

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

Tuesday 18 November 2008

Session 3

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2008.

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

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

CONTENTS

Tuesday 18 November 2008

Col.

INTERESTS	281
CONVENER	282
DECISION ON TAKING BUSINESS IN PRIVATE.....	282
GUIDANCE ON PRIVATE BILLS	283

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

19th Meeting 2008, Session 3

CONVENER

*Gil Paterson (West of Scotland) (SNP)

DEPUTY CONVENER

*Marilyn Livingstone (Kirkcaldy) (Lab)

COMMITTEE MEMBERS

*Robert Brown (Glasgow) (LD)

*Aileen Campbell (South of Scotland) (SNP)

*Nanette Milne (North East Scotland) (Con):

*Peter Peacock (Highlands and Islands) (Lab)

*Dave Thompson (Highlands and Islands) (SNP)

COMMITTEE SUBSTITUTES

Alasdair Morgan (South of Scotland) (SNP)

Mary Mulligan (Linlithgow) (Lab)

Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

Elizabeth Smith (Mid Scotland and Fife) (Con)

*attended

THE FOLLOWING GAVE EVIDENCE:

David Cullum (Scottish Parliament Directorate of Clerking and Reporting)

CLERK TO THE COMMITTEE

Gillian Baxendine

SENIOR ASSISTANT CLERKS

Mary Dinsdale

Jane Williams

ASSISTANT CLERK

Catherine Fergusson

LOCATION

Committee Room 5

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Tuesday 18 November 2008

[THE DEPUTY CONVENER *opened the meeting at 14:15*]

Interests

The Deputy Convener (Marilyn Livingstone): Good afternoon, everyone, and welcome to the 19th meeting of the Standards, Procedures and Public Appointments Committee in 2008. Before we start, I ask members to turn off any mobile phones and pagers, as they interfere with the sound system.

No apologies have been received.

In accordance with section 3 of the members' code of conduct, I invite new members to declare any interests that are relevant to the committee's remit.

Aileen Campbell (South of Scotland) (SNP): I have nothing to declare. I refer members to my entry in the register of members' interests. I have, however, been asked by Keith Brown to pass on his thanks to the clerks of the committee for the past year's work.

Nanette Milne (North East Scotland) (Con): I have no registrable interests relating to the work of the committee. I refer members to my entry in the register of members' interests.

Gil Paterson (West of Scotland) (SNP): I refer the committee to my entry in the register of members' interests.

Convener

14:16

The Deputy Convener: The Parliament has agreed that only members of the Scottish National Party are eligible for nomination as convener of the committee. That being the case, I seek nominations for the position of convener.

Dave Thompson (Highlands and Islands) (SNP): I nominate Gil Paterson.

The Deputy Convener: I take it that that meets with the approval of committee members. One nomination has been received. I ask the committee to agree that Gil Paterson be chosen as convener of the Standards, Procedures and Public Appointments Committee.

Gil Paterson was chosen as convener.

The Deputy Convener: That was the shortest time for which I have convened a committee meeting, but it was very enjoyable. I now hand over to Gil Paterson.

The Convener (Gil Paterson): Thank you, Marilyn. That was much appreciated.

I put on record my thanks to the previous members of the committee. Almost the whole committee has changed, and it is right that we register our thanks for the work that the previous members carried out.

Decision on Taking Business in Private

14:17

The Convener: Agenda item 3 is to seek the committee's approval to take item 5 in private. Item 5 is the committee's work programme, which is usually taken in private as it involves discussing the relative merits of the different aspects of the committee's work. Does the committee agree to take item 5 in private?

Members indicated agreement.

Guidance on Private Bills

14:17

The Convener: Agenda item 4 is revised guidance on private bills. The guidance has been updated to reflect changes resulting from the private bill committee assessors system and the Transport and Works (Scotland) Act 2007. The paragraphs that have been changed are detailed in the covering note that has been prepared by the clerk to accompany the guidance. David Cullum and Carol Mitchell from the private bills unit are present to answer members' questions. I invite David Cullum to make an opening statement.

David Cullum (Scottish Parliament Directorate of Clerking and Reporting): Thank you for your time today and for the committee's consideration of the latest revisions to private bill guidance. This is the first major revision that we have made in the past three or four years. When minor updates are made, we tend just to put them on the website, but every so often there are major revisions and we bring them to the committee.

Although private bills are rarer in this session than in the previous session, it is likely that at least one small measure will be introduced next year. The guidance forms an important part of the private bills procedure, and gives potential promoters and objectors the detail that underpins the standing orders. It is also important and helpful for the guidance to receive committee approval, as that gives the guidance authority and helps immensely the process of considering bills.

The principal changes to the guidance are covered in the note by the clerk. Those changes have been made following our experience of processing the large private bills that were lodged in the previous session, which principally covered railways and trams. In summary, the principal changes reflect the large amount of work that takes place prior to the introduction of private bills, the inclusion in the bills that I have mentioned of codes of construction practice and noise and vibration policies, and the proceedings before the assessor.

I would be pleased to provide the committee with further information on the guidance, the changes or the procedures in general.

The Convener: Thank you. Do members have any comments or points that they want to raise?

Robert Brown (Glasgow) (LD): I have one general point and one more specific point. It seems that a number of bits and pieces of minor wording have not come out quite right. For example, something has gone wrong in paragraph 2.19 of the revised guidance, which states:

"the Memorandum should be expressed in as clearly and as readable a way as possible."

It should say, "in as clear and readable a way as possible." Paragraph 2.20 should say, "an outline of what measures it will put in place". A textual reading of the paragraph is necessary to ensure that it is accurate.

I also wanted to ask about the provision of notification to heritable proprietors with an interest in changes that might be made as a result of a private bill, but I cannot find the relevant part of the guidance.

The Convener: Do members have any other points while Robert Brown ploughs through the guidance?

Peter Peacock (Highlands and Islands) (Lab): I have a procedural question. Is it correct that the guidance will be issued once the committee has approved it, and that it will not go to members for further consultation?

The Convener: Yes, that is correct.

Marilyn Livingstone (Kirkcaldy) (Lab): As you are aware, I was on one of the Edinburgh tramline private bill committees. The revised guidance is much needed and is an excellent piece of work that will provide clarification. A lot of work has gone into it.

Nanette Milne: I concur. I heard anecdotally about some of the issues that cropped up with the tramlines bills. The revised guidance seems to be quite clear. I do not have in-depth knowledge of the subject, but I was quite impressed with the new guidance. That is my only comment.

David Cullum: Thank you for those comments.

As regards Robert Brown's points, perhaps I can help. If the committee is happy, we will give the guidance a final proofread and pick up the infelicities. If Robert Brown contacts us, we will consider his point on heritable proprietors and, I hope, answer it. If a change is required that is not significant, perhaps we can just make it through correspondence.

Robert Brown: I can clarify what I was referring to, as I have now read the relevant part of the guidance. I have two points, the first of which is about how people are notified and whether the form in which that is done complies with arrangements for dealing with other heritable property issues. I want to check that the notification arrangements for private bills appear in a standard form.

My second point relates to paragraph 3.23, which is about property that may change ownership during the private bill process. It is a question of purchasers knowing about a proposed bill. How do they find out about such matters? Do

they emerge when planning inquiries are made by solicitors in the course of house sales or are people notified in some other way? What if someone buys a house and has no knowledge that the property has been the subject of notification? Does notification information appear on a public record that is normally checked by solicitors who do conveyancing? In other words, will that process show up that there is an issue that might affect the future of the property?

David Cullum: Not in the way that you describe. There is a public notification procedure as well as the notification procedure for individuals. In the past, solicitors who have handled a change of ownership have known that a private bill was in the system, and objectors' new interests have been noted and brought to our attention. However, there is no specific system for putting that information in the registers at General Register house or anywhere else.

Robert Brown: I do not know whether that is an issue; it just crossed my mind that if a planning proposal is lurking about, one can check it through the normal form of local authority check, but if information about private bill notification does not appear on any public record, such checks might not normally be carried out, even though the potential exists for the future of a property to be affected.

David Cullum: I suppose that the availability of private bills on the Parliament's website is akin to the availability of public records on planning applications through council websites, so it is a question of knowing to look—that is your point. It is not possible to ensure that prospective owners find out about private bill proposals without putting such information in the title deeds, which is not required. Perhaps we can give the matter further consideration. I need to chat to my legal advisers about it; the same is true of your other point.

Robert Brown: Okay. Thank you.

The Convener: I thank Carol Mitchell and David Cullum for their attendance and for helping us.

Are members content to approve the revised guidance and for it to be published?

Members *indicated agreement.*

The Convener: That ends the public session. Any members of the press or public should leave and public broadcasting should cease.

14:26

Meeting continued in private until 15:59.

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

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

The deadline for corrections to this edition is:

Monday 1 December 2008

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

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

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at Document Supply.

Published in Edinburgh by RR Donnelley and available from:

Blackwell's Bookshop

**53 South Bridge
Edinburgh EH1 1YS
0131 622 8222**

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

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

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

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

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

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

Scottish Parliament

RNID Typetalk calls welcome on
18001 0131 348 5000
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers