

PROCEDURES COMMITTEE

Tuesday 14 November 2006

Session 2

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PROCEDURES COMMITTEE

17th 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)

*Alex Johnstone (North East Scotland) (Con)

*Kate Maclean (Dundee West) (Lab)

*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

CLERK TO THE COMMITTEE

Andrew Mylne

SENIOR ASSISTANT CLERK

Mary Dinsdale

LOCATION

Committee Room 6

Scottish Parliament

Procedures Committee

Tuesday 14 November 2006

[THE CONVENER *opened the meeting at 10:18*]

Parliamentary Time

The Convener (Donald Gorrie): Karen Gillon is on her way, but we will make a start.

Item 1 is our review of parliamentary time. Four issues arose from our previous discussion, and we will go through them one by one, as the clerk has produced a paper on each.

The first paper is on the implications of an earlier lodging deadline for stage 3 amendments. Two issues arose on that matter. The first concerned what happens to amendments that are lodged late, because with an earlier deadline more might be lodged late. The Presiding Officer has to make a judgment on whether there is good reason for amendments being lodged late. If there is, they are acceptable, and if not, they are not acceptable. In my opinion, it has to be his decision, but we can discuss that.

There is also a question about the interval between stages 2 and 3. If we allow more time between the deadline for lodging stage 3 amendments and the stage 3 debate, we must either reduce the time between the end of stage 2 and the lodging of stage 3 amendments or keep it the same, which would add a week to the whole bill process. I feel that the committee was more inclined to the latter view.

Alex Johnstone (North East Scotland) (Con): It is indeed logical to state that, if we increased the time between lodging stage 3 amendments and stage 3 consideration, we would shorten the time available for lodging amendments following stage 2. Would it be valuable to recommend in our report that the time between stages 2 and 3 should not be shortened, so that the time for lodging stage 3 amendments is protected?

The Convener: I go along with that. I do not know whether colleagues feel the same. Two weeks before an election, a week is an important length of time, but, generally, a week is neither here nor there in a four-year session. Losing a week should not be a big deal from the point of view of the Government or anyone else.

Alex Johnstone: I have learned to understand this from an Opposition point of view. Given our limited resources and the particularly limited resources of individual members who do not have the support of a party group—we want to protect

them, too—we can struggle to keep to deadlines for amendments anyway, so I would not like that time to be eroded.

The Convener: The rules contain a minimum time, which is usually exceeded. The important thing is that it should not be reduced.

Alex Johnstone: The time that is available for lodging stage 3 amendments should not be reduced.

The Convener: Yes—the time between the end of stage 2 and the deadline for lodging stage 3 amendments.

Mr Bruce McFee (West of Scotland) (SNP): The proposal could more aptly be described as increasing the minimum interval between stage 2 and stage 3 by one week, the implications of which are perhaps not as wide ranging as we thought. The evidence suggests that the minimum period is often exceeded anyway. [*Interruption.*] Sorry. I did not realise that I still had my phone switched on.

Alex Johnstone: Do you want me to answer it for you?

Mr McFee: Actually, that would be good, because I have just seen who it is.

There are no great ramifications from the proposal. We need to extend the minimum period for lodging stage 3 amendments by one week, particularly in light of the briefing from the Scottish Parliament information centre that we will be considering later under item 1. It would not be desirable to reduce the time that members have for lodging amendments. That is important.

The Convener: We need to decide how specific we want to be about advising, guiding or instructing the Presiding Officer—whatever it is that we are allowed to do—to take a tough line on late amendments. Do we simply leave it to his discretion?

Alex Johnstone: We should leave it to his discretion.

Mr McFee: Yes. There is a danger with instructions starting, “We will leave this to your discretion, but”. That can lead to difficult positions, particularly as what we are doing should not affect any requirement on late submissions. If we expand the interval between stages 2 and 3 by a week, we should compensate for that. However, people will probably still leave it until the last minute.

Alex Johnstone: We should avoid tying the hands of the Presiding Officer when it comes to any part of his responsibility. However we try to change the system, it is important to make it easier and more practical to operate. The most important thing is that, if we find ourselves about

to do something a bit silly, the Presiding Officer has the power to accept amendments right up to the last minute to correct any mistakes that we might be about to make. We have all been there; we have sat in the chamber and seen some strange things happen.

The Convener: We could say that, as at present, the Presiding Officer must judge the validity of late amendments.

The next matter for consideration is the question of the flexibility to extend stage 3 debates by 30 minutes, 10 minutes or whatever. I gather that further research has shown that, on two occasions, the Presiding Officer has declined to accept extension motions under rule 9.8.5A. I think that Karen Gillon tried to get an extension during consideration of the Scottish Commissioner for Human Rights Bill, did she not? Murray Tosh would not grant one, if I remember rightly.

Alex Johnstone: When did she request that? Was it during consideration of amendments?

The Convener: Yes. There was a point at which Pauline McNeill was almost having a dialogue with the minister and wanted another go to get an assurance from him, but Murray Tosh clearly felt that we were overstaying our time and said that she could not.

I know that Bruce McFee has strong feelings on the issue.

Mr McFee: Yes, I do. There was a suggestion that if we increased the flexibility—from 30 minutes to one hour—we would simply try to use up the extra time. I know that the committee has taken a view on that, but I invite it to reconsider, now that we have the evidence, which is that the half-hour was used on four occasions and was not used on 19. The suggestion that we simply fill up the time when an extra half-hour is available does not hold water. That is why there is an argument to increase the flexibility, because it would be used in only a minority of cases. It would be needed on probably only one or two occasions, but it would allow a fuller debate. The last big occasion when debate was clearly curtailed was stage 3 of the Licensing (Scotland) Bill, but there have been others.

The 30-minute extension has worked to a large degree, but in exceptional circumstances 60 minutes should be available. My gut feeling was that the extension had not been used, so I asked for the additional information to check. It has been used in one in six cases, which is hardly overusing the provision.

The Convener: The stage 3 debate on the Scottish Commissioner for Human Rights Bill was not an extreme case, but there was definitely a period in which contributions were extremely

curtailed. The final debate was token too, as there was no time for serious debate.

I wonder if we could approach the problem in a different way and explore the possibility of the Parliamentary Bureau timetabling additional time, so that if a bill were discussed on Wednesday, the first item on Thursday morning would be additional time for stage 3, if required. If it were not required, the time could be used for a debate on something else—there could be an either/or agenda. That would mean that there would be time for discussion of the bill to spill over to a second day.

People are unwilling to use the rule that allows debates to spill over to a second day, because the timetable is already full and they would have to push something else out. Having a more flexible timetable that provides standby time as an alternative to the normal debate might be another way of providing the flexibility that we have discussed.

Kate Maclean (Dundee West) (Lab): I do not understand your suggestion. Are you suggesting that a debate is scheduled that, if necessary, can be cancelled so that stage 3 discussion can continue into a further meeting?

The Convener: The parliamentary agenda for the second day would be either/or—either, if required, to continue the stage 3 debate or, if the debate had finished the previous day as hoped, to have the ordinary debate.

Kate Maclean: I do not think that that is a good idea. We would be saying that the scheduled debate that could be bumped was not important, which would bring into question what we do in Parliament. If that debate interested members of the public, they might make arrangements to attend it or they might lobby MSPs about it. I do not see how the proposal would work or how such flexible business would lend itself to the transparency and accountability of the Parliament. People might want to travel from any place in Scotland to listen to the debate, which they could not do at short notice.

10:30

Mr McFee: I agree with Kate Maclean. We are in danger of overstating the problem and the frequency with which it arises. We should distinguish between the stage 3 debate and consideration of amendments at stage 3. I do not say that the time that is available for debate is not an issue. However, the paper that is before us states that over 16 months, four out of 23 bills required a half-hour extension. In all cases, that extension was accommodated on the same day and the debate did not need to be carried over to the next day.

Although carrying debates over to the next day would address one problem, it would create a second, larger problem, with the implications that Kate Maclean described. There might be sympathy for the general argument that the amount of time that is available to debate a bill is insufficient—the bureau would have to address that.

My specific concern relates to the Parliament's ability, very occasionally, to increase 30-minute extensions to an hour. We have before us evidence that 30-minute extensions have been used very infrequently. If we moved towards allowing hour-long extensions, even by stages and increments, the power would be used only rarely. However, in some of the situations that we have found ourselves in—for example, when debating the Licensing (Scotland) Bill—it would have been extremely useful. It would be a tool to be used in exceptional circumstances.

Richard Baker (North East Scotland) (Lab): We are all coming from the same agreed perspective. We want to ensure that enough time is allocated to debates to which most members want to contribute. I am worried about figures that deal only with the occasions on which debates have been extended. It would be interesting to know whether the figures take into account the number of extra members who wanted to speak. Because some issues are very controversial, I imagine that an extension of half an hour or an hour would not be enough.

I return to the committee's original position—that we should send a strong signal to the bureau to ensure that enough time is allocated for debates. If we decide that amendments should be lodged earlier, it might be easier for the bureau to recognise when extra time should be allocated. We are trying to address the problem at the wrong stage. The right amount of time must be allocated from the beginning. We should restate the view that we took in our original consultation report.

Kate Maclean: I agree with Richard Baker. We have discussed the issue already and have factual evidence that an extension has been used on four occasions. Richard is probably right to suggest that an extension of half an hour or an hour might not be enough—on some occasions, all members who wanted to speak would not have been able to do so even if the debate had been extended by two hours. We should retain the power to extend debates by half an hour and make the point strongly to the bureau that, when we need more time for debate at stage 3, it should factor that in, rather than depending on extensions that do not achieve what we want.

Mr McFee: I understand the argument: the same one was made when the power to extend debates by half an hour was introduced. How

convincing will our case to the bureau be when we present it with the fact that the provision was used on four out of 23 occasions—17 per cent of the time? The bureau might conclude that it has got things right 83 per cent of the time and that it is not doing badly. Given that the time available is made up of slots, it is difficult for us to judge whether the bureau has done the right thing. Because of the way in which time is divided up, it does not have much ability to award an extra half-hour or hour to a stage 3 debate, so we might be being slightly unfair on the bureau—that might be a rarely expressed opinion at the Procedures Committee. The bureau has a difficult job in trying to judge in advance how long a debate is going to take, so lodging amendments earlier should help.

If the bureau thought that a stage 3 debate was going to take an extra half an hour, how would it accommodate that at the moment?

The Convener: By reducing the time available for the final debate. In such cases, the parliamentary day has not finished later; the stage 3 debate has just been compressed.

Mr McFee: Which goes back to the problem that we are discussing.

The Convener: To be fair, the bureau scheduled an extra-long day for stage 3 of the Scottish Commissioner for Human Rights Bill, but it still did not allow enough time and the debate ended up being, in my view, a total farce, in which members did not properly discuss some of the controversial issues.

It is difficult, but we should keep up the pressure on the bureau to allow more time for stage 3 debates. As on previous occasions, the general view of the committee seems to be that we should emphasise to the bureau the importance of timetabling more than enough time—it should err on the generous side. That should be our main thrust.

Members indicated agreement.

The Convener: Next, we return to the question of how to deliver briefings on bills to members after stage 2. We have received a useful memo from SPICe. The story moved on to the suggestion that SPICe could produce such a briefing.

I understand that the proposals in the memo did not arise from our proposals. SPICe was already studying the issue, because of discussions among officials. The memo raises the question whether SPICe's briefing should cover the amendments that are lodged at stage 3. Personally, I think that it should not. What I envisaged—and what I understood the committee envisaged—was a factual summary of the state of play at the end of stage 2. Stage 3 amendments would be a separate issue. If the work involved was limited to

summarising stage 2, SPICe's task would not be quite so great, although it would still be considerable. If we agree to the recommendation, we will have to say that we think that members would like to see that information and that producing the briefing would be a good use of SPICe's time.

Mr McFee: The memo is interesting, and comes from a wholly different perspective. We are not comparing apples with apples. The table on page 2 shows that the time taken to produce post-stage 2 briefings has been estimated at 13 days, 22 days and 12 days for different bills. Our understanding was that the convener of a lead committee would be able to produce the briefing and report it to Parliament in a 10-minute slot, or whatever it happened to be. That perhaps indicates how far this issue has drifted, probably because of the exercise that was already going on in SPICe. We must make it clear that we are asking for something entirely different—something much briefer than the SPICe briefings—that will take a lot less time to report to Parliament. We are asking for something that the convener of a lead committee can wrap into a 10-minute speech or put on an A4 page, but the SPICe briefings take around 12 days to prepare. They are clearly not the same thing.

The Convener: Yes. You are saying that we do not envisage something as elaborate as SPICe envisages in its briefings.

Mr McFee: The two things come from different starting points. When we discussed the matter, we did not expect the convener of a lead committee to produce something like the SPICe briefings.

The Convener: No. Obviously, the convener would be assisted by the clerks to the committee. Can we agree that it would be helpful to get briefings from SPICe at the end of stage 2 and that there can be discussions between the committee clerks and SPICe as to what would be a reasonable degree of detail for the briefings to contain?

Mr McFee: Yes. That is fair. I draw your attention to the last sentence in paragraph 2 of the SPICe memo:

"The intention is for such briefings to be written progressively during Stage 2 with the aim of publishing no later than one week before the Stage 3 plenary debate."

Our original intention was for the convener of the lead committee to summarise matters for members so that they, too, would be able to submit amendments, but it is clear that what is suggested would not meet that timetable. The SPICe briefings serve a different purpose.

Kate Maclean: I am concerned that SPICe is being asked to produce something that, realistically, would create a huge additional

workload but would not be read by most members. It is fine for us to say that SPICe could produce all these briefings but, from experience, I know that members are so busy that they tend to read briefings only about bills that they are involved with or about matters in which they are particularly interested. Every member does not read every briefing that is produced by SPICe. Before we created that huge workload, we would have to know the resource implications and whether SPICe would need additional staff. We would be asking for a huge amount of extra work from SPICe, and the briefings might not be read.

If the original proposal was for the convener of the lead committee to speak about a bill for 10 minutes in the chamber, I would have thought that the convener and the committee clerks—perhaps with some assistance from SPICe—could produce something. It would not have to be something that was produced for all members.

The Convener: We had in mind a sort of guide for members that would outline the main issues that had come up at stage 2. It would say what amendments had been rejected or accepted and whether the minister had promised any responses at stage 3. It would focus on the main controversial issues. That would require some work, but one could exaggerate the amount of work that would be involved. SPICe keeps up to speed with the activities of the Parliament and its committees anyway.

Richard Baker: I agree with Kate Maclean. The SPICe briefings are very useful, but the briefings that have been produced have included information on the general principles of the bills and the stage 1 reports. What we are talking about is a more succinct statement. I do not think that all the work need land on SPICe's shoulders; it should involve the clerks to the lead committee as well, as they will have been instrumental in guiding the bill through stage 2. We are looking for a brief statement that would be produced not just by SPICe but by the clerks, too. Producing such a statement might not be as time consuming as is envisaged. Even if it required a time commitment, the main work of the Parliament is legislation, so priority should be given to it by all of us.

The Convener: Can we agree that Andrew Mylne will negotiate with SPICe on our behalf? He has a feel for what we are aiming for and SPICe has its own agenda, which is slightly different. I hope that we can end up with a briefing that is helpful to members but not too onerous on SPICe.

Mr McFee: Would not most members who were lodging amendments get some assistance with drafting them? The intent of the amendments would be known at that stage.

The Convener: I think that the report on stage 2 should be separate from the stage 3 amendments.

Mr McFee: I was thinking of stage 2 amendments. Some amendments come from outside bodies and are fully explained in written submissions from them. However, most amendments are submitted by members, who generally seek help in drafting them, so the intent behind the amendments would be known in advance. Some of the work behind the briefing might already have been done.

10:45

The Convener: I presume that members would explain their amendments during stage 2.

Mr McFee: Yes, although sometimes the effect would be different.

The Convener: The seed might fall on stony ground, but at least it would be cast and visible. We will explore the idea with the clerk.

Next is the paper on the implications of having an earlier deadline for lodging motions for debate. At our meeting two weeks ago, we discussed the need for a longer lead time for motions, which would be a good thing for a number of reasons.

However, topicality is an issue. If we are to sell the idea to Opposition and Executive parties, there must be the capacity for a party or the Executive to go to the Presiding Officer if a major issue arises, to ask whether they may change the subject of the debate. The Presiding Officer would have to be persuaded that the proposed new subject was a genuinely topical issue that the party could not have known about when it lodged the original motion. That should happen only rarely, but the opportunity to change the subject of the debate should exist. I hope that we can continue to pursue that proposition.

At our previous meeting, Alex Johnstone expressed concern about the proposal, given the timing of the Conservative group's meetings. The paper describes the many problems that would arise from having a later deadline. Perhaps the Conservative group could have informal discussions before the group meeting, to agree on a topic. Is there a way round the problem?

Alex Johnstone: Yes, indeed. We just need to get on with the job earlier.

The Convener: Do members agree that we should continue to pursue the proposition?

Kate Maclean: We should pursue it, but extending the lodging deadline to 6 pm would be unacceptable, because it would cause many problems, particularly for staff, who might have to stay until quite late at night to finalise the *Business Bulletin* for publication the following day. However,

an earlier deadline is acceptable and political parties will have to conduct their business to fit in with the parliamentary timetable, as they used to do. Parties have to take on board changes to the parliamentary timetable.

Mr McFee: I sound two notes of caution. As it says in paragraph 11 of the paper, giving the Presiding Officer discretion to allow motions to be altered or replaced after the lodging deadline could put the Presiding Officer in a difficult position. If the deadline for lodging motions were brought forward, there would be more scope for members to claim—rightly or wrongly—that a more topical issue had come up. I suspect that a more topical issue could be found every week, which members would want to take precedence. Whether the issue was significant would depend on the member's political persuasion. For that reason, I have some difficulty with the proposal.

Alex Johnstone's concern led to the suggestion that the deadline be extended until 6 pm, which was based on the premise that the cut-off point is currently 4.30 pm. However, no cut-off point is specified in the standing orders, so this would be the first time that we had specified a time by which motions and amendments had to be lodged. When I was a depute whip, many of the reminders that we received were in effect administrative and were reasonably trying to aid the smooth running of a process for which there were no rules.

Everybody is in favour of having more notification. The question is whether the period should be eight to nine days, which is what it would be for Thursday debates. Is that too long if we want to retain topicality? We are at the far end of what would be acceptable, if not beyond it.

Richard Baker: I agree, in that we do not have to set a deadline. Kate Maclean is right—if we set a deadline of 6 o'clock, that might impose too much on some members of staff. It would be right not to impose a deadline but to see what the chamber desk can do in liaison with the appropriate business managers to make the system work. There is already some flexibility with the half past 4 deadline, so we should leave it to the chamber desk to be as flexible as possible within that. We do not have to be too prescriptive.

The suggestion in paragraph 11 is not perfect, but if we are going to allow some topicality—if members feel that it is important to retain that—perhaps we must give the Presiding Officer such discretion. Given that members have expressed a desire for that, perhaps we should retain it, although I agree that the situation would not be ideal.

The Convener: One thing that I had hoped to do but failed to do was to find time for an analysis of how often motions are topical; I think that that

happens much more rarely than people think, although it can happen. Do we agree to progress with the policy suggestion?

Mr McFee: I would like more work to be done on the issues that paragraph 11 raises, because I think that it strays into measures that have unintended consequences. I do not have a perfect solution. On previous items, we have said that we should not issue the Presiding Officer with guidelines, yet the presumption in paragraph 11 is that we issue the Presiding Officer with guidelines.

The Convener: No; we would allow him to use his common sense, which is what he has always done.

Mr McFee: Paragraph 11 refers to providing

“appropriate parameters for the discretion given to the Presiding Officer”.

I read that as meaning some form of guide; if it does not mean some form of guide, we should take it out. I am in your hands, convener. To me, providing appropriate parameters suggests some form of guidelines, however loose.

Chris Ballance (South of Scotland) (Green): If the guideline is that discretion is to be used only in exceptional cases, that is the parameter being referred to, and that is a loose enough guideline for me.

Alex Johnstone: I suspect that giving the Presiding Officer complete flexibility exposes him to greater risk.

Mr McFee: The second part of the last sentence in paragraph 11 refers to

“events of national political significance”.

Kate Maclean: I think that we should agree to proceed without Bruce McFee’s caveat.

The Convener: The argument that there is an intense desire to have nothing but topical debate is absolute rubbish and has no substance. The Presiding Officer can judge whether a genuine reason exists for debating something topical. The party concerned can speak to the Presiding Officer and persuade him—or not—that a change is needed.

Alex Johnstone: I refer the convener to the practice of asking for emergency questions and how robustly such requests have been dealt with by Presiding Officers over the years.

The Convener: Okay. Can we progress with the proposal?

Members *indicated agreement.*

Standing Orders (20-day Rule)

10:53

The Convener: Agenda item 2 is the 20-day rule. At a previous meeting, we were given the impression that the Subordinate Legislation Committee was in one corner, the other committees were in the other corner and there was a sort of confrontation. However, the paper shows that that is not the case. A late paper has been circulated with a comment from the convener of the Communities Committee, which we can take into account.

The clerks’ note seems to narrow down the matter. In the light of some other committees’ concerns, the Subordinate Legislation Committee has said that having 22 days instead of 20 days would accommodate its timetable and would give it the two meetings that it wants to discuss an issue. The Subordinate Legislation Committee has said that it would be content if, instead of our inserting “normally” in rule 10.3.2, the limit were to be changed from 20 days to 22 days. The responses from the other committees suggest that committees could live with that. Is that a reasonable and simple solution to the problem?

Mr McFee: Under the heading “Additional Time”, the SLC states in its letter to the committee:

“we are seeking an additional 1-2 days, and only when exceptional circumstances arise.”

That would seem to be covered by the fifth bullet point under paragraph 9 of the clerks’ note, which suggests that we

“qualify the 20-day limit with ‘normally’ and add an upper limit of ... 22 ... days.”

Karen Gillon (Clydesdale) (Lab): I think that we should still say that the limit is normally 20 days, as we do not want things to drift. It would be appropriate to allow the Subordinate Legislation Committee 22 days in exceptional circumstances.

The Convener: I think that we can satisfy the different angles that members are coming from. Thank you.

Scottish Commission for Public Audit

10:56

The Convener: Agenda item 3 is the Scottish Commission for Public Audit. The recommendations are on page 4 of the paper, but the issue is gone into in some detail on the previous pages.

It is suggested that we give the SCPA as much status as possible. The proposal is that we should change chapter 16 of the standing orders to require that a substantially verbatim report of the commission's proceedings is published. Such reports would appear in the same form as the substantially verbatim reports of our committee meetings, but they would have a different cover because meetings of the SCPA are not technically parliamentary proceedings. The SCPA would then have a proper record to which anyone could have access. It is proposed that the minutes of SCPA meetings—the minutes are different from the substantially verbatim report—should also be published and that SCPA meetings should be broadcast in the same way that our meetings are.

I ask the clerk to explain the recommendation

“to amend Rule 16.5 so that Rule 16.2 (Journal) no longer applies to committees”.

Can we be reminded of what that is?

Andrew Mylne (Clerk): In the course of considering issues that are before the committee, we sometimes discover minor flaws in the rules that we probably would not have spotted otherwise. It appears that such a flaw exists in relation to the journal. At the moment, the rules appear to apply the requirements of the journal to committee proceedings, so we might want to take the opportunity to correct that. It seems fairly clear that the reference is just an oversight from a session 1 Procedures Committee inquiry.

Karen Gillon: Why should we remove the reference to the journal?

Andrew Mylne: The original purpose of the journal was to provide the authoritative record of chamber business. That is what the journal has always been intended for and that is what is provided in those parts of the journal that have been published. The journal was never intended to cover committee proceedings in the same way. Indeed, when the session 1 Procedures Committee changed the rules on the journal, it said clearly that the journal was not intended to cover committees. There was simply an oversight in respect of one rule, which on the face of it appears to apply the journal to committees. Although the issue is unrelated to the SCPA as

such, it is connected to chapter 16 so it would seem appropriate to make that correction at the same time.

Mr McFee: So the practical effect of making the correction would be zilch.

Andrew Mylne: Yes.

Alex Johnstone: So the proposal is simply to complete a task that was undertaken by the session 1 Procedures Committee.

Andrew Mylne: Yes.

Karen Gillon: Not for the first time.

11:00

The Convener: There seems to be a technical problem with including the full agendas of SCPA meetings in the *Business Bulletin* in the same way that other committee agendas are included—

Karen Gillon: Where are the archive records of committee business kept? They impact on legislation, so where are stage 2 proceedings archived if not with the journal?

Andrew Mylne: As far as bills are concerned, hard-copy volumes are produced that bring together all the official documents relating to the passage of a particular bill.

Karen Gillon: So committee proceedings are journaled.

Andrew Mylne: The separate document that is produced for each bill is not part of the journal. Other committee proceedings are not archived in the same way as the chamber proceedings are archived. The journal is the archive version of the minutes of proceedings, not of the *Official Report*. That is separate.

Two documents are produced for each meeting of a committee and the Parliament. The minutes are a concise account of the decisions taken and the *Official Report* is the transcript of what was said. The official report has its own process for producing an archive version over time and effectively that is what goes on the website.

The minutes of proceedings are probably more obscure to most people, but the minute is the official record of decisions taken, division results and so forth. That is archived in the form of the journal, and it covers meetings of the Parliament.

Mr McFee: In other words, a stage 2 amendment would not be journaled?

Andrew Mylne: Yes.

Karen Gillon: I am not convinced that all this is as simple and straightforward as it seems, but never mind. It sounds like one of those things that just appear in a paper, but we have never really

had time to think about it or to consider its implications.

Andrew Mylne: If it would help, I would be happy to bring further information to a future meeting to explain the context and background.

Karen Gillon: It seems bizarre that we would not keep a journal of the minutes of proceedings of committee meetings at which decisions were made.

Mr McFee: Especially stage 2 decisions.

Karen Gillon: Yes, particularly in relation to decisions that are taken at stage 2, but I am thinking also about subordinate legislation and other policy issues of the Parliament. Where do we keep a record of the committees' decisions on subordinate legislation?

Andrew Mylne: Committees are required to produce minutes of proceedings; as you know, the minutes are circulated with the committee papers. They are produced at the time as individual documents. All that the journal adds is that all the documents are collected together in a single place, and there is a further process for checking in the longer term. We do not do that for committee business in the same way that we do for the chamber.

Karen Gillon: But the chamber minutes are archived.

Mr McFee: It is a written archive.

Karen Gillon: Yes. I am trying to work out why there is no written archive of the committee minutes. Unless someone is prepared to go through the Scottish Parliament information centre and look through lots of stuff, it is very difficult to find the *Official Report* from the first session of Parliament, for example. I tried to use the search engine to find FMQs but it did not seem to work very well. When I phoned SPICe, I was told that they had to look at the back archive to find what I was looking for.

I am trying to work out why we do not archive committee minutes. If decisions are made in committee, is a record of that kept somewhere? Is it required to be kept and, if so, for how long?

Andrew Mylne: Those things are all kept. The minutes of proceedings for each committee are produced after each meeting. They are official committee documents, and they are archived in the general sense that the staff are required to ensure that the official documents for each committee for which they are responsible are archived. The documents are sent to the National Archives of Scotland in due course.

On accessibility for the public and members, the website includes the minutes, the *Official Report* and the circulated papers for all committee

meetings that have been held in public. That information is available, but it is held in separate parts for each meeting rather than gathered into single volumes. That is the difference.

The Convener: Let us move to the final point on page 4 of the paper. The SCPA would like its agendas to appear in full in the *Business Bulletin*, but there seems to be a technical problem with achieving that rapidly. That could, perhaps, be done in due course, but more rapidly there could be a notice of one or two lines on the forthcoming meetings of the SCPA and a link to its website so that people could find the agenda there. It might be possible to produce a notice of the SCPA's forthcoming meetings rapidly and to move, in due course, to including its agendas in the *Business Bulletin*. That is what the SCPA would like, although that may take some time.

Karen Gillon: Why would it take such a long time to change a template on a computer for the production of the *Business Bulletin*? If we proposed a rule change, why—in this electronic age—would it take so long to change the template?

Andrew Mylne: I am advised that the template that is used to construct the different sections of the bulletin and pull them together is such that the accommodation of a new agenda would require the creation of a new section. That would require the people in the Parliament's business information technology office to undertake a reasonably significant piece of work, which might take some time given how busy they are with other work. That could be done and, if the will is there, it will be done; however, it might take a while.

Mr McFee: You go and press a few buttons, Karen.

Karen Gillon: It is just bizarre.

Chris Ballance: I think that the will should be there. If we are going to include notice of a forthcoming SPCA meeting, along with notice of all the other meetings, it is only fair to include its agenda so that people can see what the SCPA is doing and what the meeting is about.

Mr McFee: Some reprogramming must take place. It is a question of how that is prioritised in the workload of the business information technology office; I do not want to get into how much work it is doing elsewhere.

On a point of clarification, are we going to remove the reference to committees in rule 16.5? The matter was left in mid-air. As I understand it, the session 1 Procedures Committee looked into the matter and made that recommendation but did not change the rule. Is that a fair assessment of what happened? When members considered the rule changes, did they consider that point? If it was

not in the rule changes, members who did not read the recommendation probably did not consider it. My concern is that we would be changing something on a belief—probably correct—that the first Procedures Committee said that the rule should be changed, but that members have not had a voice in that, as the matter has not been presented to them. That follows on from the potential implication that Karen Gillon noted.

The Convener: I have no recollection of the details of the issue. If there is concern about the recommendation, Andrew Mylne can produce a fuller brief on that particular issue. It is a wider issue concerning not just the SPCA.

Karen Gillon: Can we find out what the timescale is for restructuring the *Business Bulletin*? The deadline will be when the committee's report has been published and the changes have been debated and agreed in the Parliament—I imagine that the lead-in time will be several weeks. I am not convinced that it will take so much work. We need to decide what we are going to do. If we say that we want the SPCA's agendas to be published, the work will just have to be done. Can we find out the timescale for that? If it is years, it would hardly be worth it.

Andrew Mylne: We will find out.

Chris Ballance: As Karen Gillon says, there will probably be a time lag of two months between the publication of our report and its discussion and agreement in the chamber and the next SCPA meeting, the agenda for which will be required to appear in the *Business Bulletin*.

The Convener: We will get more information on the two points that Bruce McFee and Karen Gillon have raised.

Items in Private

11:10

The Convener: Under agenda item 4, we must decide whether the committee's draft reports on the 20-day rule and the SCPA will be considered in private at future meetings, as is normal practice.

Alex Johnstone: Yes.

Mr McFee: Is that the normal practice?

The Convener: It seems to be.

Members indicated agreement.

The Convener: Before we continue in private, I refer to an issue that has been raised, which we will have to address at a future meeting. We have received correspondence from Rosemary Byrne and the Health Committee about the amount of time that is available to consider members' bills and the pressure on committees being too great for them to consider such bills adequately. I think that there is an issue to consider. Chris Ballance has also circulated a view. I think that we should consider the matter properly, with an issues paper, at our next meeting.

Karen Gillon: I ask that consideration be given also to the deadline for the submission of members' bills. This is the first year in which a deadline has been set. I am aware of that because I, too, was going to submit a member's bill. It is becoming apparent that submitting a member's bill at the end of September raises substantial concerns about the ability of committees to undertake adequate consideration of the bill if it is a serious and lengthy piece of draft legislation. If the committee needs to put the bill out to public consultation for 12 weeks, it will be Christmas before it can even consider it.

I wonder whether moving the deadline to the start of June would allow committees to consult or get written evidence over the summer and begin their stage 1 consideration in September and October. I think that we need to address the issue in our legacy paper for other committees. If the Executive is trying to get its legislation passed and there are five or six members' bills to consider, that adds a lot to committees' workloads.

Kate Maclean: The timescale is a bit longer than Karen Gillon says. After a member's bill has been lodged, it must be referred to Parliament to decide which committee will be the lead committee before it can be referred to that committee. By the time that the Health Committee came to consider the Treatment of Drug Users (Scotland) Bill, if we had issued our usual 12-week call for evidence—we do that for all bills—that would have taken us up to 18 January. The process would have taken

even longer than Karen Gillon says. A member's bill is not sent to the lead committee on the date on which it is lodged; sometimes, the first consideration of the bill by that committee will not take place until three or four weeks after it has been lodged.

The Convener: There are some important issues that we must consider in balancing the requirement for the committees to have sufficient time to scrutinise Government bills or members' bills; the right of members to lodge bills; and the right of the Government to get its bills through the system. There is also the issue of whether the Government is trying to get too many bills through the system. All those issues are bound up together. We will put the matter on the agenda for our next meeting, if that is agreed.

Members *indicated agreement.*

The Convener: We will now consider in private the committee's draft reports on consolidation bills and our review of parliamentary time.

11:14

Meeting continued in private until 11:37.

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