking to the Procedures Committee to decide on that. I expect that it would be appropriate for draft determinations to come from the Standards and Public Appointments Committee initially. As set out in the standing orders, the committee's remit states that its role includes the consideration of and reporting on

"matters relating to members' interests".

With regard to the power in section 16 of the 2006 act to sanction members by excluding them from proceedings, the standing orders place the responsibility for recommending the imposition of a sanction on the Standards and Public Appointments Committee. It would therefore seem sensible and practical to give the initial responsibility for determinations and resolutions on members' interests to the Standards and Public Appointments Committee. After that, I anticipate that all members will have an opportunity to participate in a debate before any changes are made.

As the Standards and Public Appointments Committee indicated to Parliament at stage 3 of the Interests of Members of the Scottish Parliament Bill, we would expect to consult members on a draft determination before the committee lodged a motion for debate in the chamber. I have no firm views on how long that consultation should be; I would prefer the Procedures Committee to take a view on that. Most members would prefer a single procedure for all determinations for the sake of clarity, apart from the rare—we hope—instances of determinations required under section 16. Special considerations apply in circumstances where we would be recommending sanctions against a member.

It would be preferable if that single procedure were also to apply to the making of resolutions. The content of determinations and any resolutions made under the 2006 act are equally important. Both will directly affect members and both will be

of public interest, so they deserve the same transparent process.

We hope and trust that we will use the section 16 determination power only very rarely. I imagine that it would be used in response to an issue that was in the public eye and subject to a certain level of interest, so it must also be transparent and accountable. In the interests of the Parliament, the public and the unfortunate member concerned, it is probably better that the issue is dealt with swiftly, but fairly. A consultation might not be applicable in that one instance alone, although we hope that, if they so wish, members will have an opportunity to debate a recommendation to exclude a member when the resolution comes before the Parliament.

I am happy to discuss whatever the committee would like, but we do need to arrive at a conclusion on this matter so that those of us who return, or our successors, will have procedures in place when the new parliamentary session starts in 2007.

The Convener: Thank you. Our intention is to have questions and discussion today, and then agree at the next committee meeting a draft recommendation of changes to standing orders that encapsulates what the committee thinks of your suggestions—if that is possible for the clerks.

The clerk suggested some points about which we should try and be as clear as possible and you have dealt with some of that. Those points are on page 4 of the paper the committee was given. Are you keen on having a single procedure rather than many different procedures?

Brian Adam: Yes, a single procedure or standard approach would make it simpler for everybody concerned, whether they are members, the public or media, to understand what is going on. The only subtle difference that I believe would be appropriate is in the case of section 16, under which the Standards and Public Appointments Committee may offer a resolution to the Parliament for a sanction against a member. To consult on that would perhaps not be appropriate, because if there is any possibility of a resolution, it is much better for everybody concerned that the matter is dealt with swiftly. If we continue with the current arrangement, the resolution could be open to debate, and indeed amendment, in the Parliament.

Just to clarify matters, that relates not to sanctions generally but only to exclusions from the proceedings of the Parliament, which is what section 16 specifically says.

Mr Bruce McFee (West of Scotland) (SNP): I want to clear something up. Are you suggesting that only the Standards and Public Appointments Committee should be able to initiate a

determination? I was getting the feeling that you were and that there was perhaps a role for members later on. Are you saying that, in all circumstances, it would be up to the Standards and Public Appointments Committee? If so, what would the role of members be?

Brian Adam: The Parliament normally proceeds by delegating consideration of a matter to a particular committee. The Standards and Public Appointments Committee is the appropriate committee, as the issue is part of its remit. It would produce recommendations, which all members would have the opportunity to debate. Our suggestion was that there should be consultation with all members at that stage and then a debate in the Parliament. There would be the opportunity first to consult as the committee considered its recommendations, and then to participate in the debate.

Mr McFee: I just wanted to be clear that you were saying that, in all circumstances, a determination should be initiated or led by the Standards and Public Appointments Committee.

Brian Adam: Yes, because that is normally how we deal with such matters.

Mr McFee: I did not want it to be justified. I just wanted to know the proposition.

Brian Adam: Yes, is the answer to your question. Consultation would be involved in all processes, except when dealing with section 16 determinations. Even in those circumstances, however, members would have the opportunity to participate when the resolution reached the Parliament following a recommendation from the Standards and Public Appointments Committee.

The Convener: Does the Standards and Public Appointments Committee have any views on the minimum period of consultation, or is that up to our committee to decide?

Brian Adam: It is up to you, but I suggest that perhaps a month for consultation might be adequate. I do not want to put you in any difficulty, but it would be helpful if we could complete the processes through Parliament so that arrangements are in place for whoever is elected in May 2007. A period longer than a month may encroach on the viability of completing the processes, but I think that a month would be adequate.

The Convener: The propositions seem sensible to me, and if we have exhausted our questions to Brian Adam, he can depart. We could then come to an agreement about the lines along which we wish the clerk to produce a report. I thank Brian Adam for coming.

Brian Adam: Thank you.

11:15

The Convener: On this occasion we do not, as is usually the case, have a ready-made paper to approve, but Brian Adam has set out his stall and we have the notes from the clerk. We must now give the clerk clear direction as to what changes we want to appear in the standing orders.

We will start with the questions on the bullet points on page 4 of the paper. Do we agree with Brian Adam that there should be a single procedure for everything apart from section 16 exclusions?

Members indicated agreement.

The Convener: Do we agree that the initiative should always come from the Standards and Public Appointments Committee, or should a member be allowed to initiate a procedure if they feel that things are not being done right?

Mr McFee: I used the word “initiate”, but it was probably the wrong one to use. I presume that a member could initiate a procedure by writing to the convener of the Standards and Public Appointments Committee and putting the ball into play that way. Initiate was perhaps the wrong word. It is probably sensible to have all such cases go through the same channel. I do not know whether there will be a rush of people running to have determinations made.

Alex Johnstone (North East Scotland) (Con): My concern is that if the power to initiate the process lay with an individual member, a very small number of members—perhaps one or two—might use that as a malicious opportunity.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I think that we all agree that how the Standards and Public Appointments Committee goes about its business is acceptable. That should continue.

The Convener: We have seen examples—usually within a party—of a certain degree of personal acrimony entering into proceedings. We do not want to give people too much rein.

Brian Adam suggested a month as the appropriate period for consultation. Does the clerk or any member have any views on that?

Andrew Mylne (Clerk): It is not essential to set a minimum period. It would be possible simply to include a requirement to consult and leave it up to the Standards and Public Appointments Committee to determine what a sensible period was in each case.

The Convener: Okay. Is that fair enough?

Members indicated agreement.

The Convener: Right. Does the clerk require any other specific steers in order to write a nice report?

Andrew Mylne: I do not think so, convener. The final bullet point in paragraph 14 is probably now clear, from what Brian Adam said.

The Convener: Yes. The single procedure covered determinations and resolutions of all sorts other than the section 16 exclusion.

Mr McFee: Before we leave that, can I be clear about what the suggested procedure is for section 16 exclusions? That was not clear.

The Convener: I think that consultation was the issue. Brian Adam thought that a section 16 determination should be quicker, but you are right that we did not pin him down to a specific procedure.

Mr McFee: If it is simply about having a timescale for dealing with the matter, I can understand the reason for that. The procedure is essentially the same, except for the consultation, but perhaps the initiation of it is different.

Andrew Mylne: My understanding of what Mr Adam said is that the difference would be that there would not be an expectation in that case for the Standards and Public Appointments Committee to consult members before making a firm proposal to the chamber. The committee may, for example, wish to consider in private issues around the exclusion of a particular member. Therefore, the determination that it would recommend to the chamber might emerge from the committee without members having had a chance to have an input beforehand.

Mr McFee: The point that I am getting at is that I can remember the occasion on which the procedure was used and I was not clear about the process by which the Standards and Public Appointments Committee suddenly decided that it would meet during the plenary session, which is most unusual. The committee came back to Parliament with a recommendation on the same day. I was not clear about what initiated that process. I know what kicked it all off, but I am not sure how the Standards and Public Appointments Committee decided that it would have a meeting about the matter.

Cathie Craigie: The Presiding Officer asked the Standards and Public Appointments Committee to meet and consider what had happened in the chamber.

Mr McFee: Yes, I think that that is correct. Could we say that that was initiated by the Presiding Officer? If the Presiding Officer asked the Standards and Public Appointments Committee to look at something, the committee would be almost obliged to do so.

The Convener: One factor was that it was the last day of the term; therefore, we had to have a quick decision. The Presiding Officer thought that that was the answer.

Mr McFee: If the Presiding Officer asks the Standards and Public Appointments Committee to consider something, how does the committee reach a decision? Does it have a meeting without notice? I just wonder what part of what is proposed is different. I am not saying that it is necessarily a bad thing; however, it appears that the procedure for initiating that might not be the same in every circumstance. I want to clarify that before we write our report.

Cathie Craigie: There must be guidance in the standing orders for conveners who have to call an emergency meeting. Did we read about that last week or the week before? There must be a process for that.

Andrew Mylne: There are particular issues surrounding the circumstances in which a committee can meet at short notice. As far as the issue before the committee today is concerned, the key point is that the Standards and Public Appointments Committee, under Brian Adam's suggestion, would be the only body in the Parliament that could propose a determination to the chamber. Initiation is perhaps not the right word. It is not so much about where the idea emerges from at the outset; it is more a question of only the Standards and Public Appointments Committee being able formally to propose a specific determination in draft to the chamber. In the same way, changes to the standing orders can be proposed to the chamber only by this committee, although any member can write to us and suggest a change to the standing orders. That is the distinction that is at issue.

Mr McFee: Yes, I can see that. "Initiate" was probably not the correct word to use.

The Convener: I presume that the issue of the timetable for a decision and the urgency of the matter would be for the Presiding Officer to decide for the good business of the Parliament.

Cathie Craigie: And for the convener of the committee.

Karen Gillon (Clydesdale) (Lab): One thing that Brian Adam said concerned me slightly. He said that there would be no provision for debate. I do not know what context he was saying that in, but I would like further clarification of that point.

The Convener: I did not pick that up.

Karen Gillon: There is currently provision for debate on a section 16 exclusion if that is timetabled by the Parliamentary Bureau; however, that has not been the case up to now. Was an

amendment lodged to the motion that was moved on Thursday?

The Convener: No, but the Scottish Socialist Party spoke against it.

Karen Gillon: So there is provision for debate on such motions. I would like clarification of whether that would still be the case under whatever procedure we came up with.

The Convener: I think that we can clarify that.

Andrew Mylne: Under any new procedure that the committee recommended, any determination that was made by the Parliament would emerge from a motion that was lodged by the Standards and Public Appointments Committee, which the Parliament would either agree or disagree. In the normal way, if a provision to that effect was included in the rules, it would be a matter for the bureau to decide whether the motion was to be debated or simply moved formally without debate. If the committee felt strongly that such things should always be debated, words to that effect could be placed in the new rule. It is up to the committee to decide which of those things it wishes to do.

Mr McFee: Are we talking specifically about exclusions?

Andrew Mylne: That, again, is up to the committee. There will need to be a new rule to cover the general issue of determinations and resolutions under the 2006 act. Brian Adam has suggested a single procedure for all cases apart from section 16 determinations. The committee is already considering a rule that differentiates that type of determination. The rule can either not say anything about whether any of these things should be debated, leaving the matter to the bureau in each instance, or say that some determinations must be debated or need not be debated. It is up to the committee—those are all options.

Mr McFee: I think that, in certain circumstances, there would have to be the possibility of having a debate. If people decided that membership of one of a list of organisations had to be declared, there might be a debate about whether someone needed to declare membership of a local football club, for example. What would happen if someone had a season ticket somewhere else?

Andrew Mylne: The question is not whether there would be an opportunity for debate—Brian Adam was clear that he envisaged there being an opportunity for debate in normal cases. The question is whether debate is mandatory or whether you say nothing about it in the rules and leave it up to be Parliamentary Bureau to make a decision in each case, which would allow there to be a debate if there were a perceived need for it.

Mr McFee: I do not think that we should make debate mandatory. That would be as bad as the opposite. The question is whether a debate would be permitted on an exclusion. Is it being suggested that there be a different process in that regard? Would it be possible to have a debate on an exclusion if it was desired or is it being suggested that that would not be desired?

Cathie Craigie: It is possible to have a debate if it is timetabled in. The rules that we have just now allow that. Are we suggesting that we do not change that particular rule?

Andrew Mylne: It is up to the committee what it wishes to recommend. This is a new procedure. My understanding of what Mr Adam said is that he envisaged there being the opportunity for a debate in relation to everything that comes under the 2006 act. The only difference in relation to the section 16 resolutions is that there would not be an earlier opportunity for members to be consulted at the stage when they were still before the Standards and Public Appointments Committee.

The Convener: The assumption is that there is an opportunity for a debate to be had. We are not saying that "Thou shalt debate" is one of the 10 commandments.

Alex Johnstone: We would not want a debate to be used as an opportunity to settle old scores or open old wounds, which is exactly what happened last night.

The Convener: Yes. I think that that is why there is a feeling that lengthy debate is not really conducive to public order.

Alex Johnstone: Or decisive action.

The Convener: Do we agree to await the suggested changes to the standing orders that the clerk will produce?

Members *indicated agreement.*

Standing Orders (20-day Rule)

11:27

The Convener: Item 2 concerns a paper from the Subordinate Legislation Committee. At present, it has to report to the lead committee not later than 20 days after an instrument has been laid; it wants rule 10.3.2 of standing orders to be changed so that it becomes only normal that it do so, rather than mandatory. The suggested new form of words is:

"The Committee shall report its decision with its reasons in any particular case to the Parliament and the lead committee. It shall normally do so no later than 20 days after the instrument or draft instrument is laid."

The committee tells us that, on occasions, it cannot manage to report to the lead committee in 20 days because of the pressure of business, so the suggestion seems sensible to me. It would be reasonable to write to subject committees that the change might affect to ensure that they would be satisfied with the change. There is an overall 40-day limit, so if the Subordinate Legislation Committee takes more than 20 days, that will leave the lead committee with less time to consider the instrument.

Alex Johnstone: I am inclined to agree with the convener. We are all in favour of flexibility where it is conducive to the work of Parliament, but the success of the secondary legislation procedures—both affirmative and negative—is dependent on strict time limits. Some committees suffer under the burden of a great torrent of secondary legislation and find themselves struggling to deal with it within existing timescales.

I would not favour any loosening of the overall timescales that apply to instruments because any increase in the time allowed to the Subordinate Legislation Committee would shorten the time for which an instrument would be in the hands of the lead committee. For that reason, it is important that we consult in particular the one or two committees that deal with huge volumes of subordinate legislation so that we know the views of conveners and clerking teams that have sometimes to struggle with such burdens.

11:30

Mr McFee: That suggestion is absolutely fair, given that we might find that the timescale for the Subordinate Legislation Committee suddenly increased to 30 days, so the lead committee would be left with the balance of the 40-day limit. The proposed change would cure the problem for the Subordinate Legislation Committee, but it would also simply push it further down the pipeline. We have to ask why the committee cannot make the

20-day deadline—I do not see a reason in the paper. Is there another problem that we have to address, rather than simply altering the timescales, which could have a detrimental effect on the lead committee?

Karen Gillon: In principle, I take a similar position to Alex Johnstone and Bruce McFee. If we are to make a change, there still has to be a cut-off date. I do not think that we want a timescale that could drift to 30 or 35 days. For a committee that meets fortnightly, if the 20-day deadline was not met, the timescale could drift to 30 days—10 working days later. We should say at least that the committee would normally report no later than 20 days after the instrument was laid, but that in every instance, it should report within 25 days. If we are to move the goalpost, there has to be a cut-off point. What is proposed is too flexible and could leave lead committees in difficulty, especially if there had to be a debate about an instrument.

I sat on the Environment and Rural Development Committee when it had to deal with controversial Scottish statutory instruments that contained considerable detail. We could not debate them until we had received a report from the Subordinate Legislation Committee. There was a delay in telling people when the debate was going to be held, which impacted on their ability to tell the committee their views.

The proposed change could have unforeseen consequences if we put in the word “normally” but do not put in a cut-off date.

Cathie Craigie: I agree with most of what has been said, and I particularly welcome Alex Johnstone’s suggestion that we consult other committees. It is important that we hear from them. It would be good to get information on the Subordinate Legislation Committee’s workload so that we can see where the time goes. If that committee is under pressure, other measures could be introduced. I agree that there has to be a time limit and a timetable to which people can work. We should seek more information to allow us to give the proposed change adequate consideration.

Mr McFee: Does the Subordinate Legislation Committee meet fortnightly?

Andrew Mylne: That committee meets weekly.

Mr McFee: Some of the rationale behind the proposed change is contained in the background section in paper PR/S2/06/15/2, which states:

“The difficulties are accentuated before parliamentary recesses when there are larger than normal volumes of instruments laid by the Executive, or where instruments are technically complex and raise difficult legal issues”.

Those are the very times and circumstances in which things are also going to be difficult for the lead committee. I do not think that the proposed change will cure the problem—it will squeeze it further down the system, although perhaps most conveners will say that in most circumstances they could deal with the change. The letter from Gordon Jackson states that the circumstances that are outlined are not the norm, but other committees would face the same circumstances, so instruments would just be pushed down the pipeline.

Karen Gillon: There is another worrying line at the end of page 2 in the section of the paper on the inquiry into the regulatory framework in Scotland, which states:

“If its recommendations are accepted, the 20 day rule will no longer exist.”

That might be all very well for the Subordinate Legislation Committee, but it will kill the subject committees if there is no cut-off date by which the Subordinate Legislation Committee has to report. Some committees are having to meet two or three times a week to get through their programme of dealing with legislation. If we were to support the change, we would, in effect, be saying that the Subordinate Legislation Committee would not be required to meet two or three times a week at the end of a session to fulfil its obligations to other committees.

The Convener: The sentence that you refer to is about a draft report that may, in due course, lead to a bill. At the moment, the 40-day limit—the thing that determines it all—is laid down by the Scotland Act 1998 and by the transitional provisions that followed it in 1999. When those orders were made as a result of the Scotland Act 1998, the intention was that they would, in due course, be superseded by an act of the Scottish Parliament, so the machinery is trundling slowly to achieve that. That might mean that the 40-day limit would either cease to exist or could be extended, which would help to relieve the burden on the Subordinate Legislation Committee and on the subject committees. However, that is a long way ahead.

Mr McFee: I would like to clarify whether that would be the effect, if a new order were to be introduced. I do not know, but I would like to find out.

The Convener: The Subordinate Legislation Committee has produced a draft report—there is no legislation.

Mr McFee: If the draft report were, as it is currently written, ultimately to find its way into legislation, what would its effect be?

Karen Gillon: All that we have is the suggestion to abolish the 20-day rule.

Mr McFee: That is a further indication that the matter has been considered from only one perspective, and that the ramifications and unintended consequences are not known.

The Convener: We can clarify what the draft report says. Is it still a private paper?

Andrew Mylne: It is a published report. In fact, I circulated a note about it to the committee a number of weeks ago, but I have to say that I cannot now remember all the details of it, myself. What is proposed is quite a radical restructuring of the way in which subordinate legislation is dealt with: it would not simply be a matter of removing the 20-day rule and leaving the 40-day rule in place. I think that it would remove the 40-day rule as well, but I need to check that.

Karen Gillon: Would such a change require an act of the United Kingdom Parliament to amend the Scotland Act 1998?

Andrew Mylne: No. What we are talking about is an act of the Scottish Parliament that would replace a transitional order that had been made under the Scotland Act 1998. The transitional order itself provides that it has effect only until it is superseded by an act of the Scottish Parliament, but such an act will not now be in place until some time in the middle of session 3, given the timescale for producing such things.

Mr McFee: We need information on that.

The Convener: I suggest that we write to the subject committees saying that the proposal has been put to us and asking for their comments. We could include Karen Gillon's point about whether they would accept the proposal that committees should "normally" report within 20 days, or whether there should be a back-up position of 25 days, or whatever.

Mr McFee: I am not sure that I want to concede those things before we get answers to our questions.

Karen Gillon: I know what you mean.

Mr McFee: We need answers from the lead committees and from the Subordinate Legislation Committee, to see whether it has considered the ramifications of its proposal.

Karen Gillon: Perhaps what we should be asking about are the implications for lead committees of changes to how the Subordinate Legislation Committee reports to those committees. If the Subordinate Legislation Committee were to take 21 days rather than 20 days, would that knock a lead committee past another meeting? If it were to take 25 days, or 30 days, rather than 20 days, what would be the

ramifications for the timetables of all committees, as opposed to just that of the Subordinate Legislation Committee?

Mr McFee: The Subordinate Legislation Committee has not made its case on that, as I understand it.

The Convener: Is it possible to progress by writing simultaneously to the subject committee conveners to ask their views on a wider range of issues, as Karen Gillon has suggested, and to the Subordinate Legislation Committee, to ask the convener to come and explain the process to us or to put the case to us more fully in writing to explain that committee's workload? That would enable us to see the Subordinate Legislation Committee's point of view more fully and to get other committees' points of view.

Mr McFee: It will be useful to hear other committees' points of view, but I also want to know what other options have been considered. I sit on the Justice 1 Committee and earlier, Karen Gillon referred to the fact that some committees sit three times a week—the Justice 1 Committee sits three times a week on occasions and has sat twice a week for a considerable time. We have been told that the situation is particularly difficult before parliamentary recesses, so perhaps the Subordinate Legislation Committee needs to build in another meeting. I understand that if a committee is considering a complex legal matter on which it takes a long time to get advice, it would not matter how many times it sat, but we need to quantify what we are talking about and what other options have been considered.

A change to the 20-day limit would impact on other committees, so it should be the last resort rather than be considered early doors. It might be that the Subordinate Legislation Committee has considered other options and has had to dismiss them for one reason or another, but we do not have such information.

Karen Gillon: If committees are not getting the advice that they need in the timeframe in which they need it, there might also be staffing and resource issues, so simply moving the timescale would not deal with staff failing to meet committees' needs. As soon as we move the timescale, people will work to the new timescale, not the one that existed before, and the problem will go on.

The Convener: Do you wish the convener of the Subordinate Legislation Committee to come and explain the matter at our next meeting, or to get a paper explaining more fully that committee's problems?

Karen Gillon: It would be helpful to have information on the potential impact of the proposed change on the subject committees

before we hear from anybody else. We cannot enter into a dialogue with one side of the debate if we do not have information from the other side. I am not averse to the convener of the Subordinate Legislation Committee coming before us, but that would need to happen four or six weeks down the line to allow us to get information back from the subject committees so that we can have an informed discussion with her.

The Convener: The clerk will write to the subject committees asking for their views and we will write back to the Subordinate Legislation Committee saying that we have discussed the matter fully, that we are asking other committees for their views and that when we have those views we would like the Subordinate Legislation Committee to come and explain the matter to us more fully. That will warn it that there will be an invitation in due course. Is that all right?

Members *indicated agreement.*

The Convener: I have failed in one procedural respect: do members agree that draft reports on agenda item 1, on parliamentary determinations and resolutions, be discussed in private until we agree them?

Mr McFee: Is there a need for those reports to be discussed in private?

The Convener: That seems to be the custom, but I do not think it is a big deal. Is it agreed?

Members *indicated agreement.*

The Convener: The last two items are draft reports, with which we will deal in private.

11:43

Meeting continued in private until 12.42.

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