



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

Thursday 6 December 2012

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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
16th Meeting 2012, 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:

George Adam (Paisley) (SNP)

CLERK TO THE COMMITTEE

Gillian Baxendine

Alison Walker

LOCATION

Committee Room 6

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 6 December 2012

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

Decisions on Taking Business in Private

The Convener (Dave Thompson): I welcome everyone to the 16th meeting in 2012 of the Standards, Procedures and Public Appointments Committee, and I remind members and others to turn off mobile phones, BlackBerrys and other such devices.

Agenda item 1 is to decide whether to take in private item 6, in which the committee will decide whether to amend the rules governing hybrid bills. Do members agree?

Members *indicated agreement.*

The Convener: Does the committee also agree to consider our work programme in private at a future meeting?

Members *indicated agreement.*

Guidance on Correcting Inaccuracies

09:31

The Convener: Agenda item 3 is consideration of the guidance on correcting inaccuracies. The Presiding Officer has written to the committee, inviting us

“to look ... at the current process”

for correcting inaccuracies

“in terms of transparency and general understanding”.

A letter from Liz Smith MSP that we have also received has been attached to members' papers.

Because the issue is, as I see it, mainly about publicising corrections rather than about the existence of a corrections mechanism itself, I think that we need to look at the publication mechanism for corrections. However, we should also examine the guidance itself in order to decide whether we are happy with it as it stands or feel that it could be simplified and consolidated in some way. Perhaps its current two-section format is not as clear as it might be.

Do members have any comments on the clerk's paper with regard to how we should proceed?

Brian Adam (Aberdeen Donside) (SNP): I understand that the mechanism itself is relatively new. When was it brought in? What is the scale of its use and who has used it? As far as I can see, there is an element of redundancy in that the guidance itself is almost repeated.

I am quite happy with the suggestions in the paper, and I think that there should be a mechanism for making corrections. If the argument is that it is not always obvious that a correction has been made and that corrections therefore need to be publicised, one might ask who will benefit from publication of corrections. Will it be members, the public or merely the media? Some interesting suggestions have been made that we might be able to consider if we take the convener's advice and look at the issue at a future meeting.

The Convener: In answer to your questions, I can inform the committee that the corrections procedure came into force only in October 2011, which means that it has been in force for just over a year. It was first used in February 2012 and only half a dozen corrections have been included in the *Official Report* in the past year. I understand that the latest correction will be made today. Although the procedure has not been used much so far, of course that situation might change.

Helen Eadie (Cowdenbeath) (Lab): Thank you, convener. It is appropriate that the committee do some work on the issue. We should come back to the issue at a later meeting and it should be considered in the way that you have described.

Liz Smith makes some important points in her letter, including the key point to which we must have regard, which is about where a substantive change is made without Parliament's attention being focused on it. The case in point was:

"revising a figure of 18,000 jobs in the renewables sector to 11,000."

Liz Smith is right to have raised that. The fact that it is not an isolated case is also very important.

Where there are minor errors, I would have thought that Parliament would accept minor corrections—for example if a word needs to be altered. However, if a change would substantively change the message, that needs to be flagged up to Parliament in a very formal way. We should do some work on this and come back to Parliament with our recommendations.

The Convener: All the corrections so far have been done properly and according to procedure. The members who raised issues—including the one that Helen Eadie referred to—have been written to and the Presiding Officer has been written to. The corrections have all followed the procedure, but we need to look at the procedure to try to sharpen it up a bit.

Richard Lyle (Central Scotland) (SNP): I welcome your comments, convener, and I welcome the clerk's paper. I take on board the comments that Helen Eadie made and I welcome them, as well. Only six corrections have been made in the past year. There should be a mechanism for members if they inadvertently cite a wrong figure in the chamber or to a committee; they should be able to make corrections so that everyone can see them.

The Convener: We will ask the clerks to come back to us with a paper on the guidance so that we can see whether we can consolidate that guidance in some way and make its two sections into one. That would be very helpful. The clerks could also make suggestions on how we could publicise corrections, over and above what is in the guidance. There needs to be a mechanism whereby a correction does not appear only in the *Official Report*, but also appears elsewhere.

Do members agree that the committee should ask the clerks for that paper for our next meeting and that we will hold that meeting in private, so that we can knock around the form of words and all the rest of it, and get it right?

Members indicated agreement.

Law Reform Working Group (Report)

09:38

The Convener: The committee is invited to consider the law reform working group's report on implementation of Scottish Law Commission reports. I ask members for comments.

Brian Adam: The issue has been knocking around for some time and I am disappointed that officials did not resolve the issue earlier. I hope that we can agree to the recommendations and that the Subordinate Legislation Committee will also agree to changes to its remit to allow the recommendations to go ahead.

We have a log jam and this, at least, is a mechanism by which some simple changes can be made. It is worth while. However, it is disappointing that it has taken so long to iron out potential difficulties that have existed in the minds of officials.

The Convener: Okay. Thank you for that. Are there any other comments from members?

Helen Eadie: I support some of what Brian Adam has said. In my time on the Subordinate Legislation Committee, the issue was discussed there, as well. I welcome the suggestion that the Subordinate Legislation Committee be designated as the lead committee—it is a good suggestion.

Sub-paragraph 57(e) on page 14 of the committee paper is the recommendation:

"That it recognises that the Scottish Government, an individual MSP or a Committee of the Parliament may seek to introduce a Bill which implements the recommendations of a Scottish Law Commission report".

We should encourage some of our MSP colleagues to look at that. Members are usually quite open to receiving suggestions for members' bills, and members might not have thought of approaching the matter in that way. It would be useful and a good way forward to work in partnership with the Law Commission and external partners.

The Convener: Yes. Thank you. The report suggests that we might take oral evidence on the law reform working group's final report from the Scottish Law Commission and the conveners of the Subordinate Legislation Committee and the Justice Committee. Should we do that?

Helen Eadie: Yes—absolutely.

Brian Adam: Unless we are to be actively involved, I do not know that we need to take any evidence. Progress needs to be made, and it can be made only if we try what is suggested. I am not

convinced that hearing from the conveners of those committees—or, indeed, from the Scottish Law Commission—is appropriate. It would be more appropriate for us to talk to those who are affected after at least a pilot has been undertaken. I take Helen Eadie's point that there is a rich vein available to members, but I think that we need to go ahead and first do what is suggested. We can then review it, perhaps using the mechanism that has been suggested. There is no need to review it and any recommendations in advance, because that would merely delay implementation.

The Convener: As you know, I am keen on doing things quickly. I thank the committee for the speed with which it dealt with the parliamentary reform issue last year. We did that in about three months. It is my intention that we try to do anything that we do quickly.

I will say only that the law reform working group consists of officials from the Scottish Parliament, the Scottish Government and the Scottish Law Commission. The conveners of the Justice Committee and the Subordinate Legislation Committee have not had any input to the group, so it may be courteous to provide them with an opportunity to come and give us their views before we move forward.

Helen Eadie: I hear what Brian Adam says, but I think that it is appropriate to do as you suggest, convener—in case there is something that we have not picked up on. The conveners and others may have points to raise. One of the concerns that are expressed in the report is that the Scottish Government may not always be able to provide support for a member who wants to produce a bill deriving from a Law Commission report. There are a lot of issues that we need to tease out, such as what support will be available for the Subordinate Legislation Committee and all the other partners who might be involved. We need to be absolutely sure that we are not overlooking something; your suggestion would be a diplomatic way of approaching the matter.

Richard Lyle: I welcome the proposal. We should be able to put it into our work programme. We should also get the conveners of the Subordinate Legislation Committee and Justice Committee along to find out what they feel about the report.

The Convener: Are there any other views or comments? Brian, are you happy to invite the conveners of the Subordinate Legislation Committee and the Justice Committee to give their views, as they have not already been asked?

09:45

Brian Adam: They have been asked. In a previous life, I engaged with both, so they are fully

aware of the proposal. They have been engaged in the process, although I agree that there has until now perhaps been more engagement by officials. In my view, the grounds for delay are fairly spurious. We should go ahead and at least agree a pilot programme. I am not sure that bringing those conveners before the committee will add anything. It is certainly not the case that they have been ignored; they have not.

The Convener: Thank you for that. We could ask the clerks to pull together the standing order changes and the mechanics of what we would have to do. That will have to be done anyway, and will take a wee bit of time—it will take until into the new year. That work could be progressing, and we could invite the conveners to come to us early in the new year. That would not cause any delay.

Are members content with that?

Members indicated agreement.

The Convener: I see a lot of nodding heads, so shall we do it that way?

Brian Adam: I give way.

The Convener: Thank you very much.

Should we invite other conveners to write to us with comments? We will give them a fairly short deadline for getting back to us, if they do. Do members agree?

Members indicated agreement.

Scottish Public Services Ombudsman Special Reports

09:47

The Convener: We move on to item 5, which concerns special reports by the Scottish Public Services Ombudsman.

The convener of the Local Government and Regeneration Committee has asked us to examine the parliamentary procedure for considering special reports that are laid by the Scottish Public Services Ombudsman. Members have a paper on that in front of them. Do you have any comments? How should we respond to the Local Government and Regeneration Committee?

We have options. The paper states that the Parliamentary Bureau can already refer special reports to the relevant committee. That does not require a rule change. However, new rules could be created to make it absolutely clear in the standing orders how such reports should be handled.

What do members want to do about that? Given that it is pretty clear that the Parliamentary Bureau can already deal with special reports, should we consider writing to the SPSO or the Local Government and Regeneration Committee initially to ask for further information on why they feel that we should introduce new rules?

Helen Eadie: Yes—I support that. The paper says that the ombudsman has argued that a formal mechanism is desirable in order to provide clarity. It would be good for us to understand what his views are on that. We need to tease out what he feels has not worked properly in the past and what difference a formal mechanism would make.

I have always been of the view that the annual reports that we have from public service agencies should be subjected to much more intensive probing than has been the case in the past. However, the SPSO's reports are always fairly high profile.

I remember occasions on which Alex Neil and other current ministers really took up the cudgels against the SPSO when they were in opposition. We need to keep a good political eye on that because the SPSO is the last port of call for many members of the public in getting what they believe to be justice.

It would be good to find out a bit more about the SPSO's thinking.

The Convener: Is the committee happy with that approach?

Members *indicated agreement.*

The Convener: We will ask the SPSO and the Local Government and Regeneration Committee to come back to us and expand a bit on what they are asking.

09:47

Meeting continued in private until 10:25.

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