



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

Thursday 31 January 2013

Thursday 31 January 2013

CONTENTS

	Col.
INTERESTS.....	565
DECISIONS ON TAKING BUSINESS IN PRIVATE	566
SCOTTISH LAW COMMISSION BILLS	567

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
2nd Meeting 2013, Session 4

CONVENER

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

DEPUTY CONVENER

Helen Eadie (Cowdenbeath) (Lab)

COMMITTEE MEMBERS

Brian Adam (Aberdeen Donside) (SNP)

*John Lamont (Ettrick, Roxburgh and Berwickshire) (Con)

*Richard Lyle (Central Scotland) (SNP)

*Margaret McCulloch (Central Scotland) (Lab)

*Fiona McLeod (Strathkelvin and Bearsden) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Mark Griffin (Central Scotland) (Lab) (Committee Substitute)

CLERK TO THE COMMITTEE

Gillian Baxendine

Alison Walker

LOCATION

Committee Room 6

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 31 January 2013

[The Convener *opened the meeting at 09:30*]

Interests

The Convener (Dave Thompson): Welcome to the second meeting in 2013 of the Standards, Procedures and Public Appointments Committee. I remind members to turn off mobile phones and BlackBerrys. We have received apologies from Brian Adam and Helen Eadie.

Agenda item 1 is a declaration of interests. I welcome Mark Griffin and ask him to declare any relevant interests.

Mark Griffin (Central Scotland) (Lab): I have nothing to declare that is not in my entry in the register of interests, apart from the fact that I am a member of the Public Audit Committee, which relates to the committee rule changes that we will discuss.

Decisions on Taking Business in Private

09:30

The Convener: Agenda item 2 is a decision on taking business in private. Do members agree to take in private item 5, which is a discussion of the committee's approach to our inquiry into local motions; and item 6, which is a discussion of our approach to possible rule changes on committee substitutes?

Members *indicated agreement.*

The Convener: Agenda item 3 is a decision on taking the following business in private at future meetings: a paper on possible rule changes for hybrid bills; a discussion paper on our approach to our review of parliamentary reform; and a paper on our inquiry into post-legislative scrutiny. Do members agree to take those three items in private at future meetings?

Members *indicated agreement.*

Scottish Law Commission Bills

09:32

The Convener: Agenda item 4 is Scottish Law Commission bills. We need to take a view on a number of issues in the clerk's paper, which is paper 1. At our previous meeting, we heard evidence from the conveners of the Subordinate Legislation Committee and the Justice Committee on the working group report on implementing Scottish Law Commission bills. Although the conveners broadly agreed with the report, some issues were raised on which we might wish to take a view before considering the draft standing orders.

The first issue is the mechanism for referring bills, which is covered in paragraphs 2 to 5 on page 1 of the paper. What do members feel about options 1 and 2, on which the two conveners had slightly different views?

Fiona McLeod (Strathkelvin and Bearsden) (SNP): It is interesting that among not just the two conveners but all the committees that submitted written evidence, opinion is absolutely evenly split. To go back to first principles, I certainly prefer option 1. We should not introduce a level at which the Parliamentary Bureau has the criteria that we suggest, but a subject committee almost gets to make the bureau's decision for it because the matter is referred to it first. Bills go through three stages. Under option 1, the bureau will reflect on the criteria and, if appropriate, send the bill to the Subordinate Legislation Committee. As with any bill, at stage 1, a subject committee could make its views known. If we said that the bill should go to the subject committee first, we would just be introducing an unnecessary extra step.

The Convener: Do other members have views?

John Lamont (Ettrick, Roxburgh and Berwickshire) (Con): I agree with Fiona McLeod.

Richard Lyle (Central Scotland) (SNP): I also tend to agree with Fiona.

The Convener: I am getting the sense that members are content to go with option 1. Is that the case?

Members indicated agreement.

The Convener: The second point is on the criteria for referral, which are dealt with in paragraphs 6 and 7 of the paper. Do members have any comments?

When Nigel Don was before us, he made the point that standing orders would not prevent the Subordinate Legislation Committee from seeking a view, although there is no obligation to respond—

[*Interruption.*] Sorry, I have just jumped on to another issue. My apologies.

We are looking at the criteria for referral, which are covered in paragraphs 6 and 7. Do we wish to bear the issue in mind in considering the draft standing orders? Basically, are we happy with the criteria for referral or do we want to adjust them in any way? Shall we just bear the issue in mind?

Members indicated agreement.

The Convener: The next item concerns input from subject committees. As I said, Nigel Don felt that the standing orders would not prevent the Subordinate Legislation Committee from seeking a view, although there would be no obligation on subject committees to respond. It strikes me as a bit pointless to leave it hanging. Some deadline could be set, and if the subject committee did not respond by that deadline, the Subordinate Legislation Committee would take it that that committee was content. What do members feel about that?

Margaret McCulloch (Central Scotland) (Lab): I agree—there should be a timescale.

The Convener: If we set a timescale, how long would be appropriate in order to give a subject committee time to respond to the Subordinate Legislation Committee? Would a month be reasonable?

Richard Lyle: It depends on when the subject committee meets and on any recesses. A month may be too short.

The Convener: So perhaps the deadline should be a month, excluding any recesses. I do not think that it would be right for us to demand that the subject committee responds, but if there were a deadline, the presumption would be that if the subject committee did not reply within that deadline, it accepted what the Subordinate Legislation Committee was saying.

Richard Lyle: I would agree with a month, excluding recesses.

The Convener: Okay, thank you for that.

That takes us to support issues, which are dealt with in paragraphs 11 and 12. What do members feel about the ability of the non-Government bills unit to support members in relation to the bills that come forward?

Richard Lyle: If the Scottish Government introduces a bill, it will support that bill. If a committee introduces a bill, it will be resourced somehow. If a member brings forward a bill, I am sure that the member will be able to do that on their own if required. However, I do not agree that these bills will not be resourced; I think that they will be. I cannot specify from where at this moment in time but I think that they will be resourced.

Fiona McLeod: On paragraph 12, being the pedant that I am, I absolutely agree. It is not for standing orders to discuss resourcing. There is already a procedure. As Richard Lyle said, if a bill is introduced, it is resourced as per the way in which it is introduced. It is not something for us to write up in standing orders.

The Convener: You are probably right. The practicalities will exercise control anyway. If there is no resource for a bill, it will not be introduced, and if there is, it will. I think that the issue will take care of itself. We do not really want to come down hard and fast on this. I presume that the committee does not want to seek the Government's view on this. If members feel that it is not an issue and that it should not be dealt with by standing orders, there is no point in looking for further information on it. We will just leave it as it is.

Members indicated agreement.

The Convener: We now move on to the impact of the proposed procedures, which is covered in paragraphs 13 to 16. Are there any comments? Do you feel that we need to review the system at some stage in the future? Does Fiona have a comment?

Fiona McLeod: You know me—I go through every line.

Anything new that is brought in should have a review process. I was just worried about the wording “later in the session”. Should we agree to a timescale for a review but also to review the system after X number of bills have gone through? If we get to later in the session and nothing has gone through, will there be anything to review? When I thought about it, I realised that we must ask whether, if nothing has gone through, that is because the criteria are too strict. There must be a timescale, perhaps with an option of having a review after X number of bills, so that we see how things have worked through.

I throw this in: I have written “after X bills”, but perhaps it should be that we review after three bills or 18 months—

The Convener: —whichever comes first.

Fiona McLeod: Does that make sense?

The Convener: What do members feel about that suggestion? Would we be happy to suggest a review after three bills or 18 months?

Members indicated agreement.

The Convener: That allows us to deal with the situation in which no bills come through, in which case, obviously, the system that we have set up is not working. The whole purpose is to allow some bills to come through. Eighteen months would be a reasonable timescale—if nothing has happened in

that time, we would need to re-examine the criteria and so on. That is fine—we will do that.

Let us presume that one or two bills come through over the next 12 months or so. There will still be a lot of other Law Commission bills sitting there. Should the review pick up in due course on the question of what should be done about the bills that the system is not picking up? Should we consider that to see whether there is anything else that we can suggest that would help more bills to come through in some other way? Do members want to consider that for the work programme in due course? Are we happy with that?

Members indicated agreement.

The Convener: Okay—we will do that as well.

That brings us on to the “Next steps” in the paper. We are asked to look at how we should consult on the draft standing orders. Do members want to look at the draft standing orders first before we consult others? Alternatively, are members content for the draft standing orders to be put together by the clerks, with me having a look at them, and then put out for consultation? We could then consider the responses at the next meeting at the end of February.

There are pros and cons with both approaches. If we put the draft standing orders out for consultation now, we get the benefit of other people's thoughts. On the other hand, if we look at them first, we can tailor them and deal with any points that we are not keen on before putting them out to consultation, but that would mean a delay of about a month before we could look at them ourselves. What would members prefer: putting them out and getting responses, or having a look at them first?

John Lamont: The most efficient use of our time would be to get the draft standing orders out to the conveners. We can then reflect on the drafts and the views that are expressed. We could proceed from there, rather than adding the extra stage of our looking at them first.

The Convener: Are you happy with that, Margaret?

Margaret McCulloch: That is fine.

The Convener: Fiona McLeod is also happy. Okay—that is how we will do it. That is fine.

We are also asked to agree to consider the draft report and the draft rule changes in private at a future meeting. Do members agree to consider the next stage in private?

Members indicated agreement.

Fiona McLeod: I want to ask about something that has suddenly dawned on me. Somewhere in the paper, the question of whether the

Subordinate Legislation Committee should have its name changed is raised.

The Convener: That was among the responses from other committees. We can probably pick up that point at a future meeting. There is some merit in considering that, and we will do so at a future meeting.

That ends the public part of the meeting. I ask the public and others to leave before we move into private session.

09:45

Meeting continued in private until 10:42.

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

Available in e-format only. Printed Scottish Parliament documentation is published in Edinburgh by APS Group Scotland.

All documents are available on
the Scottish Parliament website at:

www.scottish.parliament.uk

For details of documents available to
order in hard copy format, please contact:
APS Scottish Parliament Publications on 0131 629 9941.

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@scottish.parliament.uk

e-format first available
ISBN 978-1-78307-268-2

Revised e-format available
ISBN 978-1-78307-282-8

Printed in Scotland by APS Group Scotland
