

# **ENTERPRISE AND CULTURE COMMITTEE**

Tuesday 8 March 2005

Session 2

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## ENTERPRISE AND CULTURE COMMITTEE

### 7<sup>th</sup> Meeting 2005, Session 2

#### CONVENER

\*Alex Neil (Central Scotland) (SNP)

#### DEPUTY CONVENER

\*Mike Watson (Glasgow Cathcart) (Lab)

#### COMMITTEE MEMBERS

\*Richard Baker (North East Scotland) (Lab)  
\*Chris Ballance (South of Scotland) (Green)  
\*Susan Deacon (Edinburgh East and Musselburgh) (Lab)  
\*Murdo Fraser (Mid Scotland and Fife) (Con)  
\*Michael Matheson (Central Scotland) (SNP)  
\*Christine May (Central Fife) (Lab)  
\*Mike Pringle (Edinburgh South) (LD)

#### COMMITTEE SUBSTITUTES

Mark Ballard (Lothians) (Green)  
Mr David Davidson (North East Scotland) (Con)  
Fiona Hyslop (Lothians) (SNP)  
Margaret Jamieson (Kilmarnock and Loudoun) (Lab)  
George Lyon (Argyll and Bute) (LD)

\*attended

#### CLERK TO THE COMMITTEE

Stephen Imrie

#### SENIOR ASSISTANT CLERK

Douglas Thornton

#### ASSISTANT CLERK

Seán Wixted

#### LOCATION

Committee Room 5



## Scottish Parliament

### Enterprise and Culture Committee

*Tuesday 8 March 2005*

[THE CONVENER *opened the meeting at 14:01*]

#### Items in Private

**The Convener (Alex Neil):** As it is nearly 2 minutes past 2, I welcome everyone to the seventh meeting in 2005 of the Enterprise and Culture Committee. I remind people to switch off their mobile phones. The only apologies come from me. I have been asked to attend a Parliamentary Bureau meeting at 2.30, so Stephen Imrie, the clerk, and I will leave at just after 20 past 2 and rejoin you at about 10 to 3—hopefully, still in one piece.

**Mike Pringle (Edinburgh South) (LD):** We will have finished by then.

**The Convener:** Absolutely.

Item 1 on the agenda is to consider whether to take items 4 and 5 in private. Item 5 is very straightforward. For the record, I will remind people why item 4 is on the agenda and of the background to it.

On 16 March 2004, the committee appointed Brian Adam and Richard Baker as reporters on Scottish football. They were to conduct a framework investigation into Scottish football and to report back to the committee. The committee decided to adopt that approach to the subject because its work programme did not allow time for a full inquiry. Brian Adam resigned from the committee on 22 September 2004. On behalf of the committee, I thank him for his work on and input into the report.

The committee agreed that the investigation would consider the current situation in Scottish football, with specific reference to the financial advice that is available to football clubs and supporters organisations; supporters' involvement in decision making; and the Executive's actions to date to support the development of Scottish football. This afternoon Richard Baker will report back to the committee on his findings. The committee will consider the general principles of Richard's paper and decide whether it wishes to adopt the paper as the basis for further committee work and a formal draft report. If the committee adopts the paper, it will be considered in the same manner as any other draft report. The evidence that has been collated as part of the investigation will be published on the committee's website and a

finalised report will be published, probably in April or May, depending on the committee's workload.

Do members agree to consider items 4 and 5 in private?

**Members** *indicated agreement.*

## BBC (Internal Reviews)

14:04

**The Convener:** Item 2 concerns the BBC internal reviews. There are four such reviews, as part of a general review of the working of the BBC throughout the United Kingdom. Obviously, we are interested in what happens in Scotland and its impact.

Three meetings ago, we agreed that, given the sensitive stage that the BBC's reorganisation proposals have reached, the deputy convener of the committee, Mike Watson, and I should meet the senior management of BBC Scotland—especially Ken MacQuarrie, the organisation's controller—to consider the possibility of BBC representatives attending a meeting of the committee to give us a full and frank report.

Mike Watson and I had a meeting with Ken MacQuarrie yesterday, which we both thought was helpful. The tone was positive; the BBC is willing to come to give the committee a full presentation on the reorganisation, the proposals for changes in work methods and their impact on BBC Scotland. We hope to have the BBC here shortly after the recess in April. I confirm that that is still on and that we received a positive response. Ken MacQuarrie made it clear that any time the committee wants to discuss anything he is willing and keen to respond positively, as he is doing on this occasion.

We will have further discussions on wider issues to do with what is happening with the BBC, including the follow-up to the green paper that was published this week, which impacts on some of the issues that we have discussed. The Office of Communications might propose changes as a result of the general consultation on public service broadcasting. At an early future date we will discuss how we want to approach all those subjects. This item is merely to report that BBC senior management has agreed willingly to come to the committee to give us a full presentation and provide us with all the relevant facts about the changes as they affect BBC Scotland.

**Mike Watson (Glasgow Cathcart) (Lab):** I have little to add, other than that when, in the near future, the controller of BBC Scotland and his senior staff make announcements on the BBC reviews and their impact on Scotland, which is one of the main areas that concerns the committee, it is only proper that they make them first to BBC staff and then to the governors. I certainly think that BBC staff—I see a member of staff in the public gallery—would be less than happy if they learned about fairly important decisions through media reporting on a meeting. That is the context

in which we met Ken MacQuarrie and Ian Small yesterday. We will have a productive session when they come to give evidence to us next month.

**The Convener:** Is everybody happy with that?

**Members** *indicated agreement.*

**The Convener:** I will ask the clerks to fix up the details of the meeting, which will probably be on 19 April or thereabouts.

## Sewel Convention (Procedures Committee Inquiry)

14:08

**The Convener:** Item 3 is on the Procedures Committee inquiry into the Sewel convention. You might remember that on 25 January, the committee expressed concern about the process by which Sewel motions are handled by committees. The concern was not about the principle of using Sewel motions, on which I am sure there are at least two views in the committee, but about how they are handled internally. At our meeting on 25 January, following our consideration of the National Lottery Bill, which is UK legislation, we agreed to consider at a future meeting whether to make any observations to the Procedures Committee about the Sewel motion process.

I asked the clerks to prepare a paper for discussion. I do not think that this item is particularly heavy, but we are duty bound to follow up on what we discussed. If there are areas where we believe that the procedures of the Parliament can be improved, we should draw them to the Procedures Committee's attention at the appropriate time. The paper has been circulated, so I invite comments, or observations on the observations.

**Mike Watson:** The main issue is the timescale, which has been raised a number of times. It is not our job to debate the pros and cons of Sewel motions as such, or indeed the frequency with which they are used. However, I am not the only one who is concerned that we often have no room for manoeuvre when Sewel motions are presented to us. It would be good if something could be done about that. There are times when nothing can be done, but I am sure that there are other times when we can get a bit more notice, which would be to everybody's benefit.

**Christine May (Central Fife) (Lab):** I agree with Mike Watson. It is the same with such things as amendments or the final stage of a bill, when there is often little time for committees to have any sort of considered discussion about the issues. It may be that a response has to be made by the following day, or that the matter under consideration is due for debate on the following day. If there is one message that goes out and is agreed by all members of the committee, it should be that in all cases where we are asked to comment on legislative proposals—whether on Sewel motions, amendments or final stages of bills—the timescale is the most important matter.

**Michael Matheson (Central Scotland) (SNP):** I agree with Mike Watson and Christine May that

timescales are important. I have not come across Sewel motions to the same degree on this committee as I did when I was on the Justice 1 Committee. The nature of the motions is certainly different. There are often issues that are brought to the committee's attention when it is considering the Sewel motion. The committee then raises those issues with ministers and is told that they will be addressed in the legislation at Westminster, but the committee has no mechanism for finding out whether they are addressed. There have been occasions when the committee has published its report on a specific issue but at the end of the process has had no way of checking whether the issues that it raised have been addressed in the legislation.

Timescale is one of the issues, but the other is the need to ensure that there is a mechanism for some type of feedback to the subject committee that considered the matter in the first place, to see whether any of the issues that it highlighted and asked to be addressed are addressed before the bill is passed. That is a procedural matter, but there is a need to ensure that there is an appropriate mechanism. There is no point in the committee taking evidence from organisations that highlight concerns if we have no way of saying, "Well, those issues will be taken on board, ministers have said that they will be addressed and we have checked that they will be addressed."

**Susan Deacon (Edinburgh East and Musselburgh) (Lab):** As members of the Enterprise and Culture Committee, we have few complaints or observations as a result of our direct experience of Sewel motions. That is not to say that there are no issues, but it is important to note that the issue has not surfaced a great deal here. In fact, the Sewel motion that we were considering when we agreed to have this discussion worked fairly well. The process worked well and in my view it was an appropriate use of the Sewel mechanism.

However, if we are going to make some general comments, I would simply endorse the points that have been made by other members. I would also extend what Michael Matheson said about feedback to the committee. There is an issue to do with tracking the progress of Sewel motions that has come up time and again since their inception. I am conscious that I am a little removed from the discussion, although it is something that I was involved in a few years ago, when I was on the Procedures Committee. However, what I see from my new vantage point tells me that the process has not been hugely improved and the issue has certainly not been resolved. It should not be beyond the wit of man or woman to have better tracking and feedback mechanisms, so that we can see how the legislation is progressing at Westminster, and a way of triggering, flagging or

identifying substantive changes where they emerge. That is just an addendum in support of what colleagues have said.

**Chris Ballance (South of Scotland) (Green):** I support the comments about timescales. There is a lack of time, even for calling for other evidence. There was one week when we had evidence from the minister and written evidence from a couple of bodies that had happened to find out about the legislation, but without the time to issue a proper call for evidence that did not amount to very much, because we heard only the minister's side of the story and no other concerns.

There is also a lack of time to consider any Scottish dimension to a bill. As has been said, there is a lack of any form of mechanism to ensure that the concerns that are raised by this committee, or by any other committee, if they are then supported by the Parliament, are then reported to Westminster. We can look at a bill and say that although 95 per cent of it is very good, we have worries about the other 5 per cent. If that is what we report, there is no mechanism for ensuring that anyone discovers our concerns or that they are reported to Westminster.

The other problem with Sewel motions is that they are an all-or-nothing device—we can either take the entire package or vote it down. There is no scope for saying that nine tenths of a bill are good but we would query one tenth of it and would like the matter in question to receive proper attention in a Scottish bill.

14:15

**Richard Baker (North East Scotland) (Lab):** The joy of being a member of both this committee and the Procedures Committee is that I have been able to throw myself whole-heartedly into getting to grips with the fine details of the Sewel convention. That has been a source of great happiness to me.

I welcome the fact that the Procedures Committee will elicit views on the subject. At the first evidence session of the committee's inquiry, we took evidence on how to create more parliamentary engagement with the process and to ensure that such matters are not dealt with only at Executive level. Michael Matheson and Susan Deacon have both highlighted the difficulty of tracking legislation at Westminster. That is a complicated area but one that it is important to raise. I am sure that the Procedures Committee welcomes the fact that the Enterprise and Culture Committee has asked it to examine the processes that are involved to ensure that it is possible to track legislation as it proceeds down in Westminster.

**Murdo Fraser (Mid Scotland and Fife) (Con):** I apologise for being late. I was at the

Confederation of British Industry Scotland lunch and did not think that it was appropriate to walk out halfway through Digby Jones's speech.

**Mike Watson:** That depends on what he was saying.

**Murdo Fraser:** You will no doubt read about that in tomorrow's papers.

**The Convener:** I thought that you would have been at the launch of the Scottish National Party's economic strategy.

**Murdo Fraser:** I do not waste my time on such irrelevances.

**Members:** Ooh!

**Mike Pringle:** I am frantically trying to get a copy of that.

**Murdo Fraser:** I have a specific concern about Sewel motions. As I missed the early part of the discussion, I apologise if someone has already made the point that I am about to make.

Sewel motions are worded in two quite different ways. There is what we might call a straight Sewel motion, which simply says that Westminster should be responsible for considering a certain piece of legislation. However, there is a trend towards wording Sewel motions in a slightly different way, so that they say that the Scottish Parliament approves of the principle of the bill in question and agrees that Westminster should deal with it. When the Executive uses that form of words, it is confusing two quite separate issues. We may agree that Westminster is the more appropriate forum for the consideration of a particular bill, but that does not necessarily mean that we agree that the bill's principles are correct. Those issues are quite separate and the trend towards confusing them is unfortunate. They require to be separated, not least because, as we know, by the time a bill has passed through two houses of Parliament, the end result may be quite different from the piece of legislation that was introduced.

We do not have a second bite at the cherry. If we say at the outset that we think that, in principle, a bill is a good thing, we may miss the opportunity to come back at a later stage and say that we would not have been happy to pass the bill as it has ended up. Although it may be appropriate to agree to a Sewel motion in which we agree that Westminster should consider a particular bill, it is quite a different matter for us to agree to a motion that offers a subjective view on the substance of that bill.

**The Convener:** That point about the distinction between the two kinds of Sewel motion is valid. We should draw it to the Procedures Committee's attention and ask it to look into the matter further.



It might be useful for the committee to classify the categories into which Sewel motions fall.

From our experience of dealing with the National Lottery Bill, the main concern that all of us had was about the timescale involved. The minister and her civil servants gave evidence to us on the bill on the Tuesday and the Parliament was to debate the Sewel motion and to vote yes or no on it only two days later. The fact that Parliament did not get a report from the committee on any of the evidence that it took defeated the purpose of our taking evidence. From the point of view of legislative scrutiny, the whole purpose of that process is to enable the committee to report back to the Parliament, to identify issues that need to be addressed and to make recommendations on, or comment on, particular aspects of a bill, the Sewel motion on it or any other item.

The timing issue concerns the whole follow-through process. The National Lottery Bill is an important piece of legislation that has the potential to impact on the funding of non-governmental organisations and charitable organisations in Scotland to the tune of many millions of pounds. As Chris Ballance said, it would have made sense for us to have heard a bit more from people other than the minister and her advisers and to have given our thoughts to Parliament, if we had chosen to do so. That would have meant that when the Parliament debated the Sewel motion, it was an informed debate. I share members' concerns about the timing and the issue that is behind that, which is that if the committee is to have a role, we need to have the facility and the time to be able to report back to Parliament. I am not saying that we would do that in every case—indeed, with many Sewel motions we would probably not do so. However, on a matter as important as the National Lottery Bill it would seem sensible that we should at least be allowed to give our observations to the full Parliament.

I suggest that we draft a letter to the Procedures Committee along the lines of our discussion, in which we draw attention to the three or four substantive points that have been made. We will attach to the letter a verbatim account of the discussion, so that the Procedures Committee can read all the points that have been made and the manner in which they were made. Is the committee happy to delegate that task to Mike Watson and me?

**Members indicated agreement.**

**The Convener:** We are about to move into private session so, unfortunately, I must ask the public in the gallery—after their short visit to the best committee in the Parliament—to leave. Now is an opportune moment for Stephen Imrie and me to take our leave and go to a meeting of the Parliamentary Bureau. I hand over the chair to Mike Watson.

14:21

*Meeting suspended until 14:23 and thereafter continued in private until 15:25.*



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