



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

Tuesday 27 September 2011

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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
4th Meeting 2011, Session 4

CONVENER

*Dave Thompson (Skye, Lochaber and Badenoch) (SNP)

DEPUTY CONVENER

*Helen Eadie (Cowdenbeath) (Lab)

COMMITTEE MEMBERS

*Margaret Burgess (Cunninghame South) (SNP)

*Bob Doris (Glasgow) (SNP)

*Margaret McDougall (West Scotland) (Lab)

Nanette Milne (North East Scotland) (Con)

*Paul Wheelhouse (South Scotland) (SNP)

COMMITTEE SUBSTITUTES

Roderick Campbell (North East Fife) (SNP)

Mark Griffin (Central Scotland) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Stuart Allan (Public Standards Commissioner for Scotland)

Alex Fergusson (Galloway and West Dumfries) (Con)

Rt Hon Lord McConnell

Alasdair Morgan

CLERK TO THE COMMITTEE

Alison Walker

LOCATION

Committee Room 1

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Tuesday 27 September 2011

[The Convener opened the meeting at 14:30]

Decisions on Taking Business in Private

The Convener (Dave Thompson): Good afternoon and welcome to the fourth meeting in 2011 of the Standards, Procedures and Public Appointments Committee. I remind everyone that mobile phones and BlackBerrys should be turned off as they interfere with the sound system. We have received apologies from Nanette Milne, who we hope will be fit and able to join us quite soon.

The first item is a decision to take in private item 7, which is a review of the evidence that we will hear later this afternoon on our inquiry into the reform of parliamentary business. If members are happy to do so, I ask that they also agree to review similar evidence in private at each of our future meetings. Are members agreed?

Members indicated agreement.

The Convener: Do members also agree to take in private item 8, which is consideration of the approach to our inquiry into the Parliament's European strategy?

Members indicated agreement.

The Convener: All these questions seem to be about taking business in private. Do members agree to take consideration of our report on minor changes to standing orders in private at future meetings?

Members indicated agreement.

Cross-party Groups

14:32

The Convener: The next item is consideration of two cross-party group applications, the first of which is for the cross-party group on golf. Although the group existed in the previous parliamentary session, it did not reregister prior to recess and missed the 90-day deadline for reregistration. Are members happy to approve the application? I believe that Paul Wheelhouse is a member of the group.

Paul Wheelhouse (South Scotland) (SNP): I am not, convener. I actually wanted to say something about my membership of the next cross-party group, which is on Scotch whisky.

The Convener: I am sorry, Paul. I thought that you were into both golf and whisky.

If members have no comments on this application, is the committee happy to agree that it be reconstituted?

Members indicated agreement.

The Convener: Do members have any comments on the second application before us, which is for the cross-party group on Scotch whisky?

Paul Wheelhouse: I should, as I indicated, declare my intention to join this cross-party group. I attended its first meeting but for some reason I seem to have been omitted from the membership list. As I obviously have an interest in the group, I will remove myself from the decision about its application.

The Convener: Thank you for that. Do members have any comments on this application, or is the committee content that it meets the requirements set out in the code of conduct?

Helen Eadie (Cowdenbeath) (Lab): It seems to have cross-party representation; indeed, it must have the highest number of MSPs of all the cross-party groups. Of course, there might be a good reason for that.

The Convener: It struck me that these groups on golf and whisky seem to have attracted a lot of MSPs whereas other cross-party groups struggle a little bit in that respect.

Helen Eadie: Just a bit.

The Convener: Is the committee happy to approve the application for the cross-party group on Scotch whisky?

Members indicated agreement.

Public Standards Commissioner for Scotland

14:35

The Convener: Agenda item 3 is the Public Standards Commissioner for Scotland. I welcome Stuart Allan and Brenda McKinney, who are both from the Commission for Ethical Standards in Public Life in Scotland. Would you like to make a short opening statement, Mr Allan, before we ask you some questions?

Stuart Allan (Public Standards Commissioner for Scotland): Thank you, convener. The committee has before it the final annual report of the Scottish Parliamentary Standards Commissioner for 2010-11. The report deals with the conduct of members of the Scottish Parliament during that year. Next year, because of statutory changes to the ethical standards framework, the annual report will also deal with the conduct of councillors and members of devolved public bodies.

Thirty-three complaints about MSPs were investigated to completion during the year. In most cases, it was determined that, for the purposes of my jurisdiction, the complaints were inadmissible because they were not relevant or were otherwise insufficient and did not warrant further investigation. A third of the cases were outwith my jurisdiction and were dealt with by other authorities such as the Presiding Officer and the Scottish Parliamentary Corporate Body. In one case, I concluded that there had been a breach of the members' code of conduct, as the MSP had failed to register financial interests in heritable property. Having considered the report and the case, the SPPA Committee agreed that there had been a breach, although it decided not to impose any sanction.

On the basis of the complaints that were received and the outcomes of the investigations that were carried out, I am of the view that members of the Scottish Parliament have generally sought to apply—and have applied—high standards of conduct in carrying out their parliamentary duties.

Committee members may have seen the recently published survey of public attitudes towards conduct in public life, which was undertaken by the Committee on Standards in Public Life. The survey raises continuing concerns about the perceived integrity of those who hold public office. However, the hard evidence of cases undertaken during the year in relation to members of the Scottish Parliament suggests a more positive picture of MSPs working to high ethical standards.

During the year, I had the opportunity to discuss a range of issues with your predecessor committee. Those included proposed revisions to the code of conduct; provisions in the Scotland Bill, especially clause 8 relating to members' interests; and parliamentary directions to the commissioner, in relation to which I submitted a detailed paper in January that dealt with a range of proposed administrative improvements to the directions including requirements for the tape recording of evidence and the referral of cases involving criminal offences to the procurator fiscal. I would welcome continuing dialogue with the new committee in those areas.

I turn to the new ethical standards framework. The Scottish Parliamentary Commissions and Commissioners etc Act 2010 provides that I, the Public Standards Commissioner for Scotland, and Karen Carlton, the Public Appointments Commissioner for Scotland, will together constitute the Commission for Ethical Standards in Public Life in Scotland. We assumed our new responsibilities with effect from 1 April, and the merger has been a successful one. We have combined staffing and accommodation resources, which has proved to be most effective. That has been largely due to the natural synergy between the two offices. We plan to make savings of just under 4 per cent this year and we expect to make further savings of more than 4 per cent next year. We envisage the possibility of making further changes to the structure of the organisation, which could lead to improvements in service performance and allow us to make savings beyond those that I have already mentioned.

I am happy to take any questions.

The Convener: I am conscious that you are reporting in relation to the Scottish Parliamentary Standards Commissioner role, which has now changed, as you explained in your opening remarks.

I was interested to see that the report does not show that a great number of complaints are coming through and that, of the 30 that were received, 10 should have gone to other bodies. How well do you think that the process is working? Would you expect more complaints or fewer complaints if the process were not working well?

Stuart Allan: There are two principal issues. First, on the overall number of complaints that I receive, I refer you to my earlier comment that the evidence suggests that there is a high standard of conduct in the Parliament. If that is the case, it follows that there should be a limited number of complaints, which is also the case. Facts are chieftains that winna ding. We do not get a high number of complaints because the standards are, broadly, high. It is important to make that point, because we live in a world in which there are

constant complaints about the integrity of our public officials. At the end of the day, however, there is limited evidence to back up the view that lies behind those constant complaints.

The second issue is whether aspects of the code of conduct come within my jurisdiction. Although I am responsible for most of the matters that are set out in the code, there are matters that do not come to me. For example, a complaint about an MSP failing to adequately perform functions on behalf of a constituent goes to the Presiding Officer. I have no concern about that. I think that that is probably a more appropriate way of dealing with such complaints. Issues that concern the parliamentary estate, such as members' allowances and so on, go to the Scottish Parliamentary Corporate Body.

We have a distinct Scottish framework with considerable openness and transparency. Again, the correct balance has been struck. I deal with matters of conduct, registration of interests, declaration of interests and so on. Other matters might be called more domestic. I think that we have got the balance just about right.

The Convener: You said that you feel that the combination of the two offices has worked well and that you have made a 4 per cent saving, with more savings expected in the coming year. What are your priorities for the next year?

Stuart Allan: From the point of view of parliamentary standards and standards in general, the first thing is to maintain the quality of service that we provide on behalf of the public. That is the number 1 priority. I am sure that that applies equally to the public appointments process. However, because we have been able to come together from two separate locations and have a lot in common in the way in which we work, as well as in the issues that we deal with—both of us deal with ethical standards issues, generally—we are able to bring together our resources and operate more effectively.

We have been working together for only six months or so. It has been effective so far, but there is scope for some further improvement in the next year or so.

The Convener: It is early days, certainly; there is no doubt about that. We hope that the new ethical standards commission will bring benefits. Are there any principal benefits that you hope that the new commission will bring, or is it a matter of waiting to see how it develops?

14:45

Stuart Allan: To some extent, it is a matter of waiting and seeing. The one very straightforward point is that if there is a single commission the

public are able to access a single shop, as it were, to get advice about a range of ethical standards issues, rather than having to access two quite discrete organisations. That will be an advantage. We will also be able to contribute to the wider ethical standards debate more effectively as a single organisation. Best value might be optimised because we are working together as a single organisation.

Helen Eadie: Good afternoon, Mr Allan. What do you think could be done to ensure that the "Code of Conduct for Members of the Scottish Parliament" and your role are better understood by the public?

Stuart Allan: That is a big issue. The code of conduct is not the most simple and straightforward of documents—it is a pretty heavy tome—but it deals with all the main issues that a Parliament has to address. I think that it deals with the totality of issues that would involve a member of the public, but it does not necessarily follow that the public really have to have regular access to it.

What is terribly important is that when the public see that there is an issue, they can go to the commissioner's office and get help. The office can direct them to the key provisions, without giving them advice on the particular issue, and facilitate their getting through the code of conduct. We will always endeavour to assist the public in every way we can.

When a complaint comes up, it has a big impact on the relevant member of Parliament and he or she may well seek broad procedural advice on it. Again, we are very happy to accommodate that.

Helen Eadie: That is very helpful.

Having been a member of the Parliament for 12 years, I know that there are sometimes instances when getting a resolution to a constituent's case is not easy. There is perhaps an extra role for the commissioner in that regard. Sometimes there comes a point when, despite their most earnest endeavours, the parliamentarian just cannot resolve the issue. There has to be some course of action whereby such issues can be moved away from the parliamentarian to some other arena so that the public at least feel that there is somebody to arbitrate on their behalf and to judge whether the parliamentarian has turned over every stone possible. I am just not sure about that; it is not provided for in any of the documents that I have read so far. I feel that there is a role there—it is almost like lancing a boil—for the commissioner in relation to issues that go on and on and never come to an end.

Stuart Allan: Yes. What you are really talking about is the performance of MSPs in relation to constituents. There is absolutely no evidence whatever that parliamentarians do other than

everything they can for their constituents, but there are undoubtedly cases where the constituent is just not willing to accept what has been done on his or her behalf. Such situations are unavoidable—they will happen. How do you deal with that? At the moment, matters regarding performance are, at the end of the day, up to the ballot box. In the interim, to provide some sort of redress—if redress is considered to be needed—there is access to the Presiding Officer.

A distinction has properly been drawn between issues of performance in relation to constituents and conduct issues. In my view, that distinction is still appropriate and fit for purpose.

The Convener: We are interested in your comments on the directions, and the committee would like to follow through on several points. Paul Wheelhouse will lead off on that.

Paul Wheelhouse: My point relates to the directions under section 7(6) of the Scottish Parliamentary Standards Commissioner Act 2002. You have helpfully provided comments on that in section 3.1 of your paper, which states:

“I do not consider any change is required to these Directions.”

The directions relate to tests of admissibility and the requirement that the complainant names the member of Parliament concerned in certain circumstances. You go on to state in paragraph 3.2:

“I would only observe that the reference to the complaint not naming the MSP concerned may have to be given a flexible interpretation”.

Will you explain why you feel that there should be flexibility in relation to the direction?

Stuart Allan: That is not a substantive issue. Most complaints clearly identify the MSP who is involved but, occasionally, complaints might identify an entire committee as the culprit—a leak inquiry is a typical example of that. The member of the public might not know the names of all the committee members, but they might complain about the committee. That is an example of where we use a bit of common sense. If there is a complaint about someone on the committee having leaked something, we regard that as a complaint against all the members. However, it is not really a big issue. Most complainers have a pretty clear idea of whom they are complaining about, although they are sometimes less clear as to whether the conduct that they are complaining about falls within the jurisdiction of the code of conduct.

Margaret Burgess (Cunninghame South) (SNP): I am interested in directions 3 and 4. You say that direction 3 does not add anything to the provisions of the 2002 act and you would like to

remove direction 4. What would outweigh a member's right to know the name of the complainer, and why do you consider that direction to be unnecessary?

Stuart Allan: It is of paramount importance that an MSP receives the totality of the complaint, which includes the name of the complainer and every word that has been put into the complaint. That is the starting point. In every case that I have dealt with, I have issued the MSP with the totality of the complaint.

There would be very few occasions on which I would even contemplate not telling the MSP in the first instance who the complainer is. Those occasions would probably relate to circumstances in which there was apprehension on my part about ingathering of essential evidence. In other words, it would be important that we did not lose evidence, so we would have to start the process by preserving anonymity for the complainer. Even if that happened, at some stage—probably sooner rather than later—the MSP would have to be told the name of the complainer. To conclude, I think that it would be highly unusual if we did not immediately advise the MSP of the complainer's name.

Paul Wheelhouse: You have said that, generally speaking, the record is very good and ethical standards are being applied. However, just for clarity's sake, has the situation that you mentioned ever arisen in your experience?

Stuart Allan: Not in my experience, no.

Margaret Burgess: You suggested that because non-disclosure of the complainer's name would occur only in exceptional cases, you would consider it unnecessary to report it to Parliament. Why, if it would happen only in very exceptional circumstances, would you not do so?

Stuart Allan: Perhaps I should put it the other way round. Directions must have some purpose; they must facilitate or improve the complaint process. Unless that clear purpose exists, one must question whether the direction is in the overall public interest. If at the start of an inquiry it is determined that, for very sensitive reasons, disclosing the name is not appropriate, it is debatable what benefit will be gained at all in advising the Parliament that a situation has arisen. After all, the information will not be available to the Parliament either. If we take that kind of broad look at the issue, it is clear that there is a question whether there is a real purpose behind the direction.

However, I would not like the committee to think that this is an issue of great moment. In practical terms, it is not of significant importance.

The Convener: The committee will have an opportunity to examine these issues in a bit more depth later on.

Stuart Allan: Indeed, convener.

Paul Wheelhouse: What flexibility is there in the notification requirements in directions 5 and 6?

Stuart Allan: As I said a moment ago, a direction must add to the process something extra that is in the public interest. It is all very well to stipulate that 48 hours' notice of an interview should always be given. We tend to give significantly more notice than that; indeed, it is only good practice to give a week's notice of any arrangements that we make to see witnesses. However, on certain occasions, you might be concerned that if you give notice the evidence might not be there when you go in for the interview. The commissioner really must reserve the right to access the information that he thinks might be relevant. Although the intention behind direction 5 is very sound and although that is what happens in practice, there are exceptional circumstances in which giving notice might not be appropriate.

Bob Doris (Glasgow) (SNP): Direction 14 seems to offer little scope for flexibility if you believe that a member has committed a criminal offence either by failing to declare or register a relevant financial interest or by undertaking paid advocacy. As it stands, you have an absolute obligation to report that to the procurator fiscal.

Stuart Allan: Indeed.

Bob Doris: However, you suggest that there should be flexibility in that regard. I am aware that this issue might be under review as part of the consideration of the Scotland Bill that is going through the UK Parliament. Why do you think that such flexibility is important?

15:00

Stuart Allan: You refer to the Scotland Bill and how the legislation on interests may be amended. In broad terms, I see that as a considerable improvement on the current position because it will afford the Scottish Parliament the opportunity to decide for itself whether certain aspects of conduct are criminal for the purposes of the legislation and the code of conduct. That is important.

Because of the nature of the Scotland Act 1998 and the directions that are given by Parliament under the 2002 act, there is an obligation on the commissioner, no matter how trivial the conduct, to refer to the procurator fiscal the prospect of criminality. The commissioner often thinks that the process of referral to the procurator fiscal is unnecessary, as it adds to the length of an investigation. Over the past few years, six cases

have been referred to the procurator fiscal and there has not been a single prosecution. The average additional period of investigation is four months—in other words, it takes four months to get the decision from the procurator fiscal that no action is to be taken.

If the 2002 act had required that, that would be one thing; however, the 2002 act does not require a referral to the procurator fiscal. I would have expected that type of requirement to be on the statute book. In my experience, it is an encumbrance that does not assist in the early decision making relating to standards. I am not saying that there should never be any referrals to the procurator fiscal. If there is an element of seriousness about a case, I would intuitively want to refer the matter to the procurator fiscal at the appropriate time, which would probably be early in the proceedings. However, in a number of cases, the matter is trivial and we have an idea that the fiscal will say, after his or her inquiry, that no further proceedings will be taken on their part. The matter will simply have been delayed and we will go back, after several months, to the complainant, who will often be unhappy about it, or to the MSP involved, who will be equally unhappy about the matter having taken some months.

Looking at the overall picture, in trying to establish a modern system of regulation we must have regard to proportionality. I hope that, when you come to talk about the matter in the future, the committee will consider that as one of the important issues.

Bob Doris: I come to the matter with an open mind on whether the amendment should be made. If we scratch beneath the surface, is the issue not whether you are duty bound to report criminality, but the definition of criminality in the legislation? If that were altered to suit, would you be comfortable with having an obligation to refer to the procurator fiscal? I ask that because we need to be proportionate. Referral would happen in only a tiny number of cases, so the obligation may not seem proportionate. However, an outsider looking at the political system would hear the word "criminality" and would think that, as good as you are at your job, it is up to the procurator fiscal, not a standards commissioner, to judge what is criminal. I think that that would be the public perception.

Stuart Allan: I understand that, but it would be very difficult indeed to come up with a definition of criminal offences that should be referred to the procurator fiscal and criminal offences that would not meet the bar. The fact that the matter may not be referred to the procurator fiscal does not preclude any complainant from referring the matter to the Crown Office. We are not saying that the procurator fiscal has no role to play; we are saying that an obligation to refer is an additional insertion

into the process that is unnecessary in regard to the code of conduct for MSPs.

The Convener: I want to follow up on that. If referral had been deemed to be important enough, or deemed to be more important than just part of a direction, it would be on the face of the act. It also appears to be against natural justice and speed of resolution of the complaint, which is in the interest of neither the MSP nor the complainant.

Stuart Allan: That is very fair. Experience suggests that if the subject matter of the complaint is in the public domain and there is considerable public apprehension about the whole business, the matter may well be referred to the criminal authorities. However, in my experience, such instances have not happened here. We have created an overelaborate system when both processes can operate in their own way. I am certainly not saying that MSPs avoid exposure to the criminal justice system; I am just saying that the system is overcomplicated at present.

Margaret McDougall (West Scotland) (Lab): My question is on section 16 of the 2002 act and the disclosure of information. Is it possible, in practice, to confirm the existence of a complaint without also effectively confirming the nature of the complaint and, therefore, information contained in the complaint?

Stuart Allan: This is a difficult issue. On the face of it, section 16 says that we cannot disclose or offer up the disclosure of information about a complaint. If someone comes to the office and says that Mr A has complained about Mr B—who is an MSP—and that it is about subject matter C, the public benefit in us saying that we cannot make any comment, as we do at present, is lost on me. It is also inconsistent with the principles of openness and transparency.

In my equivalent duties to local government councillors, if someone asks us whether we have received a complaint from Mr A about Mr B in respect of subject matter C, we will admit it to the media, for example, provided that the councillor has been advised of the complaint and has received a copy of it. Such cases are almost always already in the public domain if there has been an issue in the chamber. That is not quite such an issue in Parliament but, as far as local government is concerned, it would be wholly inappropriate to deny that complaints had been received, provided that the councillor knew about it. It is on the statute book and we adopt a very straight-bat attitude to what the act says. However, in recent discussions that commissioners throughout the UK had with our colleague clerks, it is an issue that is unlikely to go away and may merit some reconsideration in the future.

Margaret McDougall: Should the committee consider changing the terms of section 16? What information would be beneficial if put in the public domain to aid openness and accessibility?

Stuart Allan: I will not be pressed now to say that section 16 should be amended. However, if you were to press me on the specific point of what I would look for if I was minded to change it, I would say that the commissioner should be able to divulge no more than the names of the applicant and the MSP concerned, and nothing about the content of the complaint. However, to deny that the complaint exists seems almost to be counterproductive, given the principles of transparency under which we endeavour to operate.

Margaret McDougall: So, if a complainant has made a complaint, the media can contact that person and ask for information.

Stuart Allan: No, I am not saying that; I am saying that if a complaint has been made, the media can contact us and ask whether A has submitted a complaint about B.

In reality, if the media ask us that, they know fine what is happening. There is nothing whatsoever that precludes the complainant from going to the press and saying that they have submitted a complaint about an MSP on a certain subject. There is an inhibition on the MSP once the complaint has been submitted, but there is nothing to prevent the complainant from putting his or her side of the story to the press. That makes everyone uncomfortable, so there is a case for considering what is in the better public interest.

The Convener: It is an area that is fraught with difficulties, because the media can run with things and all sorts of hares can be set running. If a complainant goes to the media and the MSP is debarred from commenting without breaching the code, they are in a position in which they cannot defend themselves.

Stuart Allan: Indeed.

The Convener: There are all sorts of issues—I am sure that you are well aware of them—that the committee would need to examine carefully before we would want to change anything. We will come back to that area at a future meeting, in order to consider and tease out the issues in more detail.

I see that members have no further questions for the commissioner. I thank Stuart Allan and Brenda McKinney for attending the meeting and answering our questions. It has been very helpful, and I wish Mr Allan well in his new job—although he has been in post since April—over the next few years.

Stuart Allan: Thank you, convener.

The Convener: I suspend the meeting for a few minutes to allow the next set of witnesses to take their seats.

15:13

Meeting suspended.

15:16

On resuming—

Reform of Parliamentary Business

The Convener: Good afternoon, ladies and gentlemen, and welcome back after that short break. We now move on to agenda item 6, on the reform of parliamentary business and the remodelling of the parliamentary week. I welcome our three guests: Alex Fergusson MSP, who was Presiding Officer from 2007 until 2011; the Rt Hon Lord McConnell, who was First Minister from 2001 until 2007; and Alasdair Morgan, who was Deputy Presiding Officer from 2007 until 2011. Welcome, gentlemen, and thank you for attending today's meeting at relatively short notice, to help us with our inquiry.

I believe that each of you would like to say a few opening words, although you do not have to; I am quite happy to fire straight into the questions. Let us start with Alex Fergusson.

Alex Fergusson (Galloway and West Dumfries) (Con): I have not prepared anything to say, so I will be very brief.

As Presiding Officer in the most recent parliamentary session, it became more and more evident to me in the last two years of that four-year session that reform was required. As the session went on, I felt more and more strongly that we needed to look again at some of our procedures and practices, but I did not feel that the latter days of a parliamentary session were the right time to introduce those changes.

I am delighted that my successor as Presiding Officer has instigated the committee's inquiry and has asked it to look at possible reforms. At this stage—because I am sure that a lot of this will come out during the questions and answers that will follow—my only comment is that, in perusing the comments of present and former MSPs on changes that they would like to see, I find myself very much in tune with Hugh Henry's suggestions, many of which I have a lot of sympathy with, as will come out during the questioning. I welcome the inquiry, which is a wonderful opportunity to revisit our procedures and comes at absolutely the right time in our short history.

Rt Hon Lord McConnell: I urge the committee to be bold and radical in its recommendations. After 12 years, the Parliament and its procedures are in need of reform. There is a collective knowledge of what has been strong and what has been weak in how debates, the accountability of ministers and other areas have progressed. This is very much a personal view, but I think that the

committee's predecessors have perhaps been overcautious and I hope that you will not be, because I think that the time is right for reform and that you would strike a chord outwith the Parliament if you were to lead that process.

The letter that I wrote to George Reid when I was First Minister and the letter that I wrote to Alex Fergusson in my final few months as an MSP have been circulated to members. I have believed for a very long time that the ministerial question time is insufficient as a method of accountability. I believed that when I appointed ministers and was nervous about them being held accountable, and I believed it when I watched ministers being held accountable from the back benches.

Ministerial question time is too easy for ministers. That has been the case almost from the very start. That process needs to be reformed. As I said in 2003, there is a need to find more space for back benchers at First Minister's question time. There is a need to meet more often—not because MSPs do not work hard, but because of the topicality of the debates. At the moment, if something happens on a Thursday night, the Parliament is unable to hear a ministerial statement on that until the following Wednesday afternoon. That is not a way for a Parliament to conduct itself. It has to be more topical and react more immediately when it is required to do so.

There has been a lot of unfair comment about MSPs over the past 12 years. There are good parliamentarians and poor parliamentarians in every Parliament in the world. People have good days and bad days. There are good speakers and bad speakers. There are people who work hard behind the scenes and there are people from whom you can get a quote on any subject at any time.

The procedures of the Parliament have to allow people to develop arguments and enable debates to be rich with content. At times, because of the limitations of the debating style and the approach to speakers that the whips of all parties, including mine, have sometimes adopted, we have not achieved that.

There is scope for radical reform. That would be welcomed throughout the country and I hope that the committee is up for it.

Alasdair Morgan: In general, whatever you do should be done in order to address a problem, rather than in order to make a change for change's sake. I will highlight one or two issues around which I see there to be problems—there will probably be a bit of overlap with what has already been said.

If the Parliament's chamber is to be the centrepiece of the Parliament—it was certainly the centrepiece of the construction budget—the fact

that there are few members in it for a large part of the time, including ministerial question time and debates, is a problem that needs to be addressed. How to do that is another question.

That leads to the wider question of the adequacy of the time for debate and the structure of debates. A lot of the debates are very wooden and there is little to-ing and fro-ing between the person who is speaking and the rest of the chamber. We should address that. I do not think that we should beat ourselves up about the issue, because the same problem arises elsewhere. The House of Commons, which has five times as many people on which to draw, often has fewer people present for a debate than we usually get. It is not a problem that is unique to the Scottish Parliament.

One of the worst parts of my job—this might be surprising to you, as I felt that I did it quite effectively—was limiting people's speaking time. We should not be doing that. People should be able to make longer speeches, which would enable more people to intervene. It is particularly poor in a stage 3 debate, where people might get to speak for only a minute or two on what can be quite complex and controversial topics. The way we handle stage 3 in particular needs to be examined, but we must also deal with how we approach general debates.

We passed our first legislation 12 years ago. We need to look again at that legislation to see how it is working. We do not have enough time in the committees for post-legislative scrutiny. I cannot see that changing of itself, as there are always new issues that committees want to consider and Government legislation coming down the line. However, somehow or other, we have to address the committee structure in such a way that the committees can start to examine not only the legislation that the Scottish Parliament has passed but the Westminster legislation that we have been living with.

We should be in the Parliament a lot more often. I am not totally convinced by Mr McConnell's argument—I do not know how often we would be required to respond to something that happened on Thursday evening—but for some people, time spent in the Parliament can be a two-day-a-week job, depending on which committee they are on. The balance between the constituency and the Parliament must be altered. Members will use all the time that is available to them to be in their constituencies, in effect trying to get re-elected the next time round. They should spend more time in the Parliament, addressing in the public gaze the issues that affect the public.

The Convener: Thank you for three good opening statements, which raised many issues. We hope to focus on many such issues during the next few months and report back to the Parliament

in a relatively short time. I am conscious that previous inquiries into such matters dragged on for an awfully long time, almost getting stuck in the sand, and did not change an awful lot, although there have been a number of changes in the Parliament during the past few years.

I am struck by what Alasdair Morgan said about the use of time. MSPs have a limited amount of time to do the job that they need to do, which involves parliamentary work, constituency work and all the other things that go on, such as formal and informal meetings with stakeholders.

Westminster was mentioned a couple of times. We have 129 MSPs, of whom 19 are Government ministers and one is the Presiding Officer. Some of the 109 remaining members are party leaders and so on. At Westminster there are currently 650 MPs, so there is perhaps physical capacity that allows MPs to do things differently from us. There are so many MPs that a lot of them are not on committees and can develop specialisms and do various things.

Given the numbers that we have, how can our relatively small Parliament deal with the sort of issues that we are talking about? The resource at Westminster, in terms of MPs and MPs' staff, is far, far greater than the resource in the Scottish Parliament. I would value your views on that.

Lord McConnell: We need to be careful about making comparisons. There is a case to be made for both Parliaments learning from each other—indeed, if we regard Westminster as two chambers, there is potential for all three chambers to learn from one another. I gave evidence to a similar inquiry in the House of Commons four months ago. MPs are asking the same sort of questions and trying to learn from what has happened in the Scottish Parliament. The interchange can help us all.

The additional numbers at Westminster allow it, for example, to have committee and plenary meetings at the same time, without disrupting business in any way. Cross-party group meetings, Commonwealth Parliamentary Association meetings and all the other things that go on around a Parliament building can take place at the same time as plenary business is going on in the chamber, without there being an impact on the chamber.

I was looking through the committee papers and I noticed that at one point there was a suggestion—I think that it came from George Reid and David Steel—that committee and plenary meetings happen at the same time in the Scottish Parliament. I think that our numbers work against that. That is why, when I suggested that the Parliament meet on Tuesday, Wednesday and Thursday, I suggested that committees meet in the

mornings of each of those days and the chamber meet in the afternoons, not that the two meet at the same time. Our numbers in the Scottish Parliament put some limits on us.

Another thing about Westminster that is very different, which has nothing to do with the chamber, is that there is a 16-hour day culture, because most members travel a long distance to be there from Monday to Thursday every week, staying overnight. That is not the case for the majority of members of the Scottish Parliament, so there is no evening culture here as there is at Westminster. At Westminster, all-party group meetings can start at 9 am or 9.30 am or happen well into the evening, but that is because there are people around the building who have time on their hands and are looking for things to do. We need to be careful that we do not try to replicate what happens in Westminster, given that we have a very different culture here, and given that the number of people who are available is an issue. Alasdair Morgan worked at Westminster; he might have interesting views on the matter.

15:30

Alasdair Morgan: I was going to say that despite Lord McConnell's earlier exhortation to be bold and radical, I do not think that we should suggest increasing the number of MSPs—I do not think that that would be the solution to our problem.

One issue that might be taken as an exemplar is that we want to do more post-legislative scrutiny. There is no shortage of time during the week, it is just that we are not necessarily here. The committees that are more likely to do post-legislative scrutiny are probably overloaded anyway. We have to address the question of how those particular subject committees can do post-legislative scrutiny as well as looking at new legislation and current issues. However you do that, whether by creating more committees in a subject area—we used to have the Justice 1 Committee and the Justice 2 Committee—or by getting rid of some of the committees that might not have such a big workload and redistributing the members on to other committees, you would probably need to increase the clerical back-up. I am conscious that it is not simply about the availability of members; the availability of the information to structure the committee meetings each week has to be addressed, too. There might be expenditure implications there. If you are in effect going to do a piece of work that is not being done—post-legislative scrutiny—there will be costs to that.

The Convener: I am the MSP for Skye, Lochaber and Badenoch, a huge chunk of the Highlands that is 140 miles from east to west and

about 90 miles from north to south—it takes three hours to drive across it on not the best of roads—and I also have to come to Edinburgh, so I have to balance that workload. I am normally down here for three days a week. The folk who are closer to Edinburgh have the luxury—if I can put it that way—of going home at night or getting home to their constituencies to do things. We perhaps have a wee bit of a dichotomy between the MSPs who are further away and those who are closer. I see Alex Fergusson wants to come in.

Alex Fergusson: I share your view; I have a similar constituency, although it is not quite as large as yours, in the south-west of Scotland. It is two and a half to three hours to the furthest point in my constituency. You will have that dichotomy wherever your Parliament is situated. Westminster has the same issue. I do not think that you can build that into your procedures, but you can have a time set aside each week that is expected to be parliamentary time.

I am lucky because at the moment my committee meets on a Wednesday morning, which in effect allows me most weeks to do a two-day parliamentary week, on a Wednesday and Thursday. I value that hugely, because I like to spend time in my constituency, not necessarily to get re-elected—although it seems to have worked so far—but because there is a lot of constituency work to do. All of us who represent constituencies or regions know that. On the whole, if we assume a five-day week—and I wish I had one—the three-day, two-day split between parliamentary and non-parliamentary activity is about right. It is about how we make best use of that time. I am not necessarily in favour of extending that time; we need to concentrate on how we make better and best use of it.

Bob Doris: I echo what Alex Fergusson said. From Tuesday to Thursday, you have MSPs here. Some have to arrive on a Monday night and others can travel through on the Tuesday. On the Wednesday night, some of us have the luxury of being able to go home, but others are here. Should we work on the principle that from a Tuesday to a Thursday we have MSPs here and on Mondays and Fridays they are in their constituencies? The reason I am asking is that that would throw open the option of using Wednesday nights. Only some MSPs can return home on Wednesday nights; others cannot. It might provide a more level playing field for MSPs.

My second question is on topicality, which Mr McConnell mentioned. In the past you have talked about having three half days for committees and holding the plenary sessions in the afternoons. Have you given any thought to holding plenary sessions on Tuesday mornings? That would give you the first opportunity in the parliamentary week

to hear ministerial statements. I am interested in your views on those ideas.

Lord McConnell: I do not have a strong view on the morning versus afternoon issue. Morning sittings might work better on a Thursday than on a Tuesday, so that someone such as the convener could get home at a reasonable time on Thursday night in order to have a full constituency day on Friday—I had not considered that before. I like the idea of having three half-days. If we are to have a minimum of a day and a half of chamber time each week, it is better to have three half-days than the current day and a half. That is worth a try.

I would keep open the option of a later finish on Wednesday evening. There are complications with that in this building, because the centrepiece for events—which are very important for the organisations that attend them—cannot really be used when the chamber is sitting. There would be an issue with the use of the garden lobby if we held too many Wednesday evening sessions.

The Parliament should be a bit more flexible when there is a particularly oversubscribed debate, particularly in the 5 to 7 slot on a Wednesday evening. I would reconsider the way in which members apply to speak in debates, as I feel very strongly that we have moved to a system in which the party whips—for right or wrong—in effect organise business. Initially, in the first parliamentary session, that was partly because back benchers were not volunteering to speak, so the party whips were hauled in to try to get speakers; I remember that it was a real issue in the first couple of years, before I was First Minister.

We could make a decision about the length of time for a debate once we know the number of speakers, rather than the other way round. At present, we decide the length of time for the debate and then the whips organise how many speakers there will be. The House of Lords is by no means a perfect institution, but I have some recent experience of it. What happens there is that the likely length of the debate and the lengths of the speeches are sorted out when the speakers have all bid for their slot. That is not a bad system, and a bit more flexibility around debate timings would allow for a more flexible approach to the length of time for which members can speak.

Alex Fergusson: We are covering a multitude of questions, with which I am perfectly happy.

I am completely open to the idea of the Parliament holding a full meeting on three days—or rather, three half-days—a week; I do not have any strong feelings either way. However, there might be difficulties if the whole Parliament meets in the afternoons, as that reduces the flexibility for committees to hold longer meetings, which they

sometimes have to do, particularly when they are discussing legislation. Stage 2 legislative procedure often results in longer meetings; I recall from the first parliamentary session a meeting of the Rural Development Committee that finished at half past 8 at night, having started at half past 2. That is what happens if you let Fergus Ewing speak for too long. It was necessary to hold a meeting of that length, as we were dealing with a huge amount of scrutiny.

Unless we allow committees to meet at the same time as the Parliament—and I share Jack McConnell's reservations on that, given our numbers—there might be difficulties to overcome if committees meet in the mornings and the Parliament meets in the afternoons.

I am very much against late sittings just for the sake of it. We can say that decision time is at 7 o'clock, half past 7 or 8 o'clock on a Wednesday night, but I do not think that we should be about change for the sake of change. We introduced a change that was beginning to work in the previous parliamentary session, by identifying when stage 3 debates—which are the final opportunity to amend a bill in the Parliament—were coming before us. We gave members and parties plenty of notice that on Wednesday in two weeks' time, for example, we would be sitting late to accommodate the stage 3 debate on a particular bill. We could expand that to include particularly important debates.

If we give members notice, we take all the angst away, if I can put it that way, and allow them to organise their timetables accordingly. That is worth further consideration. It began to work in the previous session and it avoided the dreadful business that we had, particularly in the first session, of guillotining parts of stage 3 debates, with which I was always very uncomfortable. Stage 3 is our last opportunity to amend a bill and, when a debate on amendments is guillotined and we move straight to a vote, it does not leave a good taste in my mouth.

The d'Hondt system of sharing out debating times between the parties can be a problem. That came home to me last week in the debate on the common fisheries policy. That is never one of the most widely attended debates, but it is one in which members of the Parliament have considerable expertise. I have nothing against the members who took part, because it was a good and learned debate. Paul Wheelhouse was there—he has a suitable name for a fisheries debate—and will recall how good it was.

The Presiding Officer told us that we had all the time in the world to take interventions and to extend our speaking time but, because of the way in which the speeches were shared out in the d'Hondt system, we had the extraordinary situation

that Liam McArthur—who represents the Orkneys and has probably forgotten more about fishing than most of us will ever know—was not able to speak and, therefore, was reliant on intervening on other members to make perfectly good points. That showed up a failing in our system that is exacerbated by the strict sharing out of debates and whipping of those who can take part in them. We need to reconsider that.

The Convener: I am conscious that we are ranging over a number of issues to do with sitting patterns and how we use parliamentary time, but they are all interrelated because, if we adjust one part, there is a knock-on effect on the rest. I am quite comfortable that we range over those matters in the hope that we will be able to focus on something on which we can make progress.

Helen Eadie: It is nice to see all the witnesses here this afternoon.

We saw some of the high drama that takes place at Westminster when we watched the debates there on the News International situation. How do we get the Scottish Parliament's chamber debates to be much more topical? Many debates go first to committees, where all the scrutiny is done, and to the chamber later. How do we get the Parliament to be much more relevant to what is going on outside? There have been occasions when I have sat in a debate in the chamber and asked the member next to me why we were discussing the topic, because it was a million miles away from what was most urgent and pressing in the public domain.

Alasdair Morgan: I start with a caveat: it is possible to be too easily swayed by discussing what is in the headlines any weekend rather than concentrating on important subjects. Of course, for every debate that you think is a boring, filler debate, there is somebody else in the Parliament or outside it who thinks that it is an important subject to discuss.

I would be wary of topicality. If you were to look back over the weekend papers for the past 12 years to see what the big stories were and ask, with hindsight, whether they really were big stories, I think that you would find that many of them were not. We do not simply reflect the press agenda.

That said, there is an issue. One way to address that and perhaps to involve back benchers more might be to consider increasing chamber time and having more debates sponsored by members than at present. You would have to relax some of the ludicrous rules that apply to motions that are accepted for members' debates, such as the fact that a regional MSP has to work the name of their region into the motion for it to be accepted. Rather than debates having to be Opposition-sponsored

or Government-sponsored, there is room for giving members slots to debate subjects about which they have genuine feelings.

Lord McConnell: I do not know the rules well enough to know whether they are the problem. The issue might be more a cultural one than a result of the rules, although, if the rules need to be more flexible, I recommend that the committee creates an opportunity to encourage the culture to change.

15:45

I have a lot of sympathy with Alasdair Morgan's comments. The Parliament should not discuss just what is in the news that day—I know that Helen Eadie is not suggesting that—but it should be better at responding to something when there is clearly a public demand for a discussion in the national Parliament of Scotland. We need to find a way to do that. A lot of the responsibility lies with the business managers and the team of Presiding Officers to spot when that is the case and to make a firm decision that the business that was originally planned for that week will have to change in some way. That is maybe where more flexibility on Wednesday evenings or something might come in.

Much of that is about the culture. Those who drew up the rules of the Parliament—the one bit of all this that I was not really involved in—put a lot of thought into it and went for a system that was determinedly different from Westminster where, certainly at that time, the Government of the day basically chose the agenda for the week, announced it on the Monday, to the surprise of the Opposition half the time, and the Opposition did not get a look in. The whole idea of the system here in the Scottish Parliament was to get away from that, have all the parties engaged in the decision making and have the Parliament approve the business the week before and so on. Maybe we have made the process a little bit too formal. There should be a little bit more flexibility, so that if the party leaders, the whips and, in particular, the Presiding Officers feel that an issue that demands a couple of hours in the Parliament that week is not getting it and that something else needs to be put back a fortnight, that opportunity exists.

What was Alasdair Morgan's second point? I was going to reinforce it.

Alasdair Morgan: Members' business debates.

Lord McConnell: Twelve years on, you need to overhaul the system of members' business debates, as it does not work. Half the time you almost force somebody to pick a motion that leads off a debate at 5 o'clock in the afternoon. There should be two kinds of members' business debate: constituency-based ones and other slots. Maybe

even a whole day should be given over to such debates at some point. Why do they always have to be held at 5 o'clock in the afternoon? If the Government does not have any topical business for next Thursday, why not have a day when there are five members' business debates during the course of a day? Give members a chance to raise constituency issues and ministers a chance to respond. Short debates could be held on constituency issues.

Maybe, in another week, on a Wednesday afternoon two topical debates, which last for an hour and a half or two hours, could be chosen by members. For example, a debate could be held on fisheries. If the Government or the party leaderships are not suggesting a debate on fisheries, why should Paul Wheelhouse not suggest a debate on fisheries and lead it off? That would make the party leaders and the ministers respond to the debate. Topical debates and constituency debates, led from the back benches rather than the front benches, have their place.

There are ways of building such an approach into the system, so that you are not asking the Government business manager to come up with a full programme of business every week. I am certain that the current Cabinet does exactly what my Cabinet and the ones before did, which is to sit and think, "Oh my God! What have we got for three weeks' time? We have a bit of legislation for the Wednesday and we have got something for the Thursday morning, but we have nothing for the Thursday afternoon. Does anybody have any ideas?" That is what happens. If they were given the opportunity, back benchers could fill those spaces if the system was a little bit more flexible.

Perhaps once a month we could make Wednesday afternoon a back benchers' topical debates day. Once a month we could have five concise constituency debates on a Thursday. I think that there would be heightened interest and that more people would come to the public gallery to listen than come to listen to a Government debate on the skills strategy or something like that.

Alex Fergusson: I do not really disagree with any of those comments.

The only other thought I have on topicality is that one of the things I welcomed in the previous session of Parliament was that the newly elected Speaker at Westminster came up here shortly after his election. He was open-minded about our practices—this goes back to Jack McConnell's comment that we should never be frightened to learn from each other—and I understand that he has introduced at Westminster much greater use of the emergency question as a means of raising topical issues promptly with ministers. Although that is not necessarily something that I would want to happen every day of the week, could not a

procedure based on that allow far more spontaneous questions to be asked outwith normal question times? Question time is a separate subject, to which I hope we will come, and there is certainly a need for spontaneity at question time. Might not something along those lines be worth having a look at during the committee's deliberations?

The Convener: We will come to question time, but perhaps not just yet.

Alex Fergusson: I was using the subject of topicality as a possible way of raising the issue.

The Convener: I am not against learning from Westminster, but if we are making comparisons, one of the difficulties is that the Scottish Government has 19 ministers and cabinet secretaries while there are 120 at Westminster. As a result, if there is more back-bench business that requires ministerial attendance, what is actually a very small Government will face practical problems in coping with all that, especially if the week is being stretched. What are your views on that?

Helen Eadie: I wonder whether instead of looking just at Westminster the witnesses know from their visits abroad of any examples of good practice in Scandinavian Parliaments of comparable size.

Lord McConnell: The Bavarian and Catalan Parliaments have smaller teams of ministers than the national German or Spanish Parliaments. How do their procedures differ from those in the national Parliaments? You might not have the time to consider that question in this inquiry, but someone should have a quick look at the research and see whether any lessons can be learned.

Alex Fergusson: With great respect, convener, I appreciate your point about numbers. As we were saying earlier, we are constrained in that respect. However, if the purpose of a Parliament is to hold the Government to account—as it must be—ministers are going to have to accord with the procedures that the Parliament puts in front of them.

Alasdair Morgan: One of the logical consequences of what we have been discussing is the possibility that in order to give more members more time and to allow for longer debates, particularly at stage 3, Parliament might not finish until 7 o'clock on Wednesday evenings—and, perhaps, on Tuesdays, if a debate slot is timetabled then, as well. Of course, we would not be talking about the 10 o'clock finish that they have at Westminster, but I think that the system should be even more formalised than Alex Fergusson was suggesting. Perhaps the expectation among members should be that they might be kept back until 7 o'clock on any Tuesday

or Wednesday. Of course there would be flexibility; if no business were scheduled, decision time would be early and debates would not be padded out until 7 o'clock.

I have sympathy with the point about ministers, particularly if question times and members' business debates are made more flexible. The members who want ministers in the chamber to answer questions will be the same members who will be annoyed if they have had to cancel a visit to their constituency as a result. It is a difficult balancing act, but it will require the maximum amount of notice and co-operation among the people involved.

Lord McConnell: Perhaps I should add a little counter to that from personal experience. Given that there are votes of some kind at 5 o'clock on most days, ministers are going to be pretty much in the city when the Parliament meets. What is proposed might prove to be slightly more onerous for ministers, but I point out that at Westminster the whole four-person or five-person ministerial team is expected to be present on the front bench for questions or a debate; it is not just that only one of the 100 or so ministers turns up. As I have said, ministers are in town or, indeed, in the building, coming up to decision time.

On that point, I would not necessarily push back decision time to 7 o'clock—I would keep it earlier in the day—but the option of occasionally going beyond 5 o'clock for debates is worth considering.

Paul Wheelhouse: Although my question relates to sitting times and patterns during a week, it is more concerned with future proofing the Parliament, particularly given that the Scotland Bill is going through Westminster, and given that we have the Scotland Bill Committee. I do not want to get drawn into the detail of what is proposed in the Scotland Bill or any alternatives to it, but in the light of the fascinating discussion that we have just had, what implications might that legislation have, given the additional responsibilities and requirements for scrutiny that might arise as a result of the new powers that will come to the Parliament? Will it have implications for the suggestions that the panel have made today? Do you have any alternative suggestions about how we might deal with additional responsibilities and accommodate them in the timetable?

Lord McConnell: If the Parliament has greater financial responsibility, which it will have as a result of the Scotland Bill, it will be even more important that ministers be held accountable. As I said in my introductory remarks, I do not think that ministers and departments are held accountable enough in the current ministerial question time, which adds to that argument.

On debating time, one of the key issues is the amount of time that is spent in the annual parliamentary calendar in Scotland on debating the finance secretary's budget proposals. If, every year, the finance secretary proposes a more significant budget that includes an income-tax rate, debating time will need to be significantly increased to address that. The Scotland Bill's proposals reinforce the general tone of what we are saying.

Alex Fergusson: I can only agree with that. The more powers and responsibilities that accrue to the Parliament through time, the more requirement there will be to do exactly what we are meant to do: discuss issues, question ministers and debate subjects. We will need to debate financial and budget matters particularly in a much more meaningful way than we currently do. Once we are raising some of our own taxation, the responsibility on us to hold proper inquiries into how we do that will increase hugely.

Alasdair Morgan: The changes must be flexible enough to allow for the increase in workload that will almost definitely come. Like it or not, the parliamentary week will be extended, and members must ensure that they do not have to come back in a year or two to change yet again whatever is put in place.

The Convener: Perhaps the difficulty with flexibility is how it is built in to ensure that it is used for the benefit of the Parliament as a whole. Obviously, that is one of our potential problems.

With respect to greater responsibilities, including the greater requirement to be in the Parliament building—in a sense, that requirement is not too onerous for someone like myself, because I am down here most of that time, anyway—and MSPs having to hold the Government to account, I have certainly found in my four and a half years as an MSP that support to get briefing materials and everything else that I need to deal with all my constituency cases and so on is very tight. There needs to be support if we want good and proper scrutiny by MSPs. Do the panel members have any opinions on that?

Alasdair Morgan: Do you mean support for debates and research material for parliamentary activities?

The Convener: Yes. Do you have any ideas about how we can improve that support? Perhaps more use could be made of the Parliament's staff to assist MSPs. With constituency and regional MSPs having big case loads and lots more parliamentary stuff happening here, there is a lot of work to be done at the moment. Do you have views on such support to allow us to get briefings, materials and so on?

Lord McConnell: Can I be frank?

The Convener: Absolutely.

Lord McConnell: MSPs and parliamentarians in general must be careful that they do not become simply full-time social work case-load managers. The primary job of an MSP is to be in this building to represent their constituency in the national interest, to debate the issues that matter, and to hold ministers to account. That is the number 1 role of an MSP. The fact that they are able to take up individual cases within their working or living week, as members of Parliament have always done—although they are doing more than they have ever done—is an added benefit. All of us—not only the current MSPs, but those of us who have been MSPs—need to say publicly that what really matters is what the legislators are doing in this legislature, what the Government is doing, and how it is being held to account. Although the case load is an issue, there is also an expectation issue that we should all, collectively, try to manage.

16:00

In my experience of being part of it all over the past however many years, politicians have come to rely a bit too much on their staff. We should expect elected politicians do more of the work themselves—especially speech writing. Far too many of us—I say “us” because it is a collective issue everywhere—rely a bit too much on the people who are sitting in the office to do it. Going to the Scottish Parliament information centre to get a couple of briefings, sitting down and thinking about what to say, preparing the speech and then delivering it in the chamber should be what it is all about; that should be the meat and drink of the whole thing. Some people do it, but not enough of us do it. I would encourage individual politicians to take a bit more direct responsibility, rather than employ more support staff, however hard-working that makes everybody.

Alasdair Morgan: I agree with Jack McConnell—especially his first point. We do not want to go back to the days of Churchill, who, according to Roy Jenkins's biography of him, went back to his constituency every five years for a laying on of hands—which is, I think, what all his colleagues did, as well. However, the situation has gone too far the other way in terms of MSPs' dealing with constituency cases. It is accentuated in the Scottish Parliament by the fear that, if an MSP does not pick up a particular case, one of their rivals in the region will pick it up instead. That makes members reluctant not to pick up a constituency case, be it worthy or more marginal. We are getting to the stage at which, rather than being the last port of call for a person with a problem, members are the first port of call. If someone's drain is blocked, they do not phone the

council—they just go to their MP or MSP. That is the way we are going.

It is easy to see the problem, but it is much more difficult to see the answer to it because it must be something to which the Parliament signs up collectively, otherwise members will be left thinking, “If I don’t do that, those other so-and-sos are going to do it and steal my thunder.” Members are going to spend more time in Parliament debating the bigger issues that they have to deal with, and there are only 24 hours in the day and seven days in the week. Even if members worked them all, they would not be able to handle all those people.

Alex Fergusson: I am virtually going to repeat what Alasdair Morgan has just said. The fact is that, although I would love to live in the world that Jack McConnell has described, the reality is that, given the system of parliamentary election that we have, if a member does not pick up an individual case—a case that, 20 years ago, an MP would have referred to the council, the social work department or somebody else—there are seven other MSPs out there who are waiting to pick it up for them. I have been on both sides of that particular fence. It is about getting elected the next time, preferably as a constituency member.

Our system has many strengths and I do not want to undermine it, but one of its weaknesses is that members do not give away individual cases. We have become social workers, to an extent—I feel that very much. I happen to enjoy that type of work hugely, but it is what we have become. Just the other day, I received a complaint from one of the citizens advice bureaux in my constituency, which said that I was taking work away from it. That amplifies what Alasdair Morgan said about our no longer being a last resort for people; maybe we are becoming the first resort. However, as long as we have the current system of election, I am sorry, but that ain’t going to go away.

Paul Wheelhouse: I have a follow-up to my original question. One or two of you say that you are concerned about a constraint being placed on some members if the barrier were removed to allow plenary and committee sessions to run concurrently, because committee members would be denied the opportunity to take part in debates. Is the current position sustainable if there are to be additional responsibilities? For example, if the Finance Committee, of which I am a member, has to scrutinise the Government budget in more detail and more needs to be covered, a meeting might need to run on into Wednesday afternoon. Is it sustainable to continue to have the split between committees and plenary and to have no committee work on Wednesday afternoons?

Lord McConnell: If you want my honest answer to that, it would be this: committees should meet

on a Monday. I have never—right from the beginning—agreed with the bar on their meeting on Mondays. I am not talking about every committee and every member, but for certain committees at certain times of the year, why not do that? Why should the Finance Committee not do that at the time of the budget in order to put in the extra hours? If there is an issue about regional members doing too much constituency casework, put the regional members on the Finance Committee and they can do it. That is just an example.

A bit of creative thinking might solve more than one issue at the same time. We do not necessarily need, as Paul Wheelhouse suggests, to pack in everything and constrain members.

Alasdair Morgan: I certainly agree with that. There is nothing to prevent committees from meeting on a Monday. The Finance Committee used to do it, but only when it was going outwith Edinburgh to take evidence. As Jack McConnell pointed out, we are too small to have committees and the Parliament meeting at the same time. In years or decades to come, we might get to that if the business piles up to an extraordinary extent, but there are other solutions, before we go down that route.

Margaret Burgess: My question has been answered in part. We have heard about more scrutiny and more time for back benchers in Parliament, but there has been no suggestion about additional parliamentary time—it is still to be a day and a half a week. You have kind of answered my question by saying that we could meet on a Monday. We have talked about doing extra, but nobody has suggested what would drop off, given that we have the same amount of time.

The Convener: That is an issue that I take from the discussion, too. I can see the sense and relevance of much of what has been said, but I return to the point that there is only so much time, unless we put some of the work elsewhere. We have heard different views on changing constituency work and the practicalities of that. The issue is how we fit into the working week everything that we need to fit in.

Alasdair Morgan: People who want to defend the current situation would have to explain why Scottish members of the Westminster Parliament usually have a four-day week and can still cope with their case load—that applies to members from south of the border, too—whereas we seem to struggle with a three-day week.

Lord McConnell: I did not want to make this point, but I will do so. When I was First Minister, I did not have any extra constituency staff. I had exactly the same number of staff as every other member had. I was in the constituency on a Friday

afternoon every week, if I was lucky. I still held my surgeries and I never had a complaint made against me for not taking up a constituency case that I was asked to take up. I did that alongside a six-and-a-half-days-a-week job as First Minister, with the same number of staff as everybody else. It is not impossible to fit everything in, but we have got into ways of working that work against that. We all, collectively, need to find a way of pushing back and finding the space to do it.

The Convener: Perhaps the situation varies depending on the member and the constituency, but it is not unusual for me to work a 60-hour or 70-hour week. That is partly to do with geography, distance and so on. In general, MPs have greater staff resources than MSPs have, yet we are responsible for an awful lot of the bread-and-butter issues, such as local government and health issues, that come via constituents. MPs perhaps deal with a more limited range of issues, such as the benefits system. I do not know whether any research has been done on that.

Margaret Burgess: I was not necessarily supporting the status quo, but was trying to get your view on whether we should be spilling into four days a week on some occasions. We must look at everything. I was not saying that we should only ever sit the same hours as we do now.

Alex Fergusson: Alasdair Morgan's point was that if, under a rescheduled procedural week, a committee came under stress in its timetable, we should consider its meeting on a Monday. We can extend the week as needs require. I agree with that idea; it fits with my belief that we must use roughly the same time as we have now but use it better, with extended debates midweek when members are in town anyway. We have the facility to expand if and when the workload requires it. That is the only way to avoid committees and Parliament sitting at the same time. The numbers dictate that we must avoid that.

Margaret McDougall: I agree with the discussion on casework. As a councillor, I know that constituents would rather see an MSP or an MP than see a councillor, even though the issues mostly concern councils. We must be more firm about that.

Much has been said about First Minister's question time and how we should make ministers more accountable, but there were no suggestions on how we should do so.

Alex Fergusson: We have not been there yet.

Margaret McDougall: Also, reference was made to bringing more spontaneity into question time.

The Convener: This takes us into a discussion on question time.

Alex Fergusson: I am sorry to jump in, there is no need for me to do so. We have all been queuing up to speak about this matter because we all agree that there is no spontaneity at present. It is desperately needed and it would help to make question time more topical.

One of the problems is the length of time that is taken over questions and answers. I refer to general question time as well as to First Minister's question time. As Presiding Officer, I undertook a visit to Quebec, where they have time limits on questions and answers. I cannot remember the time limits.

During the previous session, I had private discussions with party leaders on the prospect of limiting time. We came to a voluntary agreement on how long questions and answers should take. It was fantastic for about two weeks but then it lapsed into what we had been used to. It is a problem.

Time limits are worth looking at; in Quebec, the limits do not detract from the party-political points that must be made, nor from the politics of the equivalents of First Minister's question time or general question time. People very quickly got used to phrasing a question within 40 seconds and answering it in one minute. When the speaker stands up to respond after one minute, the questioner is cut off. Although there is no button to stop the microphone in that Parliament, the questioner sits down when the speaker stands up. You will watch the equivalent of the First Minister answering his question and think that there is no way that he can finish his answer within a minute but on 59.7 seconds he sits down. People get used to it. It keeps things going and allows for far more back-bencher intervention and participation during question time, which is something we lack. I completely agree with my successor in that regard. We could make huge inroads on First Minister's questions and general question time.

Time limits are worth looking at, even if they are rejected, because they could speed up and radicalise the process.

Lord McConnell: I am in favour of radical surgery in this area; the letter I wrote to George Reid in the summer of 2003 also advocated radical surgery. At that point, on my suggestion we agreed to go from 20 minutes to 30 minutes for First Minister's questions. That was specifically to allow more back-bench questions, but it has not worked in practice. We need to find a new way of working during First Minister's questions to allow that to happen. On a recent occasion in the House of Commons, between 25 and 30 questions to the Prime Minister were taken. The questions were snappy and the answers were quick. It is not impossible to achieve a much greater turnaround of questions in that slot.

16:15

In addition, I would get rid of some of the silly rules that we have. In my view, there is no need for the three party leaders to ask the “What are you having for breakfast tomorrow?” questions. If the three party leaders are to be allowed to ask questions, we should let them get on with asking questions, rather than wasting minutes. Frankly, when I was First Minister, I liked the fact that there was that first question, because it led me into the next answers. I did not have to think on my feet immediately; I was already into things by the time the surprise question came. From the point of view of the whole Parliament, it would be extremely helpful to make First Minister’s question time much snappier and to make it clear that more back benchers could ask questions.

That would require a change in the procedure that goes on behind the scenes as much as a change in the rules. If more time were freed up—maybe even by scrapping questions 4, 5 and 6; I do not know what the rules on that are—there would have to be a procedure whereby back benchers could come to the Presiding Officer to tell them about a particular event that had happened in their constituency that week or, as Helen Eadie said, to identify an issue that had arisen in the news that week and which their committee had been looking at, and ask to raise it with the First Minister. The Presiding Officer should be able to pick a bundle of people and allow them to do that.

There was great theatre in the Parliament for the first couple of years when the ministerial question time took place immediately before First Minister’s question time. There were two reasons for that. First, it raised the level of anticipation—everyone was waiting for First Minister’s questions and the excitement grew as the chamber filled up. Secondly, those were exciting days in the Parliament because it was all new.

However, as someone who was a minister at the time, I can tell you that there was nothing pressuring about being asked one question as part of a general question time; it was fun. When I was Minister for Finance, Andrew Wilson was the shadow finance minister. If he asked me a question about finance, I would answer it, then things moved on to a question to Susan Deacon on health. Basically, I could say whatever I liked, because there was no comeback from anyone.

The shorter ministerial question times have not worked. They are just too short and too well prepared in advance. If the Parliament moves to sitting three days a week, it would be perfectly possible to have proper tough question times once a month for half an hour to 45 minutes, at which ministerial teams from each department could on a rota be put under a bit of pressure, no matter

which party was in charge. The Parliament’s back benchers should be holding ministers to account. Most questions should come from back benchers, more should be spontaneous and fewer should be written down in advance. It would be perfectly possible to introduce such a system. It is long overdue.

Helen Eadie: I will pursue the FMQs theme. One of the concerns that I have is that, at Westminster, they do not read out the question on the order paper; they go straight to the answer. Is that something that we should consider in this Parliament?

Alasdair Morgan: The only argument against that is that if just the number of the question is read out, people who are watching on television at home—

Helen Eadie: The question comes up on the screen.

Alasdair Morgan: Right—we need to change that, then. As I was here, I never watched FMQs on television, and I have certainly never watched them on television since I left—that is for sure.

Time limits are worth looking at. I was in Ottawa this year, where there are time limits. They are very short—too short, perhaps—but something like that would be sensible.

There is a quid pro quo in that, if half an hour is freed up for back benchers to ask questions, there must be lots of back benchers who are willing to step up to the plate. I am not 100 per cent sure that that would happen, and it would be a bit embarrassing if things finished early because no one had anything to ask. However, the criticism would soon concentrate minds.

We should not beat ourselves up about ministerial question time. If you have been to ministerial questions at Westminster, you will know that it is pretty boring. By the end of question time, which often goes on for 50 minutes, time is dragging and only a few people are left, who are there to ask their questions. However, there might be scope for more topical questions, rather than having everything determined in advance.

We have heard what First Ministers and Prime Ministers have said about the amount of time they spend preparing themselves for a question session. Those people do an important job and I suspect that, in a democracy, we have to ask whether that is the best use of their time. I remember that Blair changed Prime Minister’s questions from twice a week to once a week, to reduce the amount of time that had to be spent on them. I am not suggesting that we should feel sorry for ministers, but we have to be cautious about the pressure that we would put on them if we went to totally unscripted questions.

Alex Fergusson: On the point about using question time to hold ministers properly to account, something is lacking in that members get only one supplementary question after they have asked the question that they lodged. Jack McConnell touched on that. In the event of a minister not answering a member's question—and that has happened since the Parliament began—the member must sit down and be satisfied.

When we began, members could ask the question that they had lodged and that was their lot; there were no supplementaries in the early days. At least members now get to ask a supplementary question. There are occasions when there should be an increased willingness to allow further supplementaries, so that members can properly question the minister, tease out the answer and get to the bottom of what they are trying to ask about. Of course, when that happened would be the preserve of the Presiding Officer.

Lord McConnell: It is true that, in most Parliaments, questions to ministers can become dull. Perhaps I should except Canada, where question time is particularly lively—it is even more so in the national Parliament in Ottawa than it is in Quebec, for example. However, in a concentrated departmental question time, in which supplementaries are allowed, if the minister is not answering on an issue that is very topical, the minister comes under pressure. In my view, that is good for ministers, as well as being good for the Parliament and the public. Ministers must know their brief and they must do their job properly; if they do not do so, that gets pointed out, they are moved on and someone else takes their place. Currently, it is just too easy for ministers, which is not healthy.

Helen Eadie: We used to have First Minister's question time at 3 pm, but it was moved to 12 noon by the Procedures Committee in the second session of the Parliament. I read in the committee papers that viewing numbers halved when question time moved to noon. Although the First Minister and questioners got hits on the lunchtime news, the population out there appeared not to be engaged to the extent that it had been. I do not know whether that was because of a change in First Minister—who knows?—but it makes one ask whether the timing is appropriate and helps to increase the drama.

Lord McConnell: I do not agree. The decline in attendance at First Minister's question time happened at the same time as an overall decline in attendance in the gallery, after the initial excitement of the first two or three years of the Parliament. The key reason for the change to 12 o'clock, which I proposed, was that school parties could never watch First Minister's question time at

3 o'clock, because they always had to leave before then to get back for the end of the school day. The time was changed to allow school parties to sit in on First Minister's question time. That was the right thing to do. It would not be good to deny schoolchildren the chance to see the primary event of the week up close. Remember that the Parliament does not meet during the school holidays.

Alasdair Morgan: I do not think that you can improve question time by moving it to a different time. That makes no difference at all. If you get everything else right, it will be a good question time whether it happens at 10 o'clock in the morning or 7 o'clock at night.

There is nothing to stop the Presiding Officer taking more supplementary questions. The reason why we did not do so ties in with the issue of time limits. We were conscious that we had to make a reasonable fist of getting through the questions in front of us. We knew that members would want to ask supplementary questions on the back of each of them, so that if we allowed numerous supplementaries from one member, we would upset a lot of others because we would not reach their question. However, if there were time limits, that problem would be resolved to a significant extent.

The Convener: Would time limits stretch the time that is available for some questions? Near the end of a question time, we might currently be given a lot less than a minute to ask a question—perhaps only 15 seconds—which means that we are not able to give even a slight bit of context, regardless of the fact that that context might be quite important. At the moment, the questions are longer at the start and end up being squeezed as time runs out.

Alasdair Morgan: Some people's idea of a slight bit of context would not equate with mine, but there you go.

Paul Wheelhouse: If we went down the route of having more free-form question times and the First Minister and the ministers did not have the advantage of advance notice of the questions, might that not work against having a time limit? If the minister has had no time to consider the question and understand the context, the member will have to tee up the issue and explain why they are asking the question. It might be helpful, in a free-form question time, to allow slightly longer in which to ask the question, so that the member can get a fuller answer in reply than they would if they simply dropped in a question with no context.

Lord McConnell: If the member has a serious point to make, the minister will be aware of it already. Rarely does a minister get asked a question that comes completely out of the blue. If

someone is asking a question about an issue that they have already written to the minister about or which has been in the news, the minister should be on top of it already. The case for context can sometimes be overstated.

The issue is one of balance. It is incumbent on the member to ensure that the context of the question is known. During the past four years, when I was a back bencher, every time I asked a question at First Minister's question time, I let Alex Salmond's office know what I was going to raise, because I wanted to get an answer. Certainly when I was First Minister, if members were asking a serious question rather than simply making a point, they would more often than not tip me off, and I would take it seriously and try to give them an answer. There are different ways of dealing with the issue.

Alasdair Morgan: If questions are not scripted in advance, there is an onus on members to be sensible about what they are asking. Unless an issue is current and has just crossed his desk, the minister might not know the answer to the question, as he will not know about everything that is going on. Quite rightly, if a minister is asked something out of the blue, he will say something like, "In order to avoid giving the chamber any inaccurate information, I will write to the member on that, as I do not have the details in front of me," and the member will have achieved nothing.

Lord McConnell: There are different ways of holding ministers to account. Letters are sometimes better than questions.

Alex Fergusson: I have no great disagreement with what has been said. I would only add the caveat that the time limit that I was talking about—the possibility of 40 seconds and one minute—is in effect two minutes per question and answer, by the time the question has been announced and so on. You would probably have to be tighter than that if you are going to get more than 10 questions and answers in a 20-minute session. I am convinced that it can be done. To answer Paul Wheelhouse's question, I would say that it concentrates the mind. As my colleagues have said, the minister can say that they will write to the member or meet them later. However, I believe that the proposal would bring about greater spontaneity and ensure that members had a far greater impact in doing what we are all here to do.

16:30

Lord McConnell: I will give a positive example of an occasion on which, in my view, questions helped to achieve the right decision by the Government. The issue was the single vaccine for measles, mumps and rubella. Although a lot of hard work had to be done by the First Minister—me, at the time—to get on top of the issue, that

work was useful and would not have been done if not for First Minister's questions. At First Minister's questions, I had to deal for three or four weeks in a row with a combination of front benchers and back benchers demanding that we change policy and go from a single vaccine to individual vaccines. I spent hours—although I did not have to, as it was really the health minister's responsibility—with medical experts, trying to get on top of the issue so that I could be certain that what I was saying in the chamber was right. That did not make me an expert, but it meant that I was questioning our policy and getting on top of the issue. I was confident when I stood up in the chamber that, however controversial the single vaccine was, what I was saying was right, as has since been proven to have been the case.

The pressure was intense at the time but, if it had not been for the pressure that First Minister's questions put on me, I would not have had to make that effort. I think that we made better decisions as a result and communicated them more effectively, and we stuck with those decisions rather than going with the daily headlines. That was down to the pressure of questions. When question time works well, it helps ministers to make better decisions and do their job better.

The Convener: We have covered a lot of ground this afternoon, and the committee will need to pull all the evidence together. I think that Bob Doris has a point to make.

Bob Doris: My question has pretty much been answered, but I just want to put on record that I am interested in the idea of having a second supplementary to a set question. As a back bencher, I try to fit everything in, so that if I get 15 seconds to speak, I speak more quickly to get as much information as possible on the record, rather than making it a quality 15 seconds. That does not help with the scrutiny of ministers. The idea of limiting time but allowing a second supplementary, so that the member is having a conversation with the minister there and then, and holding them to account, is strong.

Lord McConnell: There is another option if the Presiding Officer knows that other members in the chamber have an interest in a certain topic. Let us say that a question comes up about the exam system, to go back 10 years to that issue. Constituents ask a member to raise the issue in the chamber, so they do so, but they do not get an answer first time. There is no reason why someone else should not ask a question on the same topic. Why do we move straight to question 2? Someone else may have indicated to the Presiding Officer in advance that, once Bob Doris has finished with a certain question, they would like to come in with an additional supplementary.

Three or four people could ask about the same topic before the Presiding Officer moves to the next topic. If we had departmental question time, it would be more possible to do that, although it is just an idea.

Alex Fergusson: Alasdair Morgan is quite right, and the Presiding Officers are already able to call members for a further supplementary. However, I recall that, on more than one occasion, I looked to the member to see whether they wanted to ask another question, and they had already given up and started reading or looking at their BlackBerrys, or whatever it was that they were doing at their desk. If members asking further supplementaries is to come about, their knowledge that they can do so needs to be reawakened. That is why I raised the issue.

I was going to make another point, but it has gone completely out of my mind—I am sorry about that.

Bob Doris: I did not realise that members could ask a second supplementary—I will look out for that with the current Presiding Officer.

There is a balance to be struck with getting through every question in the *Business Bulletin*. Is it not pointless if we just give each question a cosmetic gloss? Would it not be better to have eight or nine questions that allow substantive scrutiny of the minister, rather than 20 questions for the sake of it?

Alasdair Morgan: I suspect that you would have to consider how the questions are chosen. Not all questions that are drawn in the ballot are of equal worth; some of them you just want to get through as soon as possible. You have to allow some flexibility, and you know that some are going to drop off. You are right, but you would need to suck it and see. You could introduce time limits and see how many questions you get through, and then restructure the number of questions that you put in the *Business Bulletin* in the light of that experience.

The Convener: I am going to indulge the PO—

Alex Fergusson: I am the ex-PO, I believe.

I have remembered the other point that I wanted to make. At the start of my time as Presiding Officer, I remember saying to all the business managers that, ideally, I wanted members to be able to press their button at First Minister's question time and other question times without having given notice of the question that they wanted to ask and feel that they had a fighting chance of getting in. I put my hand up and say that, although we started off quite well, I failed in that regard. I still think that that is worth pursuing. It should not be necessary to have pre-notification of a question. If you want true spontaneity, somebody who is listening to an answer should be

able to bang their button as they think, "I really want to comment on that," and have a fighting chance, though not a guarantee, of being accepted for a question by the Presiding Officer. We would then have true spontaneity and perhaps better accountability.

Lord McConnell: And you could solve the problem of the questions on the order paper. There might be 15 questions on the order paper but, in the course of a 40-minute departmental question time, you might get through only six, seven or eight of them because you take more supplementaries from other people. The other questions that are on the order paper could get a written answer from the minister. It is not an insurmountable problem.

Helen Eadie: I have a bit of unfinished business. I apologise for being a grasshopper and taking you back to something that one of you said earlier, but it was important. When we were talking about committees earlier and we all recognised that they are powerhouses where a lot of the Parliament's work is done, Alasdair Morgan said that we could do away with some committees. Which ones would you do away with?

Alasdair Morgan: Given that equal opportunities are meant to be mainstreamed, I think that the Equal Opportunities Committee is one whose existence has to be questioned, because its subject matter can be dealt with elsewhere. I am not totally up to date with the European and External Relations Committee, but I served on its predecessor committee and thought that its existence would be on a shoogly peg, shall we say, if there were more important issues to be discussed elsewhere.

Helen Eadie: As a member of that committee, I will vote for that.

The Convener: I thank the three of you for coming this afternoon and I thank committee members for engaging in this debate, which has given us lots of material. I am sure that, over the coming weeks and months up to Christmas, we are going to get even more feedback from people. We will now have to sit down and try to tease out from everything that has been said today the main points that come through. There is no doubt that we have lots to think about. Again, thank you very much.

Lord McConnell: Thank you.

Alasdair Morgan: Thank you.

Alex Fergusson: Thank you, convener.

The Convener: We are going into private session for our next item, so I ask any members of the public present to leave the committee room.

16:37

Meeting continued in private until 17:12.

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e-format first available
ISBN 978-0-85758-811-1

Revised e-format available
ISBN 978-0-85758-822-7

Printed in Scotland by APS Group Scotland
