

# **PROCEDURES COMMITTEE**

Tuesday 12 December 2006

Session 2

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## PROCEDURES COMMITTEE 19<sup>th</sup> 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 12 December 2006*

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

### Parliamentary Time

**The Convener (Donald Gorrie):** We will make a start.

Item 1 is the review of parliamentary time, which we discussed at our previous meeting. Members have in front of them a note by the clerk and the correspondence that started off the discussion: the letter from the Conveners Group, our letter to the Minister for Parliamentary Business and her reply.

There are two issues: first, whether we should specifically state in the rules that there should be more flexibility; and, secondly, whether there should be a separate list of debates that would be held outwith the 12 half sitting days, including budget debates, the Procedures Committee's standing order debates and official debates from the Standards and Public Appointments Committee.

The clerk's note suggests that flexibility already exists and that to try to specify that there should be more flexibility might be harmful rather than helpful. Personally, I would accept the clerk's advice.

In my view, the suggestion that certain debates be held outwith the 12 half sitting days is worth pursuing. The minister says that, at the moment, she makes proper arrangements for such debates, but we cannot run the Parliament on the assumption of the good will of people who make key decisions. The rules should set out what we want. I am in favour of pursuing the idea of having a separate list of official committee debates that would be taken outwith the 12 half sitting days, but I do not know what colleagues think of that idea or of the first suggestion.

**Richard Baker (North East Scotland) (Lab):** I am certainly content with the suggestion in the clerk's note that flexibility currently exists in standing orders.

I take your point about the ability to have debates outwith the 12 half sitting days. The minister has said that she is providing for that already, but you are right that we cannot always rely on good will.

There is a difficulty in saying that we want to have more committee debates towards the end of the session, because at that point there is already

pressure on parliamentary time from legislation. That practical difficulty would arise if we made a formal rule change to facilitate such debates being held at the end of the session.

The other issue is that there has been discussion in Parliament—even during a Procedures Committee debate—on the quality of committee debates. Some committee debates are seen as very useful, particularly those on post-legislative scrutiny. For example, the Health Committee's debate on free personal care was very useful. However, we know that some other committee debates just involve committee members saying to one another, "Didn't we have a lovely time conducting the inquiry?" It would be worth while for everybody, including the Conveners Group, to consider that wider issue.

**Mr Bruce McFee (West of Scotland) (SNP):** There are two, if not three, issues. First, the original approach from the Conveners Group was about flexibility over the parliamentary session. It is clear that some flexibility currently exists, but it is also clear that it would be impractical for the 12 half sitting days to be stored up and carried forward from one year to another, which is effectively what was requested. Richard Baker is right to say that they would all end up being taken at the end of the parliamentary session. We should do nothing on that issue.

Secondly, it is suggested that there could be a rule change to provide that certain committee debates would be held outwith the allocation of 12 half sitting days. I am not convinced that there is a case for that, although there is an argument that we should make space for such debates. However, whether we should say that only the work of certain committees should be taken outwith the 12 half-day allocation is a different matter. There is an issue about the Parliament's post-legislative scrutiny—it has not done a heck of a lot of post-legislative scrutiny to date. As the Parliament matures, such scrutiny should become a regular feature of its work.

If we go down the road of allocating time outwith the 12 half sitting days, the question is whether we would approach the matter on the basis of what is in the paper that is before us, which considers the work of certain committees, such as the Finance Committee. Incidentally, we have been told that the debates on the Interests of Members of the Scottish Parliament Bill were taken outside the 12 half sitting days allocation. I would be more inclined to consider the issue of post-legislative scrutiny. If the Parliament engages in post-legislative scrutiny properly, I suspect that 12 half days a year will not be enough.

**The Convener:** In our last discussion of post-legislative scrutiny, we all thought that it was necessary and a good thing to do, but we did not

wish to be too prescriptive to committees. Much of the thrust of our discussion has been about strengthening committees, and forcing on them things that they do not want to do does not go well with that. However, such scrutiny is important.

**Mr McFee:** With respect, I did not suggest that. I would not be prescriptive or dictate other committees' agendas. It is widely accepted that, as the Parliament matures, it will engage in post-legislative scrutiny, unless it is totally reckless. That should be a growing part of committees' work in the coming years. Whether this is the time to make space for reporting on that is another matter. In the long term, such scrutiny will probably be a more relevant reason for expanding the number of half days than are some of the other reasons that we have heard. Whether committee members want to take that on board is a matter for them.

**The Convener:** If we put the allocation for Procedures Committee debates, Finance Committee debates and so on outwith the 12 half days, that would provide more time for post-legislative scrutiny. That would help indirectly.

**Mr McFee:** It would.

**Karen Gillon (Clydesdale) (Lab):** It is noticeable that in some years, all the half days were not taken up, even if we allow for budget debates, Procedures Committee debates on standing orders and Standards and Public Appointments Committee debates. In 2003-04, 2004-05 and 2005-06, fewer half days were taken up than were available. I am not convinced that in 2004-05 and 2005-06, committees were not undertaking inquiries that could have been debated in the chamber and that there were no issues that committees wanted to be debated in the chamber.

I am therefore interested in why all the half days were not taken up. I understand that there are issues relating to the time sensitivity of reports and when the half days are available, but if the demand for committee time in the chamber is high, it is a bit strange that at no point in this parliamentary session have the full 12 half days been taken up. If the budget, Standards and Public Appointments Committee and Procedures Committee debates are removed, probably only half the number of half days have been used. Bizarrely, we might be making a case for the number of half days to be reduced. I am cautious about doing anything that would have an unintended consequence.

**The Convener:** The rules do not say that 12 half days must be allocated—the number can be up to 12 half days. If the time for debates such as Finance Committee and Procedures Committee debates were set aside differently, that would provide more flexibility. If what Karen Gillon says

is the case and the demand does not exist, only five or six half days might be used. However, if the demand is greater—it might include demand for debates about post-legislative scrutiny—all 12 half days could be taken up for such work.

**Alex Johnstone (North East Scotland) (Con):** Having read the paper and listened to the discussion, I am inclined to agree that there are grounds for accepting the recommendation that the system has enough flexibility. I accept Karen Gillon's point that, for the most part, the available time has not been taken up. The one set of circumstances that has not materialised, but which would concern me if it did, is when the time has been taken up and a debate on a Procedures Committee or a Standards and Public Appointments Committee matter, for instance, is necessary, but time is not allocated for that. It may be necessary to examine that part of the procedure to ensure that time can be allocated outside the 12 half days, if necessary for procedural or structural parliamentary reasons.

10:30

**Mr McFee:** Karen Gillon makes a good point. It is one reason why I said that the case has not been made. However, the question is whether we wish to create some headroom by allowing some committee debates to be scheduled outwith the 12 half sitting days. In Karen Gillon's scenario, if Procedures Committee, Standards and Public Appointments Committee and Finance Committee debates were taken outwith the committees' 12 half days but there was not enough demand to fill those slots, there would be no effect on the number of half days that were used in the chamber. The effect on the timetable would be zero. There would be an effect on the timetable only in the situation that Alex Johnstone mentioned—that is, if committees were competing for the remaining slots, although that assumes that an extra slot would not be found, and the suggestion is that it would be.

The question is whether we want to take the opportunity to create some headroom for committees. We might want to look forward and anticipate what might happen rather than waiting until something happens and reacting to it. In future years, there might be more post-legislative scrutiny and less legislation than there has been in the first two sessions. It is a judgment call.

**The Convener:** We have had a request from the Conveners Group and we should try to accommodate some of its views if we can.

**Richard Baker:** I am still happy with the advice that flexibility already exists.

On the current take-up of committee debates, the question is whether we need to create extra

time for post-legislative scrutiny or whether such work would be more useful than some of the debates that we have in the committee slots. I think that the latter is probably where I am coming from just now. It could be argued that we should create an incentive for committees to carry out post-legislative scrutiny by allowing more time for that, but that is a general issue. It does not relate only to the matter that we are discussing.

I would like committees and the Parliament to give more priority to post-legislative scrutiny. If that happens and we find that it squeezes out other debates, there would be a good argument for creating more time, but I am not sure that it would squeeze out important matters.

**Karen Gillon:** I seek guidance from the clerk. Is it possible to draft a rule that would allow for the situation that Alex Johnstone mentioned? Could we have a flexible rule that allowed Procedures Committee, Standards and Public Appointments Committee and Finance Committee debates to be held if there was heavy demand on the committees' 12 half sitting days but which did not require them to be held outside those days if there was no such demand? That would also give committee conveners some control over when debates were scheduled. It is a question of balance. Is it possible to draft such a rule?

**Andrew Mylne (Clerk):** If the committee decides to act on the Conveners Group's recommendation, we suggest that that would be done simply by imposing in the rules a free-standing requirement for the Parliamentary Bureau to make time in the business programme for the specified categories of committee debate. That would sit alongside the existing rule that requires priority to be given to committee business on 12 half sitting days.

As members have noted, the existing rule does not require all 12 half sitting days to be used. Any number of half sitting days up to that amount may be used, depending on the demand from committees. If there was a free-standing rule on the specified categories of debate, and if demand remained the same, some committee debates would simply be moved from one category to another. In other words, they would no longer be classified as counting towards the 12 half days, but the total number of committee debates would be unaffected. As Bruce McFee said, that would allow headroom to accommodate extra demand.

**Karen Gillon:** That is not the rule change that I was looking for. I was asking about Alex Johnstone's point, which was about having a rule that would allow for the situation, should it arise, in which the 12 half sitting days had already been used but there was a need for a further debate.

A Procedures Committee debate would be treated separately only if there was demand—it would not be treated separately in every case. In other words, if towards the end of a session the Procedures Committee had just undertaken a detailed inquiry, such as this inquiry into parliamentary time, and the 12 half sitting days had gone, with no slot left, could the rules be adapted to say that the debate had to be taken?

**Andrew Mylne:** If there was the free-standing rule that I have outlined, the 12 half sitting days for general committee debates had been taken and a Procedures Committee debate was required, the bureau would be obliged to set aside additional time for the debate if—

**Karen Gillon:** But my understanding of the rule is that the Conveners Group would not allocate a Procedures Committee debate to one of the 12 half sitting days.

**Andrew Mylne:** That is right. The Procedures Committee would not enter the Conveners Group bidding system for time. We would go direct to the bureau and say, "We have a report that falls under this rule. The obligation is on you to make time available for it." If there was an increase in demand from other committees for debating time and the 12 half sitting days had been taken up, the bureau would have to find additional time for a Procedures Committee debate. However, if there was no increase in demand from other committees, the Procedures Committee debate would still not be classified as one of the 12 half sitting day debates.

The proposal will not affect the overall amount of chamber time that is required; it will simply result in one committee half day debate coming under the new rule and one fewer committee half sitting day debate coming under the existing rule. The total would be the same. The proposal would have an impact only if there was an increase in demand from other committees for debating time. The proposed rule change would give the flexibility that Karen Gillon seeks.

**The Convener:** I think that we should agree to the proposed changes to the standing orders to treat the Procedures Committee, Standards and Public Appointments Committee and Finance Committee business separately from the 12 half sitting days. Paragraph 10 of the clerk's paper also makes the point that the rules on budget debates are not entirely clear. Is that correct?

**Andrew Mylne:** Yes. One of the existing rules provides to some extent for a free-standing requirement on the bureau to provide for certain Finance Committee debates on the budget process. In its letter, the Conveners Group asked for separate provision to be made for certain committee debates. That separate provision

already exists for some Finance Committee debates.

**The Convener:** But not all.

**Andrew Mylne:** Yes.

**Karen Gillon:** We do not seem to have draft rule changes to look at.

**Andrew Mylne:** They are in the papers for a later item, which is to be considered in private session. They are not for discussion under the current agenda item.

**Karen Gillon:** Right.

**Mr McFee:** What we are looking at is the principle of the matter.

**The Convener:** Yes.

I propose that we accept the principle that the change be made for Procedures Committee, Finance Committee and Standards and Public Appointments Committee debates. Those debates need guaranteed time outwith the 12 half sitting days allocation.

**Mr McFee:** I tend to agree with the convener. The change would create the flexibility that Karen Gillon seeks. There is no requirement for committees to use the time; the 12 half sitting days are simply made available for committee debates. The effect of doing what is proposed would be zero until we go over and above the current provision, and we have never got close to that situation. However, if things go the way that members think they will, we will need flexibility. The proposed change will give that flexibility.

**Richard Baker:** My doubt about the proposal is that there is no proof of demand. Bruce McFee is right to say that we have to plan ahead, but I am still to be persuaded. Currently, there is no pressure on the allocation of time.

**Mr McFee:** The beauty of the proposal is that committees do not need to use the allocation. We are not saying, "You must use these days." If a committee does not use its allocation, I understand that the slot is reallocated. The important point for me is that the proposal is not prescriptive in any way. If that was not the case, I would agree entirely with Richard Baker.

**The Convener:** If we were to pursue the proposal of having a separate list of debates that come outwith the 12 half sitting days, it would make no difference whatever if the 12 half sitting days were not fully used. However, if there was demand for those half sitting days and they were fully used, it would be useful to have a guarantee that our debates, and the others that we have specified, would take place outwith the 12 half sitting day allocation. It would seem that there is no downside to the proposal and that there could

be an upside. When committees get properly organised, the proposal would allow more time for post-legislative scrutiny, debates on reports and so on. Are we agreed on the principle that is set out in the paper?

**Members indicated agreement.**



## Equalities Reviews

10:40

**The Convener:** We move on to our consideration of mainstreaming equalities. Again, we had a short discussion on the subject at our previous meeting and members have before them a paper from the clerk.

Three options are before us: to leave the whole subject to our successor committee in the next session of the Parliament; to deal with the whole thing and make a report to the Parliament; or to make progress in examining the subject and leave notes for our successor committee, which would mean that it would not have to start from scratch.

If we wish to press on with some work, we will first have to meet the convener of the Equal Opportunities Committee to find out exactly what that committee is looking for, as that would be helpful. Our first decision is whether to leave the whole thing to our successor committee or to try to make some progress.

**Mr McFee:** From the clerk's paper, I understand that the intention is for equalities reviews to be produced at the end of each four-year session. There is no recommendation for such reviews to be produced before the end of the current session. Thankfully, I will not be a member of the Parliament in the next session, but given the timescale involved, I suggest that it would be highly unsatisfactory to commence the work only for our successor committee to have to revisit it immediately after the elections in May. Our successor committee should look at the issue in its entirety.

**Alex Johnstone:** I want to make a point about the comments that Bruce McFee has just made. My experience of committee inquiry reports is that members join and leave committees during the progress of an inquiry. Often, different views are expressed at different stages of a committee's inquiry. It would be a bit extreme for a committee to do some work on an issue such as equalities reviews and then to expect a successor committee to give any credence to that work.

**Karen Gillon:** I have absolutely no problem with the principle of the proposal, which is eminently sensible. From my experience of the way in which committees act on parts of reports that they inherit from their predecessor committees, I think that it would be more sensible to leave the matter to our successor committee. The subject should form part of our legacy paper; the clerk's paper could be used to inform the way in which our successor committee looks at the detail of implementation. The right thing to do is for that committee and the Equal Opportunities Committee's successor

committee to work together in the new session of the Parliament. In our legacy paper, we should say that we view positively the proposed equalities reviews, but believe that the detail is for the Parliament to decide in the next session.

**Alex Johnstone:** Given the differing attitudes to the ways in which equalities are implemented and the political background to such discussions, it may be better for the subject to be discussed early on in a new parliamentary session rather than late on in an old one.

**The Convener:** One argument is that it would be helpful for committees to know that they had to produce equalities reviews. That would help them to get going right from the start. I am not pushing that argument, however.

**Mr McFee:** I understand that. The fact that it is on our agenda will flag it up for committees. I have always been concerned about one aspect of equalities. Like many other areas, it can be about taking a tick-box approach. People say, "We have done this to that standard. We can leave that audit trail." Frankly, I hope that any future committee that looks at the issue will consider how to mainstream equalities; we must avoid the tick-box approach.

The subject should also be looked at afresh because the discussion and fact finding should be conducted a wee bit more deeply; it should be about more than just filling in a report every four years. The Equal Opportunities Committee says that the reviews will not be particularly onerous—or something to that effect. The important issue is mainstreaming and how equalities are built into good practice.

10:45

**Karen Gillon:** I take on board the convener's point. We could make it very clear in a legacy paper—or however we want to do this—that some sort of audit should be done at the end of each session of the Parliament, whether in terms of mainstreaming or other issues. I am with Bruce McFee on the matter: we should be looking to see how we mainstream equalities, rather than how we separate them out. We have to be certain that equalities are part of all committees' agendas. Committees should feel that expectation on them from day one; they should not be doing the work just because they have to produce a review at the end of the session.

Equal opportunities is one of the founding principles of the Parliament. In all that committees do, they should be looking to mainstream equalities and ensuring that their work forms part of that agenda. I am not too concerned about the reviews coming as a surprise to committees at the end of a four-year session.

**The Convener:** Right. The view seems to be that we include the matter in our legacy paper and that we do not get involved in it. Is that agreed?

10:47

*Meeting continued in private until 13:02.*

**Members** *indicated agreement.*

**The Convener:** Before we move into private session, and as we have an enthusiastic gentleman from the press in the gallery, I will say something about our report on the use of parliamentary time, which is our main bit of work at the moment. Depending on how we progress in private session, we hope to publish the report either late this week or early next week. We hope to arouse your enthusiasm at that point.

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