AGENDA

Procedures Committee

1st Meeting, 2003

Tuesday, 7th January 2003

The Committee will meet at 9.30 am in Committee Room 4.

1. **Consultative Steering Group Inquiry**: The Committee will consider draft report text and members’ papers.

John Patterson
Clerk to the Procedures Committee
Chamber Office, Room 5.19
Ext 85175
john.patterson@scottish.parliament.uk
Agenda item 1
Consultative Steering Group Inquiry.
Annex

PR/03/1/1
FOR DECISION

1st MEETING OF THE PROCEDURES COMMITTEE

CONSULTATIVE STEERING GROUP INQUIRY

1. The purpose of this meeting is to make decisions about the text of the Committee's report into the Parliament's implementation of the CSG principles.

2. Attached are copies of papers submitted by members of the Committee and circulated individually at an earlier stage for discussion (Annex).

3. Further amended text of the Committee draft from the Convener will follow.

4. The Committee is invited to discuss and agree the further amended text.

Clerking and Reporting Directorate
December 2002
PAPERS FROM COMMITTEE MEMBERS

Notes on CSG Report from Fiona Hyslop

EQUAL OPPORTUNITIES

1. Amendment to the Scotland Act to enable co-option to Committees to enable greater participation of minorities particularly members of Scotland’s ethnic minorities in committee work.

ACCESS AND PARTICIPATION

After 83 add
2. The Committee were very impressed by the education service of the Parliament and are strongly of the view that the Education service should receive more resources to build on what is an excellent but resource limited service in the short time, and anticipates that the new Parliament building should provide for greatly enhanced provision but recommends that should be complemented by an expanded outreach service.

3. Smaller organisations and individual witnesses should be provided with some pooled support to navigate through the system and there should be some provision of independent advice on preparing and making submissions to assist in providing responses to consultations and in providing witness papers.


5. Increase of resources for Petitions Committee

6. Parliament led Regional meetings set up taking Parliament to people in their own area on topics relevant to that area with report back and debate in plenary session of the Parliament. To ensure national perspective taken by Parliament the MSPs attending the Regional meetings would act as Reporters to Parliament allowing their findings to be debated by Regional Constituency and Local Constituency members to debate their findings in a wider forum than simply region by Region. If each non-Executive member carried out one such meeting in a 4 year term that would allow approx a panel of 3 members to cover each Region once a year. This could work particularly well if co-ordinated with Committees with on-going inquiries where these Regional meeting could provide additional and extra feedback on issues Committee would like views on if pertinent and relevant to that Region.

7. Use of voice box, video and other technology for access and participation.
ACCOUNTABILITY

8. Opportunity for Parliament through the Presiding officer to table Ministerial Statements to be delivered on important and current subjects by Ministers in a similar way to granting Emergency Questions so that the Executive is required to deliver them.

9. Code of Accountability of Quangos to be established as a matter of urgency.

10. Change title of Question Time to Answer Time

11. Revise format of Question Time to have less questions with some weeks allocated to different subjects or Ministers and spread over Wednesdays and Thursdays.

12. Opportunity for ‘taking stock’ questioning of First Minister by Conveners Liaison Group

13. Devolution of service from the civil service to be examined by the Parliament as an Inquiry to develop devolution and its practical application in Scottish public life.

14. Support for changes to Standing Orders to extend time to allow more outside bodies to get involved in Stage 2 and greater delay between Stage 2 and Stage 3 and more time between close of amendments and the actual Stage 3 debate.

15. Also under Access and Participation – greater notice of motions and amendments for debate (see Welsh Assembly example where they have changed from initial limited time )

POWER SHARING

16. Parliament should establish its own Programme for Parliament distinctive from the Executive’s Programme for Government. This should cover activity including external relations and general consensus big issues concerning members from all parties on a cross-party basis that they would want to tackle over the 4 year period and this should be established early each session. Thereafter a yearly programme established with outline work from Executive, Committees and general Parliament business.

17. Parliament should have its own allocation of plenary time distinct from Executive, Committee, non-Executive Party and Members time
18. The Executive should be renamed Scottish Government and the Civil Service renamed Civil Service in Scotland/Scotland’s Civil Service or the Scottish Administration.

19. Discuss implications of one member one vote membership of the Bureau with other measures to ensure that a fair and non-partisan approach to planning of parliamentary business can be adopted without permanent Executive majority weighted voting.

20. Recommendation of less legislation and more time for policy analysis and thinking from both Executive and Committees

21. Fundamental democratic right to pursue non-executive legislation by Committee or individual member supported, promoted and protected by appropriate resources from the Non-Executive Bills Unit and provision of Parliamentary time.

22. Conveners should be encouraged to be more assertive in expressing their views when asked by Parliament officials for Bureau decisions on timings and referrals of Committee related business.

FJH Nov 14/11/02
RELATIONS WITH CIVIL SERVICE AND EXECUTIVE

To help to replace the Whitehall ethos of secrecy and to build bridges between the Parliament, the Executive and the Civil Service, there should be a 4-way concordat between the Executive, the Civil Service, the Parliament and parliamentary staff.

As part of this there should be:

a) a Civil Servant designated as the link between the Executive and each Committee, to provide factual information, guidance on the Executive's point of view and constructive advice to the Committee;

b) set times at which each Minister would be available to meet MSPs, singly or in groups, to discuss issues of concern to them;

c) a convention that Civil Servants could, where it would be helpful, contact MSPs while preparing answers to their PQs or letters on behalf of Ministers to clarify the issues which the MSP wished to have clarified;

d) a change to Standing Orders that 'the answer should answer the question'. The Procedures Committee should act as referee, to which an MSP may appeal when he/she believes a question has not been answered and a Minister may appeal if he/she believes that an MSP is harassing him/her by frequently asking large numbers of unnecessary questions. The Committee would try to seek resolution by agreement, failing which it could issue a direction about the future questions and answers by those MSPs and Ministers concerned.

e) The Presiding Officer should be empowered to take a more active role as the spokesman for the Parliament and its members in ensuring that they are fairly treated by Ministers and Civil Servants.

BILLS

In Stage 1 and Stage 3 debates every MSP wishing to speak on the Bill in general or on a particular amendment should be allowed to do so. The agreed timetable for amendments should be for members' guidance only and be treated flexibly and not as a guillotine. The overall time for debate on the Bill should be extended, if necessary. Every amendment moved must be debated.

Before formal Stage 2 sessions begin, Committees may hold informal discussions with Ministers, interested MSPs and pressure groups, to clarify likely areas of dispute and possible lines for compromise. This would in no
way inhibit any MSP or Minister from tabling any amendment at the formal Stage 2.

MOTIONS AND AMENDMENTS

Executive and opposition party Motions should be tabled at least four working days before the debate and Amendments to them tabled at least two working days before the debate. With the approval of the Presiding Officer, a Motion and Amendments on a topical issue may be substituted with less notice. The Presiding Officer should not allow substitution to become a regular practice and apply a stringent test to each application.

BACKBENCHERS' COMMITTEE

There should be a Backbenchers' Committee of 15 members. Each party would designate which of its members are Backbenchers. All Backbenchers would have votes. No whipping of any sort would be allowed in the Committee or in its election.

The 15 would be elected either

a) by Single Transferable Vote by all Backbenchers, or
b) by the Backbenchers in each party voting for the members from that party, and each party having the number of members relating to its strength in the Parliament.

The Committee would represent the views of MSPs to the Executive, the SPCB, the Business Bureau, the Procedures Committee, the Conveners' Committee and the parliamentary management.

PARLIAMENTARY PROGRAMME

a) The timetable should allow more time for discussing Bills and for Oral Questions and less for Executive and opposition party Motions.

b) One full session per month (ie not a 5.00pm slot) should be allocated to debating members' motions, allowing at least 45 minutes per motion, with an opportunity to vote on them, if the motion would not entail any significant expenditure by the Executive or Parliament. These motions would be selected for debate or for debate and vote by whatever Backbenchers' organisation the Parliament agrees to set up.

The Backbenchers' organisation may itself propose a Motion on a topic of importance to MSPs which is not covered by Executive, party or members' Motions.
c) Cross-party Groups should be empowered to propose Bills and Motions in their own name, instead of their proposals having to go forward in the name of one MSP. This would give their proposals a higher status and avoid any party hostility wrongly entering into the issue.

d) The normal maximum for speeches should be 6 minutes, or 7 minutes if there have been interventions. Members should be reminded regularly that they need not take up their full allotted time.

BUREAUCRACY, PAPERWORK & REGULATIONS

The Parliament should have a role in challenging unnecessary regulations and reducing paperwork throughout all the public services in Scotland. This could be done through either an Anti-Bureaucracy Committee, or instructing the Audit Committee to take on this role, or instructing each Committee to have an active anti-Bureaucracy programme, or making each Government department, Health Board, Quango or Government agency submit an Annual Report on its reduction of paperwork and regulations.

Note:

I think these points are already covered:

- More informal discussions with witnesses at Committees
- Co-opting outsiders onto Committees
- Regional Committees
- More resources for NEBU.

If not, they should be included
Notes on CSG Report
Donald Gorrie

1. Civil service - replace the Whitehall ethos of secrecy etc by negotiating a 4-way concordat between executive-civil service-parliament-parliamentary staff.

2. Civil servants working with committees as full partners.

3. Bills - Stage1 to Stage3 allow as much time as it takes to allow all MSPs wishing to speak to do so and all amendments to be debated.

4. Timings of submission of motions and amendments to motions - should be 4 days and 2 days instead of 2 days and 1 day as in current Bureau rules.

5. Empower cross-party groups to put forward bills and motions.

6. Length of speeches - 6 minutes, or 7 with interventions.

7. More time for questions and debating bills and less for motions.

8. Set up an Anti-Bureaucracy Committee to challenge and reduce regulations and paperwork.

9. Holding quangos and arms length units to account.

10. Procedures Committee to rule on failure to answer the question posed in PQs and vexatious, pointless or repetitive PQs.

11. Empower Presiding Officer to be more robust in ensuring parliament is fairly treated by ministers and civil servants.

11. Facilities for MSPs to put questions, local issues or suggestions to ministers, such as a minister's surgery for MSPs.

12. Opportunity for committees, if they so wish, to hold informal round-table discussions with minister, pressure groups etc before Stage 2, to clarify likely areas of dispute and possibilities of compromise.

13. More informal discussions with witnesses at committees.

14. Co-opt outside non-voting members to committees.

15. Try out regional committees - all MSPs for a list area to meet periodically to discuss regional issues and examine local quangos, etc.

16. Need for more resources for NEBU - current blockage unacceptable.

11 November 2002
Paper by Ken MacIntosh MSP

I suspect we may need to return to the introduction after we have agreed on the report itself. Paragraphs 10, and 17-20 on the structure of the report may need revisiting in the light of our conclusions, but more fundamentally, I am not sure about the emphasis we are placing on the four perspectives or themes from paragraph 21 on.

In paragraph 24 for example, I believe that there is concern about the time available for us and others to deal with legislation, particularly at Stage 2 of a Bill, but does this really translate into an overall problem with the speed of Parliamentary business?

Also at Para 26, I was not sure when we were aiming to produce a paper on a media strategy (given that one is already being drawn up).

Paragraphs 29 to 37 highlight some of the arguments around the issues of power sharing and participative democracy, but not as fully as later in the report. When I read it, I felt there was not enough balance or explanation of representative democracy as opposed to participative, e.g. pointing out the dominance of party politics at elections or the decline in the number of independents. MSPs are elected to represent their constituents and to deliver on their manifesto promises and elections are of course the ultimate example of popular participation and accountability in a democracy. The dominance of the Executive is emphasised to the exclusion of other forces at work within the Parliament including the fact that the Executive needs to win the support of Parliament in enacting its legislative programme. The lack of resources available to Civic Forum is also given prominence. I am not convinced that these are the points which should be brought out in the intro as worthy of particular attention or merit. Again, perhaps it would be better to make progress on the rest of the report and then come back to the intro to see what issues we may wish to highlight.

I felt the work of the Parliament's Education Programme could receive greater attention (Para 102). It is my perception that this service has been extremely successful and I would like to see further resources going into this area of activity so that many more pupils can take advantage of it. Currently, the service is of greatest benefit to those who live nearer the Parliament itself and this needs to be addressed.

Paragraph 112 does not do justice to one of the more contentious issues facing us, namely the differing roles of constituency and list MSPs. This has already caused some friction (and several complaints to the Standards Committee) and undoubtedly a deal of confusion. How it may be addressed is however, undoubtedly problematic.

In Paragraph 152, I will have to remind myself from the evidence how it can be argued that the media lacks access.
Under Access and Participation, I believe there are a number of points missing. One is on the ability of non-MSPs to effectively participate in the Parliamentary Committees.

I believe that we should revisit the idea that non-MSPs could be co-opted on to a Committee (and which we will return to under power-sharing). However, I also believe we can do more to engage with those who already appear before us to give evidence. Members (on the Enterprise Committee certainly) have commented on the advantages of informal briefings over formal committee sessions in helping them gain an understanding of certain subjects. We could build on that and try to establish best practice for evidence sessions.

Several witnesses also commented to us about the off-putting nature of appearing before some Committees. Allowing witnesses to respond to others was just one helpful suggestion which we could try.

Perhaps more important though is the need to recognise the role of MSPs at a local level in helping provide access and participation. For most people, it is through their contact with an MSP that they become aware of the work of the Parliament itself and this should be reflected in our report and in our recommendations.

I will stop there, but there are more points which need to be brought out in the report - although not necessarily under Access and Participation or Equal Opportunities. I believe the Executive for example (and the civil service in particular) should do more to embrace the principle of openness. This has particular relevance to the section on accountability, and could transform our attitude to and use of Parliamentary Questions. Hopefully I will be there to put these points myself at the next meeting.

Ken Macintosh
12 November 2002
1. Bureau
The bureau needs to be opened up. This could be achieved by ensuring that
the bureau should not be held in private except in extraordinary
circumstances. Also agendas and full minutes should be publicly available.
The voting system in the bureau needs to be changed.

2. Debates
There should be more time for debates, Anyone who wants to speak in Stage
1 and Stage 3 debates should be allowed too. This could be achieved by
reducing the number of debates that are held, currently there appears to be
filler debates held on a regular basis during Executive time. Debates on
legislation could be spread over 2 days solving the problem of speakers not
being able to speak to their amendments at Stage 3 etc. Reducing the
number of debates should also allow speaking times to be increased from 4
minutes to 7 or 10 minutes and allow backbenchers to speak in debates.
These outcomes could be easily achieved without increasing plenary time.

3. Question Time
The current system of Question Time stops MSPs being able to adequately
question Ministers and get to the bottom of issues, this could be solved by
having question times by department for an hour once a month, or something
along this line.

4. Questions
Ministers should have to answer members written questions, at present we
are receiving answers to questions which are firmly under the ministers
control which do not relate to the question asked.

5. Members Business
Member's Business belongs to the members, should not be up to business
managers and parties to decide on whose motion is debated. Giving control
of this to members could be achieved by introducing an exhaustive ballot, so
that everyone gets a chance to have a debate.

6. Motions and Amendments
The current practice of publishing motions a day before they are debated and
amendments the day they are debated is not adequate, this should be
changed to give more time. Business is arranged at least a week in advance
it should not be impossible for the motions to be published the Friday prior to
the debate so that amendments can be published on the Monday. Obviously
there will be times when emergency motions will need to be moved with less
notice but this should not be the norm.

7. Committees
Committee meetings being held in private should only ever happen in
exceptional circumstances, the evidence we received during our evidence
was overwhelmingly in favour of meetings being held in public. Currently too
many meetings are held in private or with a private part to them this needs to be changed if the parliament is to be open and transparent.

8. Executive's Name
Executive's name should be changed, evidence is unanimous that there is a confusion in the minds of the public over the Executive and the parliament - something like the Scottish Government would be more appropriate

9. Backbenchers Committee
I believe that this idea has merit, there has been unrest in all parties over the control the Whips at times try to exercise. Backbenchers have a valuable contribution to make to the parliament which at times has not been allowed during the life of this Parliament.

5 December 2002
CONVENER’S AMENDMENTS (1): POWER SHARING SECTION

"The Scottish Parliament should embody and reflect the sharing of power between the people of Scotland, the legislators and the Scottish Executive."

Introduction

571. In developing its model of 'participative' democracy, the CSG determined that the governance partners - the Scottish people, civic society, the Parliament, and the Executive - should share power. Power sharing is an attractive if elusive concept, and MORI Scotland found little evidence of an understanding of power sharing in the focus groups formed to provide a qualitative insight into public opinion.

572. To express this principle as the governance partners 'sharing power' may be confusing if it leads to the assumption that 'power' in a common form is being shared. It can also create unrealistic expectations. MORI Scotland found that MSPs thought this was the principle least successfully implemented so far, and that the sense of disappointment was strikingly different as between MSPs from Executive and Opposition parties.

573. In the conventional model of representative democracy, the people have the power to elect their representatives to Parliament. Parliament has the power to scrutinise the Executive/Government, control budgets and pass legislation. The Government's power is to propose budgets and legislation, and to govern within the parameters laid down by Parliament. People, Parliament and Government have distinct roles, and any element of power-sharing in this model has derived from the dynamics which always operate among them in a Parliamentary democracy, rather than from any deliberate intention.

574. What the CSG set out to establish was a different model, in which traditional representative democracy was combined with a more participative model. Neither the CSG nor the Scotland Act suggested that the distinct roles of Parliament and Executive/Government would be removed: what they set out to achieve was a political culture in which the 'governance partners' would retain their distinct roles, but would work together. In particular, the CSG considered that the nature of Scottish society was such that a General Election every four or five years gave the general public, and Scotland's highly developed 'civic' society, an insufficient role in the country's governance. Power-sharing was intended to redress this imbalance.
575. A clearer way of understanding this principle therefore acknowledges the distinct roles of the governance partners in a common political process, and interprets Power-sharing as a concept which defines roles, shares roles, transfers resources and puts in place procedures which allow roles to be exercised fully. Power-sharing removes barriers which prevent the governance partners from working, and builds in means of requiring them to work, in a full and effective partnership. Parliamentary procedures play a key part in defining the relationship between the partners and balancing their roles, and in developing the partnerships.

576. Significant elements of power-sharing were built into the Scotland Act. The proportional system of elections was intended to empower the electorate of Scotland, and in particular the smaller political parties. The Scottish Parliament has been empowered by its ability to make alternative budget proposals, and its Committees and MSPs have the power to initiate legislation. The people have been empowered by the introduction of a petitions system.

577. Assessing whether power is being shared in a meaningful way requires that we identify what mechanisms have been put in place to share power effectively, and assess their operation in practice against expectations, and in the light of current evaluation of what is required. That in turn means that we must consider the terms of the Scotland Act, but also the procedures and working practices which have been developed by the Parliament and the Executive.

578. While the power-sharing role of the Executive is not directly within the scope of this inquiry, we do feel that we should note significant Executive actions to develop power-sharing from the CSG principles into practice. The Executive has, for example, created a mechanism where individual MSPs may make direct contact with civil servants to obtain information. It has put in place a coherent strategy for consultation on Executive Bills, developed innovative ways of creating 'stakeholder' involvement in the development of the detail of Bills and post-legislative enactment (see paragraphs x-y below); and it has committed money and staff resources to working with, and building up, the Scottish Civic Forum as a gateway organisation to build contact with civic society and the Scottish people.

579. Our principal focus has been on how the Parliament shares power, and we will test the quality of power-sharing by, for example, looking at how seriously the Parliament treats public petitions, or how well it consults the widest possible public about legislative proposals. We will consider closely the way in which Parliamentary Committees have been working, whether they have had the time, resources and opportunities to scrutinise Bills adequately, to call the Executive and its agencies and arm’s length bodies to account, and to develop the innovative and potentially very powerful tool of post-legislative scrutiny. We will of course consider the role of the Executive in its relations
with the Parliament, for example how it uses its position to manage Parliamentary business through the Bureau - for example, whether it allocate reasonable time for non-executive parties' business, or Members' Bills.

Parliamentary committees - operations

580. The evidence submitted in the course of this inquiry was heavily focussed on the way in which the Parliament's Committees have operated, and it appears to confirm that committee work in the Parliament has proved to be as significant as was predicted in the White Paper, "Scotland's Parliament" and in the CSG Report.

581. In the view of most of those who referred to committees in their evidence, Scottish Parliamentary committees, with the dual role of considering legislation and scrutinising the Executive, were considered to be a key part of the Parliamentary landscape and an important power sharing tool. Committees are significant in the above roles, and also have an important power of outreach through their capacity to travel and to engage in various ways with a wide cross section of society.

582. Committees attracted praise widely for the scope of their work. It is clear from the evidence committees themselves gave to this inquiry that they are making a considerable impact.

583. While a number of concerns were raised in evidence - as discussed below - we consider that they reflect a desire on the part of the Scottish people, and in particular those external to the Parliament who have had direct experience of committee inquiries and the legislative process, to contribute suggestions for improvements positively and constructively.

584. While the present section is about power-sharing, we have found it convenient to deal with a range of committee issues at this point, as they were raised together by witnesses. In some of what follows, the report addresses accountability and participation more than power-sharing, although we make the point that the role of committees was always intended to be a major element of the delivery of power-sharing.

Concerns expressed

585. There were concerns that non-MSPs had not joined committees as envisaged by the CSG Report; that too many committee meetings (or parts of meetings) were held in private; that an Executive majority on all committees was not consistent with the power sharing principle; that committee did not meet sufficiently frequently outside Edinburgh, as envisaged by the CSG; that committee membership changed too frequently and undermined MSPs' efforts to build up subject experience. A number of other more minor points were also made.
Concerns were also raised about the time allocated to committees to scrutinise proposed legislation. We have dealt with these issues above (see paragraphs x-y), and our conclusions there apply also to the power-sharing aspect of committees’ work. Committees have been able to deal with a very substantial volume of legislation, but at the price of heavily pressurised work schedules, the deferment of other committee priorities, and a pace of work which has presented severe challenges for civic society to play the part at Stage 2 which many of our witnesses indicated they wished and expected to play. No further recommendations are necessary at this stage.

Third Parties on Committees of the Parliament

The CSG envisaged that Committees would be in a position to co-opt non-MSPs to participate in their work. While the CSG intended that co-opted members of Committees would have no votes, it did envisage their ability to participate in Committee work as a way to make the Parliament more participative and accountable. It also saw co-option as a mechanism which would allow the Parliament to share power with civic Scotland. In the event, the Scotland Act did not establish any right of co-option to Committees.

Early in the life of the Parliament, the Conveners’ Liaison Group raised its concern about the absence of a power to co-opt, and suggested that co-option to the Equal Opportunities Committee would be an appropriate mechanism to allow ethnic minority representation in the work of that Committee. However, very definite legal advice was given that the Scotland Act did not permit the involvement of non-MSPs in parliamentary work, ruling out co-option, and also restricting the ability of Committee advisers and Committee clerks to participate in Committee work. We accept that the co-option of non-MSPs to serve on Committees would require amendment of the Scotland Act 1998.

Many of those who gave evidence referred to the power of co-option as a component of the CSG’s agenda for power-sharing. We recognised the breadth, and the strength, of the evidence given on this point, but we came to no agreement on whether the Scotland Act should be amended to allow co-options, or to enhance the ability of advisers to participate in the work of Committees. We did conclude that co-option itself was only part of the substantive issue, and that the key question is whether this Parliament should be frustrated in pursuing procedural innovations because of its inability to amend the Scotland Act. We return below to the question of whether the Scotland Act should be amended to allow the Scottish Parliament full control over its own procedures.

Meetings in private

We received a large number of complaints that committees met too often in private; that privacy, other than in narrowly defined and broadly
accepted circumstances, breached the Parliament's principle of openness; and that taking key discussions in private meant that committees were not sharing parliamentary processes with the people, thereby undermining the principle of sharing power. This was one of the most frequently heard criticisms received in the course of our inquiry.

591. The evidence submitted to the inquiry by the Conveners Liaison Group summarises the number of meetings in private in 2000 - 2001, and also the circumstances in which committees may hold agenda items in private.

592. The fundamental standard for privacy in this context is Rule 15.1.1 of the Standing Orders which states:

"The meetings of the Parliament and, subject to Rule 12.3.5 of any committee or sub-committee shall be held in public."

593. Rule 12.3.5 enables a committee to decide to take a meeting or part of a meeting in private, except in the circumstances set out in Rule 6.2.2(b), (c) or (d): that is, considering proposals for legislation before the Scottish Parliament or the UK Parliament; European legislation; the need for law reform.

594. The written evidence provided by the Conveners' Group shows the main areas in which committees usually meet in private, under current rules:

- draft reports
- appointment of advisers
- lines of questioning for witnesses
- future work programmes

595. There is no suggestion that the Committees have been acting in contravention of the current rules. The issues for this inquiry were whether the current rules themselves reflected the principles to which the Parliament is committed; the evident resentment of many of those who contacted us at what they perceived to be a climate of excessive privacy (and, in some cases, secrecy); and whether, while the principle of 'openness' was well established, so many exceptions had been built into the procedures as to undermine in practice the integrity and intention of the principle.

596. We concluded that the current arrangements for appointing committee advisers are appropriate. We do not consider that there should be public discussion of such appointments, which require consideration of candidates' personal details, and of the relative suitability of candidates for particular posts.

597. We also concluded that matters which are the subject of evidence to a committee and are genuinely commercially confidential, that is,
material whose publication would seriously undermine the financial and operational structure of a company or other business, including the Parliament itself, should also be discussed in private.

598. We further concluded that discussions or draft reports concerning complaints against MSPs referred to the Standards Committee should not be held in public, as these could lead to damaging, unfair, speculative public comment about individual MSPs ahead of any investigation being completed.

599. In addition, where a witness had expressed the wish to give evidence in private for strong personal reasons, and in particular where privacy was effectively a condition of a committee receiving that evidence, committees were justified in meeting in private, and, in the case of vulnerable witnesses, ensuring that the identities of witnesses were not revealed in subsequent discussions or written and broadcast material.

600. We consider that committee conveners should be scrupulous in anticipating the requirement to take evidence in private, and why. We recommend that proposals that committees take items in private are published in the Business Bulletin in advance, wherever possible, in order to minimise any public misunderstanding or inconvenience. Where circumstances do not permit a private session to be anticipated in this way, we recommend that committee conveners should ensure that a full explanation is provided to the public gallery in the Committee Room and that the Official Report records this. {Recommendation 57}

601. We believe that almost all consultees and witnesses understood and accepted the need for committee confidentiality in the circumstances outlined in paragraphs x-y above. However, it is apparent from the evidence that they accepted less readily committee confidentiality when reports were being discussed and finalised. For example, Graham Blount told us:

"The discussion of future work programmes... and the discussion of draft reports are important parts of the process, from which members of the public, whether in person or through the Official Report, should not be routinely excluded. Power cannot be shared if people are excluded - especially if they are excluded on the basis that they will fail to understand what is happening and will confuse a draft report with a final decision." (Procedures Committee, SPOR, Col 1218).

602. For the purposes of this discussion, we identify two distinct, major categories of committee report. Committees invest heavily in their own investigations, and attach great importance to delivering fully concluded Reports, in order to achieve the greatest possible public and political impact at the point of publication. Reports on Stage 1 consideration of Bills and on
subordinate legislation, on the other hand, are part of the legislative framework.

Draft Reports on Committee Inquiries

603. So far as draft reports on non-legislative matters were concerned, the point put to us in evidence was that witnesses made a substantial commitment of time and effort to provide evidence, and were then denied the opportunity to be present when committees weighed that evidence in coming to final decisions on their reports. This was seen by some as undermining all four of the CSG principles.

604. It was put to the Committee by the Conveners' Group that private meetings to discuss draft reports could aid consensus because committee members might find compromise over difficult issues easier to arrive at in private than in the glare of public and press attention. It was also argued that the public could be distracted by draft recommendations which do not figure in the final report.

605. We accept that it is more comfortable for committee members to discuss draft reports in private than in public. We understand that there is likely to be a variety of pressures on Members which might be more smoothly resolved in private, leading to more consensual reports, and we agree that committees have every right to consider how to make the greatest possible public impact when they publish their reports.

606. These considerations need to be weighed against the strong sense of disappointment which came through much of the evidence given by those who had engaged at earlier stages with committees. Consultees and witnesses argued that committee privacy breached the principles of power sharing and openness, which underlie the fundamental rule (Rule 15.1.1) that the Parliament's business should normally be done in public.

607. There have been circumstances when more controversial committee reports, which members might expect to make a greater public impact have been 'leaked' to the media. In some cases, the Executive has felt itself obliged to respond to such 'leaks', and committees have felt their efforts further undermined. Clearly, where there is openness, 'leaks' of information are not an issue. Many of the ills listed in the Code of Conduct arising from restricting the open flow of material are therefore avoided.

608. We do not dismiss the arguments advanced by committee conveners for finalising their reports in private, but we have great difficulty in understanding how committees 'share power', or act inclusively, if, at particular points in the process of producing conclusions about matters which are often of great public interest, they exclude third parties, the press and the public.

609. While it might be that compromise between political parties is easier in private, we do not believe that these are the only interests legitimately
involved. One aspiration of the Parliament is to develop further our procedures, in ways which will aid inclusiveness and encourage those who have felt excluded hitherto. Closed committee meetings appear to us to be incompatible with such an aspiration.

610. We noted that the CSG Report itself does not envisage that discussion of draft committee reports, and committee work plans, will be taken by committees in public sittings. For these sessions, the CSG endorsed the position that a clerk's note of decisions was sufficient, although it appears that they anticipated that such discussions would be in public, but off-record. The report does not explain why the CSG came to this conclusion. It may be that their concerns were the same as those expressed later by the Conveners' Group. Whatever the reason, the evidence received suggests that the CSG may have underestimated the importance of these matters to the Parliament's governance partners.

611. Careful consideration was given to the possible dynamics of committees meeting in public to consider draft reports, and to what the impact of meeting in public might be on the business of the committee, the members, and the clerks.

612. There seemed to be two opposing fundamental objectives here: firstly, that Committees must not be hindered in their work; and, secondly, in common with every Parliamentary body, that Committees should exemplify the Parliamentary principles in their working practices.

613. Where committee papers with drafts are issued on a Thursday for a Tuesday meeting the public and the press would have access to the draft at the same time as the members. Does this matter? The answer depends to an extent upon how the drafts are constructed. If they are written in such a way as to anticipate final decisions clearly with single sets of recommendations then difficulties could ensue, particularly where the committee is likely to find consensus on a number of points difficult. In such circumstances a committee may experience intense pressures arising from a media debate prior to the committee meeting itself.

614. If draft reports are constructed differently however this danger might be reduced. In the main, reports are summaries of evidence. This material in itself cannot be contentious because it is factual, and because the vast majority of evidence will be in the public domain in the form of Official Reports. Even the range of possible options arising from the evidence need not necessarily be contentious because such options will usually flow obviously and logically from the evidence taken.

615. The focus normally falls upon the position taken by individual committee members on the various options presented as a result of the evidence gathered. Even here, an attentive observer is unlikely to be surprised by the position of members on many issues. These may have been revealed earlier
in the proceedings. But of course members' final positions on such points cannot be anticipated.

616. The process of considering many draft reports in public could therefore be less problematic for committees in practice than has been suggested. There have been suggestions, however, that MSPs may ultimately be reluctant to finalise reports in public because they anticipate coming under pressure from their party whips in areas where they might themselves be willing to compromise, in order to achieve a consensual report.

617. **Party whipping is an acknowledged and accepted part of Parliamentary life, but the CSG did not take it into account when it recommended that Power-sharing should be one of the four principles. We considered whether and when party whipping had a role and we concluded that it was legitimate when the Parliament is voting on motions related to the core political messages of the political parties, as outlined in their manifestos, and supported by voters in elections.**

618. **We recommend that all of the political parties in the Parliament should make a public commitment to impose whipping only where necessary, and should issue an agreed code to define the circumstances in which they consider it to be necessary.** {Recommendation 57}

619. **We consider that the adoption of such a code would make clear that there is little scope or need for party whipping at the point where committees finalise the reports on their own investigations, although we would expect a 'whip' to be issued where an agreed code suggested that a whipped vote was appropriate. In general, we consider that committee members will be robust in deciding the recommendations of committee inquiries, on the basis of the evidence taken, and their own individual judgements. Experience suggests that committees have taken strong lines in public at Stage 2 in the legislative process, often resisting proposals by the Executive, and we see no reason why the same committees should not reach decisions on non-legislative inquiries in an equally public and transparent way.**

620. **The Parliament has a general responsibility in its activities to reach out to its partners; to be sensitive to the interests of witnesses; to avoid any process that gives the appearance of secrecy; and generally to be open and inclusive. This is because there is an obvious broad and collective interest in stimulating people's engagement with the political process, and exclusion from Parliamentary processes tends, in principle, to work against that interest.**

621. **If the Parliament were to decide that committees should meet in public for this purpose, there could be quite significant implications for current working practices.**
622. For example, more (or longer) committee meetings might be required to
discuss draft reports on the basis of options on points for decision. This could
of course be argued to be likely to enhance the quality of final reports and
therefore to be something positive.

623. Clarity is also required about the roles of any third parties who may attend
a public meeting held to discuss a draft report. Such a meeting is the
Committee's opportunity to take final decisions; it is not an opportunity to re-
open fundamental points settled previously, or become an impromptu
evidence session.

624. Members would need to become used to open discussion of a draft text at
the point of final decision making on such reports. It may be that, in practice,
there would be little difference however between this situation and the regular
cross-party voting on amendments at Stage 2 of Bills which the Presiding
Officer instanced when giving evidence to the House of Lords Select
Committee on the Constitution in May 2002, as a distinctive and welcome
feature of this Parliament.

625. While we accept that public discussion of committee reports might
make it harder for committees to reach compromises, we do not
consider that consensus should be impossible, or that a consensual
approach would be undermined, if committees were to discuss reports
in public. We considered the argument that confusion would arise if
draft reports were publicly available, and changes were made later, but
we concluded that the public would be likely to come to understand this
process very quickly.

626. The extent of the criticism levelled at the Parliament on this point is
considerable. We consider that there is a danger of the partnership
ethos in devolved politics discussed earlier in this report being
undermined if this situation is not addressed. The opening up of such
discussions to the press and the public could be a welcome opportunity
to develop the Parliament's fresh political approach in a way which
differentiates clearly procedure here from more traditional practices.
'Openness' is the prerequisite of participative government.

627. If meetings were to take place in public, some pertinent, informal
discussion might take place 'off meeting' outside the formal
proceedings of the Parliament. While there is little that can be done to
prevent such private conversations, and the fact that they might take
place is not precisely to the point here. The issue for us is whether the
entire, formal Parliamentary process of agreeing the text of a committee
report should normally be conducted in public. However, it would be
undesirable to provoke committees to hold private, informal meetings
by an unbalanced application of the openness principle.
628. We have considered the strongly-argued evidence of the Conveners' Group that draft reports should continue to be considered in private session. We accept that Parliamentary opinion may not be ready to support all such meetings taking place in public, and we suggest that progress might be made voluntarily, and not by standing orders, at this stage. However, we are concerned that decisions about finalising reports in private have come to be taken automatically, and we consider, at the very least, that committees should take these decisions on a case-by-case basis, deciding to take some reports in public and some in private. We recommend that each committee should take every decision about finalising reports in privacy on the merits of the case; should guard against holding every discussion in private; and should be prepared to finalise reports in private only where there are powerful reasons advanced for so doing. {Recommendation 58}

629. We recommend that committee draft reports on non-legislative matters should be decided by committees in public, wherever possible, and that, over time, this should become the normal practice of the Parliament. {Recommendation 59}

630. Rule 12.9 of the Standing Orders presently states that committees' annual reports should indicate the number of times that each committee has met in private. To aid transparency, we recommend that Rule 12.9 should be amended to ensure that all committees place on record in their annual reports the reasons for each instance when it decides to meet privately, or to take a particular agenda item in private. {Recommendation 60}

631. Many of the arguments in favour of discussing draft reports in public apply to the issues of forward work programmes and lines of questioning which committees will use with witnesses.

632. Committees are partners in governance with civic society and the Scottish public, and, it seems reasonable to allow partners to be aware of committees' priorities as expressed in a discussion of their work programmes. Unless the intentions of committees are laid out in this way it seems difficult to see how a genuine partnership is able to take root.

633. Committees already undertake work as a result of external factors, such as suggestions from third parties, and it seems to be a relatively small step for them to be open with these third parties about the pressures on them and the reasons for their decisions. Committees do not have infinite amounts of time available, and they have to be strict in prioritising their work, to achieve the maximum effect from their efforts. We consider that opening up the rationale for committee choices could be helpful in allowing those competing for committee attention both to understand the pressures on committee time, and the reasons why committees make the choices they do. We therefore recommend that
the committees should publish (and update) their draft forward work programmes on a regular basis, and should normally discuss these in public. {Recommendation 61}

634. It may appear threatening to many potential committee witnesses for committees to discuss their lines of questioning in private. It is a practice that may not appear to sit particularly well with the partnership approach by which the Parliament engages with civic society and the Scottish public. It is hard to see how meeting in private to discuss lines of questioning could be compatible with some of the ideas we have considered for less formal ways in which to gather evidence.

635. There is probably little for witnesses to be concerned about in the overwhelming majority of instances. Witnesses should in any case have been made aware in advance of the committee's area of interest, and what they will be questioned on. Committee discussions on lines of questioning often amount to little more than arriving at a sensible division round the table of more or less obvious points to raise with a witness. In such circumstances, it scarcely seems worth excluding third parties from such discussions, whether or not so excluding them does cause some witnesses some unease.

636. It is the case, however, that a small number of witness sessions of exceptional difficulty or sensitivity will occur, where committees will almost certainly wish to meet in private to discuss lines of questioning without the presence of third parties. We consider that it is justifiable for committees to meet in private where they judge it necessary, in the circumstances, to deal with any witnesses who are likely to be evasive, combative or in other respects difficult to deal with.

637. We recommend therefore that committees should ordinarily discuss their lines of questioning in public, but that they will be justified in meeting in private where they consider public discussion might undermine the effectiveness of the subsequent evidence session. {Recommendation 62}

638. We are aware that the officials of the Official Report (OR) need not be present when committees discuss so-called 'housekeeping' matters such as lines of questioning, meeting dates and formal work. Such matters are capable of being held in public in the OR's absence with the clerk taking a note.

639. However, we do recommend that substantive decisions about forward work programmes should be recorded on the OR, as it is important that third parties are aware of committees' reasons for such decisions. {Recommendation 63}

Draft Committee reports on Bills at Stage 1
640. While most of the evidence we received on committee reports has argued that all reports should be discussed and finalised in public, we did receive evidence from Tommy Sheridan MSP in which he made a specific criticism of decisions by committees to hold discussions in private of their draft reports on Bills at Stage 1.

641. The attachment to Mr Sheridan's letter of 18 June 2002 was entitled "Scotland's Private Parliament". We do not believe that this is justified, as it is the case that this Parliament is already amongst the most open in Europe, particularly in respect of its legislative processes.

642. In his letter of 4 September 2002 to Mr Sheridan, the Presiding Officer ruled that the Standing Orders permit committees to meet in private at present to discuss their draft Stage 1 reports. This conclusion rests on the view that while 'proposals for legislation' must be considered by committees in public, the consideration of the wording of draft Stage 1 reports is a separate matter. Consequently, committees may choose to meet in private to consider this matter.

643. We do not dispute the Presiding Officer's interpretation of the Standing Orders, and we agree that private committee consideration of draft reports on Bills at Stage 1 has been in order. We do consider, however, that the relevant Rules in the Standing Orders require to be scrutinised closely for internal consistency, and also tested against the CSG principles.

644. Rules 15.1 and 12.3.4 state that committees should hold their meetings in public, subject to Rule 12.3.5. Rule 12.3.5 enables committees to meet in private except when discussing matters identified in Rule 6.2.2(b) or (d). (There is one exception, that a committee may take evidence on these matters in private.)

645. Rules 6.2.2(c) and (d) cover European Communities legislation, international conventions and agreements, and law reform, and do not concern the exact point at issue. Rule 6.2.2(b) is relevant however and states that committees may: "(b) consider any proposals for legislation which relate to or affect any competent matter, including proposals for primary or secondary legislation, whether before the Scottish Parliament or the United Kingdom Parliament."

646. Consideration of these matters is required to be in public. The issue is whether the consideration of and agreement by a committee of its Stage 1 report is included in the phrase in Rule 6.2.2(b) "proposals for legislation".

647. It is fundamental to the procedures of the Parliament, and to sharing power with individuals and organisations outside the Parliament, that consideration of legislation is in public. The importance of this is seen by the
existence of Rule 6.2.2 which specifies the public consideration of legislative "proposals".

648. It is reasonable to interpret "proposals for legislation" as all aspects of the legislative process because no exceptions to such proposals are noted in the relevant rules. The Stage 1 procedure is defined in Rule 9 as the consideration by a committee of "the general principles of the Bill and preparing its report" (Rule 9.6.3). This consideration and report are therefore intrinsic parts of the legislative process.

649. It follows that the treatment of the Stage 1 consideration, and the report arising from that, must be consistent with the approach to legislative matters generally adopted by the Standing Orders which is to consider such matters in public.

650. The cases of committee draft reports arising from non-legislative matters dealt with earlier; and those arising from legislative matters are distinct. In the former committees have discretion to move to private consideration. In the latter it appears to us that they do not, for the reasons set out above.

651. We recommend therefore that Rule 6.2.2 is amended to clarify the requirement that the draft reports of committees on the general principles of Bills (Stage 1 debates) shall be considered and agreed in public. {Recommendation 64}

Executive majorities on committees

652. Evidence was submitted to us to suggest that, in the interests of sharing power, the Executive parties should give up their claim to an automatic majority on all committees.

653. An argument was advanced that it is illogical to have an Executive majority on committees whose purpose is to keep check on the Executive and to hold it to account; that any decision by a committee can be overturned in the Chamber, where the Executive has a majority, which it could legitimately use to reverse any committee decision which it felt was unjustifiable; that the existence of an Executive majority on key Parliamentary bodies perpetuates the politics of governmental dominance which the Scottish Parliament was designed to move beyond; and finally that some committees - such as Public Petitions, Procedures, Standards, Equal Opportunities and Audit - could be seen to be intrinsically non-partisan, and therefore particular candidates for opting out of the practice of reflecting electoral dominance proportionately in the Parliamentary structure.

654. We agree that the role of these committees is non-political, but we do not believe that there is any evidence to show that the present arrangements for appointing the conveners and members of these committees has undermined their work. Instead, conveners and members have operated in a generally consensual and non-party way.
We therefore concluded that there is no benefit to be gained from creating artificial majorities on any committee by departing from the current system of allocating committee places to reflect the balance of the parties in the Parliament, which in turn reflects the wishes of the electorate in the Parliamentary election.

655. Any such development would break the mould of proportionality determined by the Party balance. In what seems a conscious reflection of arrangements at Westminster, the Scotland Act 1998 requires the Standing Orders of the Scottish Parliament to, "... include provision for ensuring that, in appointing members to committees and sub-committees, regard is had to the balance of political parties in the parliament." It may not therefore be a simple matter to take this forward, even if the Parliament were minded to do so.

656. On the other hand, it is nowhere made clear what weight is to be put on having "regard" to the balance of parties in the Parliament. We note, for example, that the allocation of committee convenerships in the current Parliament has favoured the Labour Party significantly, as it holds 9 out of 17 posts, with just under 43% of the seats in the Parliament. There is therefore a precedent for allocating places on less than a precise pro rata share of the seats in the Parliament.

657. Having considered the matter carefully, we concluded that this precedent should not be followed. We believe that the rules on party balance are appropriate, and we do not recommend any changes to create majorities of non-Executive parties on any committees. We note that party convenerships and deputy convenerships were allocated in this Parliament using the d'Hondt system. We recommend that, whatever system is used, the principle of party balance should be applied consistently across all committees and convenerships. {Recommendation 65}

**Committee meetings outside Edinburgh**

658. The Committee heard evidence that committees were not living up to the aspiration that meetings should be outwith Edinburgh, "... particularly when the subject matter might affect people staying in a particular area of Scotland."

659. "Scottish Parliament Statistics 2001" records that during the year 12 May 2000 to 11 May 2001 committees met 12 times outside the Parliament out of a total of 428 committee meetings. These statistics do not record informal meetings which committees, members of committees or committee rapporteurs held in other locations, and they are therefore not a totally reliable indicator of committee activity away from Edinburgh.
660. The rationale for committees to meet - indeed for some to have their base - outside Edinburgh was made for clear reasons: to ease access for people outside the capital, and to lend credence to the Parliament being, "... for the whole of Scotland - not just for Edinburgh."

661. One witness wrote to say that many people across Scotland feel little or no sense of being empowered by the Parliament and that this was partly at least because it was too geographically focussed in the Central Belt. While this is an impressionistic point, perception is important. It is clearly vital that the people of Scotland as a whole feel a sense of ownership in their Parliament.

662. There have been some highly successful formal meetings of committees outside Edinburgh. There have also been useful business excursions by MSPs, or groups of MSPs, or committee reporters to locations outside Edinburgh. These have been in pursuit of committee objectives but have also served to raise the profile of the Parliament at local level without demanding the resources of official reporting and security which formal meetings entail.

663. There exists a civic participation fund to resource committees' exchanges with civic society and the public, and the committees are using these resources. The committees' profile outside the Parliament is not negligible therefore.

664. We recognise that tensions arise from the need for MSPs to be in Edinburgh to conduct Parliamentary business which can only be conducted in the capital, and the desire of politicians to undertake the maximum amount of constituency work. Politicians will be sensitive to any press criticism of the cost of travel and overnight accommodation, but the positive impression of politicians taking the trouble, where appropriate, to move the committees out into the country, is probably difficult to overestimate.

665. Decisions to hold committee meetings away from Edinburgh should not be taken on tokenistic grounds. Agendas for such committee meetings should generally be relevant to people in the meeting location. **We therefore do not consider that there is a strong case for any committee to be based permanently away from Edinburgh.**

666. Decisions about whether or not to meet away from Edinburgh are probably best made on a case-by-case basis balancing the advantages to local people and to committee members, resources, and the effective despatch of committee business. MORI found that only 19% of MSPs consider that committees spend enough time meeting and taking evidence outside Edinburgh, so there is evidently a desire here to make more progress.

667. **We recommend that committees should continue to take every appropriate opportunity to meet outside Edinburgh. MSPs are obviously the primary ambassadors of the Parliament and a powerful resource in**
consolidating the significance of committees and the Parliament amongst the people. Formal committee meetings can often be combined with other local events, including civic participation events, which will be of benefit and interest to people outside Edinburgh.

{Recommendation 66}

Changes of committee membership

668. The importance placed by the CSG on the function of committees in the Parliament presupposes a stable membership. Members require time to become knowledgeable in the remit of their committees and confident in developing judgements on the issues arising. If they are not given time to develop their expertise, their ability to scrutinise the Executive effectively will be diminished, and the principle of power-sharing will be frustrated.

669. The inquiry heard a substantial number of concerns that the stability of committees had been undermined because of "frontbench" reshuffles; and also that smaller committees worked less effectively than the larger ones set up at the inception of the Parliament.

670. The Parliament initially agreed to the committees as set out in motion S1M-37 on 8 June 1999. Membership was agreed on 17th June 1999 in motion S1M-53.

671. Between 17th June 1999 and 9 May 2002, there have been 13 motions proposing some changes in committee membership, and one (S1M-1462 - committee restructuring) reducing slightly the maximum size of certain committees, and creating the Justice 1 and Justice 2 committees.

672. Most of these motions have involved modest numbers of changes. The largest (S1M-1483) agreed on 20 December 2000 involved over 40 moves but arose by virtue of the Parliament having agreed to committee restructuring on 14 December 2000.

673. The impression that, as a result of frontbench reshuffles, the quality of committee work might suffer is certainly one that should be avoided. It has the effect of making a key element of the Parliament seem to lie at the mercy of internal political party moves.

674. At the same time we received little objective evidence that the quality or quantity of committee work has reduced as a result of these changes, and committee restructuring in particular. The effect of such movements on each committee will probably vary depending upon the extent of the changes, and the individual MSPs concerned. (Arguably a smaller committee may be more effective than a large one because it is more straightforward to administer a smaller than a larger body.)

675. While we were unconvinced by criticisms of the reduction in committee size, we did discuss the inconsistencies which had emerged
in committee memberships, which range from 7 to 11, and the absence of any clear indication of which committees should be larger. It was impossible to say that smaller committees were more focussed on specific tasks, while larger committees were intended to involve more people in a variety of tasks. Had that been the case, there would surely have been larger memberships on the Social Justice and Local Government committees. Decisions on the size of individual committees appeared to have been made on the basis of negotiations among the parties, or with conveners. We concluded that there was a case for the Bureau to go back to first principles for the next Parliament, to consult on the optimum size of committees, and to set out clear criteria for establishing some committees with larger memberships. {Recommendation 67}

676. Some occasional changes to the committees in the 4-year life of a Parliament will be inevitable to cope with events like resignation and death.

677. We also insist that committee changes must be made to accommodate Ministerial reshuffles, as well as reshuffles of the front-bench teams of the non-Executive parties. Such changes run counter to the legitimate objective of minimising changes in committee membership (to allow MSPs to build up subject expertise and to maintain overall committee stability), but we see them as an inescapable fact of parliamentary life.

678. We considered whether the Parliament should adopt a convention that each MSP should move on to or off a committee no more than, for example, once after the committee membership is agreed by the Parliament at the beginning of a new Parliamentary session. We concluded, however, that such a convention would be inappropriate, as it would be unenforceable.

679. We discussed the role of committee members who might appear to have a conflict of interest in a political sense, and identified ministerial aides and parties' lead spokesmen in this category. We recommend that aides to Ministers ought not to be members of committees to which "their" Ministers are routinely answerable. {Recommendation 68}

680. We were unable to come to a similar conclusion about party spokesmen. We were advised that the SNP often appointed different people as committee and party spokesmen; but we also heard that allocating different people to every role was much harder for the smaller political parties. We concluded that all committee members were party spokesmen of one kind or another, and that every MSPs' contribution to committee work was likely to be devalued if other members felt that their "party" roles were in conflict with their "committee" roles. We have commented elsewhere that MSPs have become used to juggling several Parliamentary roles in their day-to-day lives. We consider that it is important that MSPs who necessarily have more than one role on committees should continue to keep these roles separate, in
order to preserve the integrity of the contributions they make in different capacities.

681. Conveners are of particular importance to committees’ effective functioning, and therefore to the sharing of power between the Executive and Parliament. These are senior and influential posts in the Parliament, and they carry considerable status, and demand high qualities of leadership to perform successfully. It is probably most undesirable that there should be changes to these posts within the Parliamentary session, except for unavoidable reasons.

682. It was suggested to us that, once appointed, conveners should by established Parliamentary convention deny themselves political preferment. Ministerial office would therefore be denied to any convener for the session of the Parliament in which they held that post. We think that this is an overly prescriptive idea, which might actually damage committee business if Members were reluctant to accept convenerships because of future hopes of Ministerial office.

683. We consider that a measure of stability in such posts is essential, and suggest as good practice, for example, that, once appointed, conveners should retain their posts for a period of at least 2 years.

684. At present the published arrangements for committee membership (Rule 6.3) and for conveners of committees (Rule 2.1) are extremely general. We consider that, in the interests of transparency, it would be most desirable were there to be more information about the considerations which guide the Bureau in arriving at the proposals for motions on these matters. We recommend that such information is brought into the public domain and made accessible. (Recommendation 69).

Other operational committee matters

685. Many of those with direct experience of committees, and who wrote to the inquiry, expressed great praise for the way the evidence sessions in which they had been involved had been managed. For many committee witnesses the experience was evidently enjoyable and significant, and gave them a sense that they were contributing effectively to the development of policy - power-sharing. This probably applies to the overwhelming majority of committee evidence sessions.

686. Evidence was received on a number of detailed operational matters. The points instanced are very likely to be exceptions to normal committee practice. We draw these points to the attention of committees and conveners, in order to inform future best practice.

687. Care should be taken to give witnesses as much notice as possible of oral sessions. Consideration could be given by the Conveners’ Group to agreeing and publishing minimum times as guidance for such invitations.
688. Some witnesses were evidently confused over what they thought they were going to be questioned about by committees and the lines of questioning on the day. It is obviously important for committee witnesses to be clear about the nature of the evidence they will be asked to provide.

689. Witnesses were sometimes upset when MSPs were not in attendance. Minimum standards of courtesy would seem to dictate that MSPs who are unavoidably absent from a committee meeting offer an explanation to the committee convener who is then able to pass this on at the meeting on the record. We think that it is desirable that witnesses are clear as to why committee members are not present to hear their evidence.

690. There were concerns expressed that the committees' consultation base should be broad and not confined to 'usual suspects'; that there should be an equivalence in evidence heard from 'users' and 'deliverers'; and that witnesses should be chosen so that committees were provided with a balanced view of the issue under consideration.

691. Witnesses were evidently concerned about how their own evidence filtered to the overall picture of a committee inquiry. Witnesses clearly perceive that being selected to present oral evidence gives them a greater ability to influence the outcome of committees' deliberations. It would be appropriate during an inquiry for committees to consider making transparent the rationale for their selection of witnesses.

692. Some respondents suggested that Committee advisers were chosen from too narrow, and too academic a field, that committees should select "real people" as advisers and that the selection criteria for advisers should be made available publicly.

693. There was considerable comment on this issue, reflecting a broader concern (detectable also in the earlier comment about witness selection, and a separate point about expert panels below) about the sources which committees were using to inform themselves about subjects under consideration. We understand what is meant by this criticism, that the Parliament may not be making sufficient effort to hear the voices of a wider Scottish public beyond the well-organised and well-connected civic Scotland, but we see no reason why efforts to engage with a wider public should preclude the engagement of academics as advisers, as they do generally have the breadth of knowledge and understanding of issues which the committees require.

694. We consider that academic expertise is often useful to committees, but that it is clearly not their only potential source of advice and expertise. We recommend that Committees should seek breadth and variety of expertise when engaging advisers and we recommend that guidelines on the selection of advisers should be published. {Recommendation 70}
695. In this context we were led to think about the extent to which the "mechanisms to facilitate participation in the work of parliamentary committees" set out in the CSG Report had been applied in the work of committees. The 'reporter' system is now well established and most committees use advisers as appropriate. Expert or citizens panels, by contrast, have not materialised, so far as we are aware.

696. We received evidence, noted in the Accountability Section, that each subject committee should work closely with a forum drawn from the general public with appropriate interest and experience, thereby increasing the civic society/Parliament interface, and developing policy awareness and presentation in ways which were consistent with the UK Government's modernisation objectives. Stimulating such participation could help the Parliament to reach out to youth, senior citizens, ethnic minorities, and others, especially those who have yet to engage in our political culture, and could complement assistance committees are currently receiving from experts. It would clearly provide those who were involved in such forums a real 

opportunity to influence committees' agendas, to share power.

697. **We recommend that the Conveners' group and individual committees should consider establishing `citizens forums' or `expert panels' as appropriate, and on a case-by-case basis. {Recommendation 71}

698. Witnesses must often make considerable efforts to attend committees far from their homes. The Scottish Parliament is of course generally much more accessible to citizens in Scotland than Westminster. Care however needs to be taken to consider the particular travelling arrangements and personal circumstances of witnesses to ensure that any inconvenience is minimised.

699. Several witnesses wished to emphasise the importance of committees co-ordinating their work where inquiries overlap, or where cross cutting issues arise. There is now considerable good practice in handling overlapping inquiries, and we believe that committees have become skilled in avoiding the duplicate evidence sessions which occurred in the first year or so.

700. Where committees are able to publicise clearly the timescales for committee inquiries this will enable interested parties who have been invited to give evidence, or who wish to submit evidence, to plan their contributions with minimum inconvenience. This can be extremely difficult. Where an inquiry timescale is likely to vary then committees should consider how best to alert interested parties to this.

701. Committees are aware of the desire of individuals and organisations to give evidence, and are as receptive to `bids' as time constraints permit. Clerks and conveners should be clear about committees' reasons for selecting which witnesses and consultees are invited to give oral evidence, and should be ready to explain their reasons to those not selected.
702. Within reasonable rules of procedure, committees will wish to do their best to promote participative approaches to taking evidence. This could involve inviting witnesses with overlapping interests in the subject of a committee inquiry as a group, where appropriate. The current rules and guidelines might be examined to ensure these embody as imaginative an approach as possible to the gathering of evidence in formal committee session, and to initiate improvements where these seem called for.

703. We suggest that Committees should be sensitive to the nature of formal committee sessions, and, in particular to the possibility that more formal question and answer sessions, held in committee chambers or local authority head offices, might intimidate many of the individuals and organisations which MSPs wish to contact. If such groups are deterred from participation by over-formality, they are denied the opportunity to influence committee decisions, to share power. We recommend therefore that committees should be as flexible as possible in identifying less formal mechanisms, and venues, for exchanges with the public, and we commend several examples we heard of good practice in these respects. {Recommendation 72}

704. One of the distinguishing marks of this Parliament is the way its procedures promote participative work with the general public and 'civic society'. It might be helpful for committees to have a database of the extent of their involvement with civic society, and in particular the ways in which they have sought actively in their day-to-day activity to reach out and involve the public, particularly those not previously involved, in their work.

705. The representative of the Scottish Council of Voluntary Organisations suggested that committees should consider publishing an annual accessibility report detailing what they have done to involve civic society.

706. We consider an accessibility report to be a useful idea, and recommend that, from next year, committees should include a specific paragraph on civic participation in their Annual Reports. {Recommendation 73}

707. We received some evidence that the way committees arrived at their decisions was sometimes opaque: "Reporting on the evidence taken at committee stage is felt to be good, but decisions made by committees on the basis of that advice are not always adequately reported or explained."

708. We consider that Committee reports have consistently been of a high standard, and that the lines of reasoning in them have normally been transparent. The importance of clear language is a point already commended earlier in the report.
709. Finally, as noted earlier, the Standing Orders (Rule 12.9) oblige each committee of the Parliament to produce an annual report of its activities. The issues that Rule 12.9 requires committees to cover are limited to the number of meetings ("detail of its meetings") and the number of times it has met in private. In practice committee reports are normally only a few hundred words in length.

At several points possible changes to Rule 12.9 to enable committees to report more fully on their activities are noted.

710. We invite the Conveners' Group to consider whether the present brief reports convey adequately the considerable work which committees undertake annually and whether committees should be encouraged to use these reports more expansively for reflection and forward looking, in addition to summarising the past year. {Recommendation 74}

Parliamentary Bureau

711. Some of the evidence we heard reflected a degree of unhappiness over the working of the Parliamentary Bureau and criticism of the programming of business.

712. The Bureau originated in the proposal in the CSG Report for a "Business Committee" to be formed. The present Bureau arrangement broadly follows the model set out by the CSG.

713. It is not clear when the name "Business Committee" was dropped in favour of Parliamentary Bureau, a name influenced by the European Parliament body of the same name. One practical effect of this is that none of the procedural rules set out for committees in the Standing Orders and other guidance apply to the Bureau. As the Bureau is not intended to function procedurally like a committee of the Parliament (another reason for the distinct name) it is logical not to name it as such.

714. The main functions of the Bureau are set out in Rule 5.1 of the Standing Orders:

- to propose the Parliament's business programme
- to propose alterations to the daily business list
- to propose the establishment, remit, membership and duration of any committee or sub-committee
- to determine any question regarding the competence of committees to deal with any matter

715. The membership of the Bureau is determined by Rule 5.2 of the Standing Orders. It consists of the Presiding Officer, a single representative of each
political party "represented by 5 or more members of the Parliament", at the nomination of the "leader within the Parliament of that party". Parties with less than 5 representatives in the Parliament may join with other such parties for the purpose of Bureau membership to agree a group representative.

716. The key *procedural characteristics* of the Bureau are: that it invariably meets in private; that the Presiding Officer chairs the meetings; the Presiding Officer has a casting vote only; that the Deputy Presiding Officers may attend and speak but may not vote, as may MSPs by invitation of the Bureau; where a vote is required, each Bureau member disposes of 1 vote for each member of the party (the 'block vote' system). Senior Parliamentary officials attend Bureau meetings as required.

717. The Bureau clerk produces a 'Note of Decisions' and this is published periodically as Section J of the Scottish Parliament Business Bulletin. In June 2002 the 'Note' appeared 4 times. The 'Note' is invariably brief. It itemises the decisions reached and does not reflect any discussion.

718. The range of Bureau business reflects the main functions as set out in the Standing Orders. For example, on 25 June (Note published as section J, Business Bulletin 108/2002) the Bureau agreed a Future Business programme to propose to the Parliament by motion; referred 2 Bills to a number of committees for consideration; it timetabled 2 Bills; determined the number of non-Executive and Committee half-days for the current parliamentary year; approved requests from 2 committees to appoint advisers; and a joint meeting of the two Justice Committees to take evidence from the Minister of Justice was approved.

719. The Note published on 19 June (Business Bulletin 101/2002) shows the Bureau dealing with one committee's request to send delegations abroad, and another's to be allowed to meet in Inverness. The Note published on 10 June (Business Bulletin 94/2002) records the Bureau's agreement for the Transport and Environment Committee to send representatives to a conference in Norway.

720. It can be seen therefore that the Bureau takes key decisions across the range of the Parliament's business activities, and that how it conducts its business has a critical effect on how well the Executive parties in particular share power.

*Concerns expressed about the Bureau*

721. The following key criticisms were *made against* the Bureau: that it always meets in private; that its key membership is too narrowly confined; that its voting structure simply reflects the Executive Parliamentary majority - even if votes are rare.

722. We also heard criticisms that the 'Note of Decisions' was too brief; that the Bureau did not consult committee conveners sufficiently
Although other evidence contradicted this) in respect of the timings of legislative stages; that no agenda was issued, and that MSPs and others generally therefore did not know what was to be discussed, and would not know until the 'Note' was produced some days after the meeting; that the Presiding Officer’s casting vote was effectively a dead letter; and that the name "Parliamentary Bureau" was inappropriate. These are essentially criticisms that the Bureau needs to do more to share power in practice.

723. Some evidence about the Bureau was more positive. The Presiding Officer argued that the Bureau is a good deal more transparent than the House of Commons mechanism, termed the "usual channels", although he was receptive to the suggestion that an agenda should be published in advance. Tom McCabe MSP, then Minister for Parliament, suggested that the Bureau worked well in all essential respects.

724. Given the consistency of the above criticisms, it should be noted that we received no significant evidence that the Bureau had failed to allocate sufficient time for the business of non-Executive parties, or time for non-Executive Bills (although we are aware that pressure on committee and plenary time may mount in the future if the volume of non-Executive bills increases). We deal elsewhere in this report with proposed changes to Ministerial statements and announcements, but we note that there was no general criticism that the Executive failed to find time to submit to questioning on important policy areas. Evidence was given that the Executive had agreed to representations from opposition business managers to allocate more time for debates where there was evidence that time would be needed. We were also advised that votes at the Bureau were rare, and that most business was resolved consensually.

725. It should be noted that the arrangements for the Bureau are not laid down in any statute, but in our Standing Orders, and that the Parliament is free to make what arrangements it considers appropriate.

726. On the issue of the Bureau meeting invariably in private, we noted that the business of the Bureau was a subject of wide interest. It was not surprising therefore that Bureau privacy should feature prominently in evidence to us. Kenny Farquharson, a member of the Scottish Parliamentary Journalists Association, put this point when he said: "The Bureau does not just perform a managerial function for the Parliament. The decisions that are taken in the bureau are key to people's faith in what the Parliament is doing."

727. The key arguments for varying the present arrangements for the Bureau meeting in private are essentially the same as those rehearsed for recommending that committees of the Parliament should consider taking more key business in public.
728. Reservations have been expressed to us about requiring the Bureau to meet in public. It was argued, for example, if formal sessions had to be held in public, that it would be more likely that key decisions would be taken informally off-meeting; and that open Bureau meetings would inhibit Bureau members in discussion. Such a change could undermine the potential for compromise on difficult areas, leading to an element of ‘grand-standing’, and unnecessarily prolonging meetings.

729. On the other hand, it appeared to us that most Bureau decisions were non-controversial management decisions. The Bureau routinely agrees and presents to the Parliament for its approval weekly business motions and motions designating lead committees, setting out timetables for committee stages of Bills, and approving Scottish Statutory Instruments. These motions are rarely opposed. Most of the business appears therefore to be non-contentious, and, while it might be of very little general interest, we see no substantial reason why the Standing Orders require such business to be taken in private.

730. We accept that some Bureau discussion might be sensitive, that it might be commercially or personally confidential, and that legitimate reasons might exist for taking such discussion in private. However, for the reasons given above, we do not consider it justifiable that the Bureau should meet invariably in private, and we recommend that Standing Order 5.2.2 should be amended to give the Bureau itself the right to determine whether and when it should meet in private. {Recommendation 75}

731. We recommend further that the Bureau should consider, and report to the Parliament, how it could make its operation more transparent, including publishing agendas and more detailed records of decisions taken, opening up meetings to MSPs and meeting in part in public, in certain circumstances. {Recommendation 76}

Option A:

732. Persuasive evidence about the need to ensure that backbenchers' voices were heard was received from the SPCB:

"We must ensure that we do not repeat the experience at Westminster and that backbenchers feel that they have a positive role to play. We must always keep in mind the needs of backbenchers... we must protect the rights of backbenchers to participate and to feel that they are making a worthwhile contribution."

733. In the course of our discussions, some members articulated a degree of dissatisfaction concerning the status of backbench MSPs in the Parliament, most notably the allocation of time for speeches in plenary debates. One view
was that backbenchers were adequately represented through their parties' business managers, but there was a contrary view that there should be a formal mechanism for representing backbenchers directly on the Bureau. We found it impossible to agree in principle or in practice how backbenchers could be defined or represented effectively.

734. **We do not dismiss the concerns which were expressed, however, and we recommend that the Bureau should respond to backbench concerns by opening a new means of dialogue. We recommend that the Bureau should hold such meetings as may prove to be useful with such backbenchers as wish to meet it, both as early as possible in the new Parliament, and as regularly thereafter as there appears to be relevant matters to discuss. {Recommendation 77}**

735. **We do not at this stage recommend the formation of a backbenchers' group. Our view is that, if such a body were needed and wanted, it would have emerged by now. However, we consider that, if there are genuine backbench concerns which are not properly heeded by the Bureau, either under the present arrangements or through the mechanism suggested immediately above, pressure to form such a group may well emerge in future. In such circumstances, we would expect a future Procedures Committee to consider carefully whether and how such a body might be formulated.**

**Option B:**

736. The present membership of the Bureau is tightly drawn. The Parliament is the national political forum and its business should be of national interest and concern. We consider that the Bureau, as manager of Parliamentary business proposals, needs to be as fully aware as possible of the issues which people wish to see discussed in the Parliament, and we propose a number of changes to make Bureau membership more representative and operation more flexible.

737. We are aware of persistent criticism that business management has had insufficient regard at times to the interests of backbench MSPs. We have carried out no systematic work in this area, but we do suggest that the views of backbenchers should be given a stronger and focussed voice in the planning and management of Parliamentary business.

738. Persuasive evidence about the need to ensure that backbenchers' voices were heard was received from the SPCB:

"We must ensure that we do not repeat the experience at Westminster and that backbenchers feel that they have a positive role to play. We must always keep in mind the needs of backbenchers... we must protect the rights of backbenchers to participate and to feel that they are making a worthwhile contribution."
739. **We recommend that there should be backbench representation on the Bureau, to ensure that due weight is given to the views of backbench MSPs in discussion of business programming and management; and that backbenchers should be enabled to elect a Bureau representative annually.** We return to the issue of voting rights on the Bureau later in this report. If the Parliament agrees to this proposal in principle, we will bring forward detailed implementation proposals in due course. {Recommendation 78}

740. A separate issue is uncertainty about what Parliamentary business will be developed over a reasonable period ahead. At present Parliamentary business in known with detailed certainty only one week ahead, and in outline one week beyond that, by means of the business motion as set out in the Business Bulletin. This has drawn criticism. It seems desirable that some means be found to develop the Parliamentary timetable over a more extended period in order to facilitate participation in Parliament's work, particularly by those outside the Parliament.

741. **We recommend therefore that a Parliamentary outline business programme is drawn up, and noted by the Parliament as an early item of business after the summer recess. It should indicate provisional time allocations for Executive, non-Executive Party, Committee, and all other identifiable Parliamentary business in the chamber.** The indicative programme should be regularly revised by the Bureau as the programme is developed in detail, with a major input from the Conveners' Group on behalf of committees. {Recommendation 79}

742. **We recognise that items in the programme would have to be added, removed, or adjusted as time proceeded, as priorities changed. For example, there will obviously be an element of unpredictability in allocating time for some Ministerial statements, and the completion of committee stages of Bills cannot be predicted absolutely.** The object would be to bring a degree of certainty to the programming of Parliamentary business over much longer periods than is currently publicly available; to provide certainty for the Executive about time for its own programme; to ensure that the Executive programme is considered fully in the context of the priorities of the non-Executive parties, committees and backbenchers; and to provide as high a degree of transparency about Parliamentary business as possible.

743. **This work is likely to involve a great deal of effort by Parliamentary staff and the main contributors to the programme.** It would require to be carefully planned and some extra resources may be required. **We recommend that a detailed implementation plan for consideration is drawn up in due course by the Bureau, including any proposals for changes to the Standing Orders (Rule 5), to implement the proposals for a programme set out above by the start of, say, the Parliamentary year 2004 - 2005. {Recommendation 80}
744. The rationale for the Bureau's "block voting" arrangements is rooted in the principle of party balance in the Parliament. The practical justification for the "block vote" applying in the Bureau seems to be to allow the majority to achieve its business.

745. In the circumstances envisaged above, where a flexible medium term business plan existed and had been agreed by the Parliament, it would be possible to move away from the block voting procedure in the Bureau to a one member, one vote arrangement. The membership of the Bureau would have to be increased to reflect the balance of parties in the Parliament. We emphasise that, in these circumstances, there would be no question of the Executive party or parties being unable to achieve their business over the period of the plan, because that business, together with provisional timetabling priorities, would have been agreed by the Parliament.

746. We recommend therefore that the Parliament agrees in principle to move away from the Bureau's present voting arrangements, in the light of the future improvements to business planning proposed in paragraphs x-y above, and that the Bureau should consider consequential changes to Standing Orders and present them to this Committee for consideration, with a view to implementation at the start of the 2004-05 Parliamentary year. {Recommendation 81}

747. The Bureau does not at present produce a publicly available agenda before its meetings. On the basis that all MSPs, civic society and the Scottish people are legitimate stakeholders in the business of the Parliament, they should be given the opportunity to know what business is to be discussed. An agenda would fulfil this basic requirement, and in his evidence, the Presiding Officer was receptive to the proposal to publish an agenda.

748. We recommend that a Bureau agenda is published in the Business Bulletin two working days prior to the meeting, with any late items posted on the Parliament's web site. {Recommendation 82}

749. The Presiding Officer has taken the view that his casting vote (Rule 5.3.1) is virtually redundant in present circumstances. If our recommendations dispensing with the "block vote" (paragraphs x-y above) are implemented, the Presiding Officer's casting vote could be essential. However improbable, it is possible that the balance of parties in a future Parliament could produce a tied vote under the block vote mechanism, and we therefore recommend that provision for the Presiding Officer's casting vote should be retained in the Standing Orders. {Recommendation 83}

750. It is desirable that the name of the body responsible for organising key Parliamentary business should be as simple and clear as possible,
to enable those with no expert knowledge of the Parliament to understand immediately what its function is. It may be doubted if the title 'Parliamentary Bureau' passes this test.

751. The term 'Business Committee,' as envisaged by the CSG, is clear. However, the role and composition of the Bureau, even after the changes we have recommended, are not and would not be that of a Parliamentary committee, and its procedures are and would remain distinct.

752. We have no proposal for an alternative name for the Parliamentary Bureau, and we recommend that the Bureau itself should consult, and recommend a proposal to our successors in the next Parliament with proposals to re-name the Bureau, with appropriate changes to the Standing Orders (Rule 5). {Recommendation 84}

753. Finally, we recommend that the Parliamentary Bureau should either produce a brief annual report covering such matters as attendance, number of meetings, and such other statistical material as might be thought helpful, or, at the very least, that a separate section in "Scottish Parliament Statistics" should be created for the Bureau. This would bring it into line with the practice of other Parliamentary bodies, and aid the process of ‘demystifying’ its procedure and operations. {Recommendation 85}

Scottish Parliamentary Corporate Body

754. It is difficult, if not impossible to address the Parliamentary principles and to fail to consider the SPCB. The SPCB has provided a great deal of evidence to this inquiry and, as the employer of the Parliament's staff, is also crucial to the success of implementing the principles.

755. The functions of the SPCB are set out in Section 21 of the Scotland Act 1998. The responsibility of the SPCB is to provide the Parliament with property, staff and services.

756. The members of the SPCB comprise the Presiding Officer (Chairman) and 4 MSPs elected freely by the Parliament.

757. The Annual Report of the Scottish Parliamentary Corporate Body shows the extent of the Parliamentary services for which the SPCB is responsible. In addition to the Holyrood building, and the practical details of the Parliament's plenary meetings in Glasgow and Aberdeen, the report extends to, MSPs' allowances, the Non-Executive Bills Unit, External Liaison matters, the Business Exchange, IT Services, Broadcasting and Audio-visual issues, records management, all aspects of staff management, health and safety, equal opportunities, corporate governance and oversight of the Parliament's management plan. Total actual expenditure for 2000-2001 was £67.5 million.
758. This Parliament does not have the so-called 'domestic' committees which feature in the House of Commons at Westminster. Nor does it have a Broadcasting Committee or a Finance and Services Committee as the Commons has. These bodies assist the body broadly equivalent in the House of Commons to the SPCB here, the House of Commons Commission, which is responsible for funding House expenditure and general oversight of the running of the House.

759. The responsibilities and work load of the SPCB (and the officials who work for it) are made greater by the absence of such a support structure of elected members.

760. Where a single body exerts so profound an influence on the Parliament, it is unsurprising that evidence was received that SPCB procedures should reflect the extent of that influence and the interests of MSPs and the wider world and should be consistent with the Parliamentary principles. Its work may not normally reflect the high drama of political business, but it does not of course operate in a political vacuum.

761. The Scotland Act 1998 allows the SPCB to determine its own procedure. The initiative for, and any decisions about, SPCB procedures lie with the SPCB itself.

762. The SPCB, which met 78 times between 18 May 1999 and 11 May 2001, convenes in private. It does not publish an agenda, but it does publish minutes of its meetings and some of its papers. It does of course publish an annual report.

763. SPCB minutes do not divulge anything covering 'individual members, personnel issues, commercially sensitive issues or where an issue is ongoing...' However, the SPCB does answer parliamentary questions, and is therefore accountable to Parliament. In the period 18 May 1999 to 11 May 2001 it responded (through the Presiding Officer) to 377 parliamentary questions, more in the first year than the second.

764. Given its broad responsibilities - particularly for equal opportunities in the Parliament - and the influence it can therefore exert by example, the SPCB is concerned that its corporate governance reflects the underlying Parliamentary principles. We are aware that it is currently conducting a review of corporate governance, which includes the manner in which it conducts its own business and its procedures.

765. In looking at the SPCB's present procedures, we wondered whether it might wish to consider scope for further development. For example, we noted above that the SPCB publishes its minutes, and we wonder if there may be a case for it to publish its agenda, and a some of its papers, particularly those which deal with policy development, where it might find merit in consulting more widely among MSPs and other 'stakeholders'.

766. **We accept that the internal resourcing of the Parliament does not always attract much attention, and that significant elements of the SPCB's business are necessarily treated as commercially sensitive. However, we do think that it is important that, in its review of corporate governance, the SPCB should consider the case for increased openness in its work, both to raise the profile of that work and strengthen the outreach effort of the Parliament generally, and to give MSPs and others a greater opportunity to influence SPCB decisions. We recommend therefore that the SPCB should consider whether it should make its work more transparent, in the interests of greater accountability and more effective power-sharing, and that it should consider the implications of conducting some of its business in public. {Recommendation 86}**

767. **The number of SPCB posts is set in statute and cannot be altered without amendment to the Scotland Act 1998. We recognise that the responsibilities of SPCB members are heavy in themselves and, of course, additional to the constituency, Chamber, party and committee work which they undertake. We consider that there is little scope, given the overall number of MSPs, for creating formal 'domestic' or 'housekeeping' committees on the House of Commons model, to assist the SPCB.**

768. **We recommend therefore that, in its review of corporate governance, the SPCB should consider whether the number of SPCB posts allows its members to discharge the broad extent of its current responsibilities and of any changed role which SPCB members may have as a result of the review, in developing SPCB policy and monitoring the work of the Parliament's directorates. {Recommendation 87}**

**Conveners' Group**

769. **The Conveners' Group (CG) - formerly the Conveners Liaison Group - was initially an informal but regular (fortnightly) meeting of Parliamentary committee conveners. It is chaired formally by the Presiding Officer but in practice by a Deputy Presiding Officer.**

770. **The CG was founded in 1999 under the auspices of the Presiding Officer: "... to provide an informal forum where committee conveners could meet to discuss matters of mutual interest, and to facilitate liaison between the committees, the Parliamentary Bureau and the Scottish Parliamentary Corporate Body."**

771. **The CG at present considers such matters as: committee business to be scheduled in the Chamber; civic participation events and external research; and certain committee meeting and travel arrangements.**
772. The Parliament has now agreed to standing orders formally constituting the CG in the Parliament broadly on its current basis.

773. The CG is a useful and creative Parliamentary body providing support to committees in practical, procedural ways in their day-to-day work. Evidence we received looked to the Group to buttress the application of the Parliament's key principles in committee operations.

774. Now that the CG has been formally constituted in the Parliament's Standing Orders, consideration should be given to ensuring that its procedures conform to the same standards as those of other Parliamentary bodies.

775. We recommend that the CG should consider whether there is a case for increased transparency in its work. We have suggested that other Parliamentary bodies should consider publishing agendas in advance of meetings, those papers which do not deal with matters which are genuinely confidential, and minutes of decisions and reports on their activities. We recommend that the Conveners' Group should also consider whether it should open its business to other MSPs, or in other ways account for its decisions to MSPs generally, or through Conveners to their committees, and whether its meetings should be held in public or in private. {Recommendation 88}

776. The Liaison Committee of the House of Commons is a committee of committee conveners, and is therefore the nearest equivalent in Westminster to our Conveners' Group. As noted elsewhere, the Prime Minister has agreed to appear twice yearly before the Liaison Committee to answer questions on the Government's programme and policies. The first session was held on 16 July 2002 and was well received inside and outside Parliament as an extension to Parliamentary scrutiny of the Government.

777. We suggest that the constitution of the CG in the Standing Orders provides an opportunity to reconsider whether similar arrangements might be made in Scotland, with the First Minister meeting the CG periodically in public to answer questions on the Executive programme and other matters of public interest on the lines adopted already between the Prime Minister and the Liaison Committee at Westminster. We recommend that the Scottish Executive should review the position it took when this committee raised this matter with the then Minister for the Parliament on 30 October 2001, and should consider proposals for regular question sessions between the CG and the First Minister in the context of the review of Question Time and First Minister's Question Time referred to in paragraph x of this report. {Recommendation 89}
778. We received a memorandum from Sir David Steel MSP, the Presiding Officer, and took oral evidence from him on 21 November 2001. There were three main areas in which the Presiding Officer suggested that changes were necessary.

779. Firstly, the Presiding Officer expressed his unease with First Minister’s Question Time (FMQT) which he termed a 'caricature' of Prime Minister's question time at Westminster and, '... not a healthy aspect of parliamentary democracy.'

780. This Committee has committed itself to consider FMQT and report to the Parliament.

781. Secondly, the Presiding Officer observed that: "The concept of the Scottish Executive being the Scottish Government has been a difficult one to get across..." noting that: "It was a conscious decision by the Westminster Government when the Scotland Bill was drafted that all the names and titles should be different. I am not sure that that was wise. It has certainly made it more difficult to get across to the public who we are and what each of us does."

782. Of the issues brought to our attention in this inquiry by institutions and the general public, amongst the most common was confusion between the names and roles of Scottish Parliament and the Scottish Executive. Few of those who wrote in, and who commented on this issue, felt the distinction was understood, either on the part of the respondent themselves or, in their view, on the part of others whom they knew. MORI Scotland confirmed that few people understood the difference between the Parliament and the Executive.

783. The Committee raised the matter with the then Minister for Parliament who did not believe it was a priority:

"The First Minister is clear that, in areas of devolved competence, we govern in Scotland. Over time, we will assess the way in which the public perceives the Scottish Parliament and the titles attached to it, but our view is that there are higher priorities that need to be addressed at the moment. We face a great challenge in ensuring that the public better understand the way in which we operate and the division between those who serve the Scottish Executive and the politicians who make up the Scottish Executive. However, at the moment our priorities lie in other areas."

784. It could be argued that familiarity will develop over time, or that titles are of no importance as an issue, but we consider that titles are in fact important if we wish to increase general understanding about what functions institutions fulfil.
785. If the general public automatically have trouble with the names of governance institutions it seems to us that the effort of drawing them into the 'new politics' of devolution is made much more difficult. If the present confusion is rooted in simple 'newness' then time will dispel it. If however the confusion represents a deeper, conceptual difficulty it may persist.

786. It is possible that there may be a conceptual difficulty over the use of 'Scottish Executive' for the devolved 'Scottish government', or the 'government of Scotland'.

787. The issue is not particularly straightforward. 'Government' denotes the administration of the country's affairs, the functions involved in running the State. 'Government' is the function of the 'executive', the 'legislature' and the 'judiciary'. The executive functions of government have been described as "The general and particular carrying out of government according to law."; for example, the shaping of policy. The members of the 'executive' include ministers and the civil service.

788. There appears little wrong therefore, in terms of traditional constitutional theory, with the term 'Executive' for those carrying out the 'executive functions' of government.

789. The problem arises of course because it is commonplace to refer to the 'Executive' as 'the Government', probably because it is the aspect of 'government' which touches most people in their day to day lives. In this instance everyday usage has departed a long way from constitutional terminology, so far indeed that the term 'Executive' evidently appears obscure in this context to many of those who wrote to us.

790. The evidence suggests therefore that clarifying titles is rather important, in order that there are as few barriers as possible now to general understanding of the key devolution arrangements. It is essential that any block to basic understanding in this area is overcome as a matter of priority, in order to maintain momentum in developing understanding of, and participation in, the new political system in Scotland. We are worried that the confusion over titles may be acting as a real barrier.

791. One difficulty with the use of alternative terms, 'Scottish Government', or 'government of Scotland', for example, is that the reference here requires to be to devolved government. On matters which are reserved under the Scotland Act 1998 the 'government of Scotland' remains the UK Government. Nevertheless, the term 'Scottish Executive' appears to have introduced considerable public confusion.

792. The position is made more complex by the term 'Scottish Administration' which is the statutory definition covering the Scottish Executive and staff of the Executive as defined in Section 126(6) to (8) of the 1998 Act. The
statutory definition of 'Scottish Executive' extends only to the First Minister, other Ministers appointed under Section 47 of the 1998 Act and the 2 Law Officers.

793. Any changes to the names of institutions would require a change to the Scotland Act 1998. *This need not however prevent the Parliament itself from taking a view, and we recommend that the Scottish Executive should research this matter carefully, and report to the Parliament on whether or how to re-name itself in a manner which will clarify the differences between it and the Parliament, the Scottish Administration and the U.K. Government. {Recommendation 90}*

794. Finally, the Presiding Officer pointed out that the Scotland Act 1998 controls key aspects of the procedures of this Parliament:

"There is one problem with the constitution of the Parliament, which is that it is still set up under the Scotland Act 1998. One has to go back to that Act if one wants to make any changes to our structure. I do not think that, in the long run, that is a sensible way to proceed. Apart from anything else, even if we in the Parliament agreed on sensible changes, we would have to persuade both Westminster Houses that they must give up time to change the Scotland Act 1998. The argument over whether there should be 129 MSPs has illustrated that difficulty clearly."

795. The Presiding Officer instanced the Parliament's inability to change the number of Deputy Presiding Officers to illustrate the sort of change which could only be brought about by amendment of the 1998 Act.

796. [The Parliament appears to be well established in the political texture of Scotland. We think that Sir David's words in 2001 that the "Parliament is now central in Scots life" ring increasingly true.]

797. At present, it is only possible to change the Scotland Act by approaching the Westminster Parliament on each separate occasion some small change appears to the Parliament to be required. We suggest that this approach is not an efficient way to proceed, and that there may be reluctance at Westminster to find time to promote amendments to the Scotland Act 1998 on such a piecemeal basis.

798. We believe that the time is ripe for the Parliament to take full control of its own proceedings, and we recommend that the Scottish Executive should invite the U.K. Government to promote amendments to the Scotland Act 1998 to ensure that objective. {Recommendation 91}

*Backbenchers*

799. In its second report on parliamentary questions, this Committee drew attention to the number of distinct roles and interests which MSPs have: "...
Committee Members, Party spokespersons, Member of Cross Party Groups, interests arising from constituency work, and particular individual interests."

800. In its evidence to this inquiry the SPCB made a similar point:

"The role of Members creates a number of different loyalties and accountabilities. These entirely legitimate interests include responsibilities to one's constituency, to the relevant political party and its political programme, to individual conscience and to the Scottish Parliament itself. These loyalties and responsibilities play out in different ways according to the individual and the issue, and are normally for individual Members to resolve..."

801. The SPCB considered that the way in which the balance of these interests is played out is affected by the institutional nature of the Parliament: "... the parliamentary structures necessarily affect the balance between these interests. There are occasions when the Parliament should have a voice that goes beyond that of the political majority in the Chamber or any individual political parties." It invited this Committee to consider, in that context "... the balance between the role of what are legitimate party interests and where the backbenchers might have more input and a greater voice on parliamentary matters."

802. The Parliament is composed of a number of established centres of democratic legitimacy, party, governmental, committee, Bureau, SPCB, Cross Party Groups. It is however a young institution and the institutional arrangements are still adjusting to meet the imperative of efficient service delivery. This is a perspective that is particularly apparent in our day-to-day procedural work.

803. The definition, role and status of backbenchers within the Parliament, and their contribution to the development of policy, is of fundamental importance to the way in which Parliament is perceived by civic society. There are few more corrosive impressions than that backbench politicians' sole or main function is to serve the party interest at Decision Time.

804. Constituents have a number of means of bringing their concerns to the attention of those in political power: writing to the Executive directly, or raising a petition are two of these. But it is MSPs' relationships with their constituents which offer perhaps the main day-to-day route for the people to relate to their Parliament and for their interests to be represented in the national democratic forum and integrated into the public policy process, where appropriate.

805. Evidence was received that a 'job description' for MSPs would be helpful in pointing up, "... the role of an elected Member in the new political culture of power-sharing and participation." The CSG recognised that MSPs would have
their own views on this, and it is an issue which we suggest that the Standards Committee might usefully consider.

806. We felt that there was merit in defining certain aspects of the role of MSPs. We agreed that it would be useful for the public to be clear what they could expect their MSPs to do for them, and that there might be scope for performance standards, for example in responding to contact from constituents. We thought that it would be useful for the public if the varying roles of MSPs were set out: we dealt with their role in facilitating 'access and participation' in paragraphs x-y. MSPs are also politically accountable, and they are also a significant resource for people to influence decisions.

807. We therefore consider that the Parliamentary authorities should issue clear guidance to inform constituents what representations they can expect MSPs to make on their behalf, both in influencing decisions on individual constituents' issues, such as representations to health authorities, and in influencing political decisions. We recommend that the guidance should refer to the responsibilities of MPs and local councillors, subject to relevant discussions with representatives of both, and should set out how elected representatives at all levels should co-operate properly in addressing the needs and interests of constituents.{Recommendation 92}

808. Several of those who wrote to us presented evidence of confusion about the distinction between constituency and list MSPs. Local authorities were unsure which MSPs they should brief. Individuals were unsure which MSPs they should approach with their concerns. Constituency and Regional MSPs sometimes felt resentment against each other about how constituents were represented.

809. The Presiding Officer has published guidance in the form of a note included as Annexe 5 of the Code of Conduct for Members of the Scottish Parliament entitled "Relationships between MSPs". It is intended that the guide should be available to "the wider Scottish public in appropriate forms". Any 'job description' for MSPs would require to take account of this guidance.

810. There were several well-publicised disputes between constituency and regional MSPs early in the Parliament's life, and some disputes have been referred to the Standards Committee. However, the evidence we are aware of is anecdotal, and, should there continue to be such tensions in the next Parliament, we suggest that there may be a requirement for some external research to identify the scale, and general causes, of the problem, to assist in finding ways to avoid or resolve any difficulties.

811. We attach great importance to the resolution of uncertainties. Constituents cannot hold their elected representatives to account, obtain access to or participate in policy making, or share power - influence legislative or executive decisions- if they cannot establish
who their representatives are, and which level of elected representative should be approached for which purpose. The guidance which exists must be operated, not merely as a means of regulating 'turf wars' between a constituency and regional member, or an MSP and an MP, but because the confusion which non-co-operation can lead to diminishes the service which elected representatives generally offer their constituents.

812. We recommend that existing guidance should be reviewed by the Parliamentary authorities, and extended to clarify what services the public is entitled to expect from MSPs, and that consideration should be given to how any guidance agreed could be disseminated widely outside the Parliament. {Recommendation 93}

813. Finally, one witness suggested that "Regional Committees" on the pattern adopted by the Welsh Assembly should be considered.

814. There are 4 Regional Committees in Wales for Mid Wales, North Wales, South East and South West Wales, comprising relevant constituency and elected region Assembly Members. The purpose of these committees is to advise the Assembly on matters affecting the regions, and the effect of Assembly policies in those regions, and on a range of bodies working within the regions. Each committee meets approximately 6 times a year, twice in its region.

815. There was no strong general call for such committees in Scotland. The creation of a second layer of committees would impose a very significant extra burden on members and the resources of the Parliament. There could also be doubts whether all of the Regions used in Scotland for electing List members are sufficiently coherent to provide a good basis for discussing issues of regional significance.

816. Many of the tangible benefits recognised in Wales from the work of their Regional Committees, in ensuring local interests are heard, might be achieved in Scotland by subject committees ensuring that they meet outside Edinburgh and the Central Belt with reasonable frequency.

817. We consider there could be value in holding regionally-based meetings of the relevant constituency and regional MSPs to respond to issues which have arisen at that level. This would not compromise the independence of individual MSPs, and the "regions" in this context need not be the same regions as are used for electing List members. These meetings could be presented as local public meetings, or they might be local scrutiny meetings where MSPs can discuss matters of local concern with non-elected public bodies, such as Health Boards, Enterprise companies and other public sector bodies. We consider that such meetings would be appreciated by constituents as an indication of the desire of MSPs to work co-operatively in responding to any such issues.
818. We do not make definitive proposals for the frequency, purpose and composition of regional meetings, but we do recommend the principle of local meetings. We also recommend that the SPCB should consider how it could facilitate and resource such meetings, in order that MSPs are able to develop the principle into practice where a local demand exists. {Recommendation 94}

Public Petitions

819. The inquiry took considerable trouble to consider the system of petitions because of the importance of petitions to the expression of the power sharing principle. We wish to thank the Public Petitions Committee (PPC) and John McAllion MSP, convener of the committee, in particular for assistance in this work.

820. We had the benefit of memoranda from John McAllion and of his oral evidence on 2 occasions, and we also heard from subject committees who had dealt with petitions.

821. Members of the public, many with direct experience of petitions, wrote to us. We invited a representative sample to come and give evidence to us, and we invited John McAllion to be present also.

822. The CSG Report placed considerable onus on public petitions to fulfil power sharing objectives: "It is important to enable groups and individuals to influence the Parliament's agenda." It recommended that a Public Petitions Committee (PPC) should be established.

823. The CSG also proposed a petitions' framework which has been broadly implemented by the Parliament:

- "public petitions should be encouraged by the Parliament"
- any member of the public should be able to petition the Parliament
- there should be clear and simple rules as to form and content
- it should be clear to petitioners how and to whom petitions should be submitted
- there should be clear expectations of how petitions will be handled, the form of response which can be expected and the time in which a response can be expected
- all petitions and responses should be in the public domain "

Defining what the petitions process is able to deliver

824. The document of guidance available to those seeking to petition the Parliament sets out the fundamental rationale for a petition as being a request
to the Parliament to "take a view on a matter of public interest or concern; or amend existing legislation or introduce new legislation."

825. The document goes on to explain the courses available to it for dealing with a petition. Briefly, these are:

- consideration followed by no action
- consideration followed by referral to another Parliamentary body
- consideration followed by a recommendation to the Parliamentary Bureau for debate in the Chamber
- invitation to the petitioner to appear at the Committee
- invitation to the petitioner to provide additional assistance
- any other appropriate action.

826. The guidance document also explains what the process cannot deliver for the petitioner. The process is unable to "interfere with or overturn" executive decisions of other public bodies in Scotland, for example local authorities or Health Boards or NHS Trusts; to recommend action in respect of matters which are or have been the subject of legal proceedings; it also cannot contemplate any matter which may be unlawful, or become involved in matters which are sub-judice.

827. The scope for outcomes arising from the process is therefore well defined. This is an important point to reflect on because there was a sense in the evidence that there might be underlying frustrations arising from these boundaries among some of those who had experience of the petitions process.

828. Expectations require of course to be focussed on what outcomes are actually achievable. The process should not be criticised for failing to deliver what it was not designed to deliver. If this is not understood clearly then petitioners will experience unreasonable disappointment and the process will risk being discredited unfairly.

829. What the petitions process in the Parliament does seem able to achieve from the Parliament's point of view, is to provide a way for members of the public to influence the agenda of the Parliament by bringing to it the matter of their petition. For example, petitions can feed into and influence committee inquiries thereby having an important effect on the creation of policy. This may be unlikely to happen in the case of many petitions, but when it does it confers a tangible benefit on the public policy development process.

830. An example of petitions influencing public policy occurred in the case of a petition (PE327), submitted by the Blaringone & Saline Action Group (BSAG)
whose convener, Mr Duncan Hope, gave evidence to us on 11 December 2001.

831. PE 327 was submitted to the Parliament on 12 December 2000 and requested the Parliament to revise legislation to ensure that public health and the environment are not placed at risk from the current practice of spreading sewage sludge and other non-agricultural waste on land.

832. The Transport and the Environment Committee considered the petition on referral from the PPC, appointed a reporter (Andy Kerr MSP) who conducted an investigation, including site visits, and produced a report for that committee in late 2001.

833. The Transport and the Environment Committee produced a report in turn, recommending action on the part of the Scottish Executive and other public bodies to amend the regulatory framework and acknowledging the work and approach of the petitioner, BSAG The report was debated in the Parliament on 10 October 2002.

834. From the point of view of the individual petitioner, the petition he submits is a means of raising the profile of his particular concern on the national political stage. Many petitions are referred onto other bodies, and petitioners are often invited to speak to their petitions at the Public Petitions Committee thereby having their concern recorded by the Official Report. We heard from many petitioners that this was a very welcome avenue to pursue.

Concerns expressed about the petitions process

835. The inquiry received a number of significant points of information, suggestions for improvement, or otherwise constructive comments about petitions in the course of taking evidence.

Concerns and points - Mr McAllion

836. In his oral evidence to us in October 2001, John McAllion MSP looked forward to a time when it would be possible to re-locate the e-petitioner system from the interactive teledemocracy website run by Napier University in Edinburgh to the Parliament's own website.

837. Mr McAllion articulated the concern of some subject committees which found it hard to timetable work on petitions referred to them due to work pressures.

838. The issue of which Parliamentary body had ownership of petitions was raised. Was the PPC simply a post-box, reflexively feeding petitions where appropriate to subject committees for consideration, or was it able to take a more active initial role itself in looking critically at petitions? The PPC view had settled on the latter, with the result that 57 per cent of petitions referred to
subject committees in the first year of the Parliament, but only 17 per cent in the second.

839. Mr McAllion pointed out that resources were finite, and, if the PPC were to increase its activity, this would mean that its support resources might have to be looked at, particularly the available staffing. He thought that there was scope for such an increase in activity, as he believed that subject committees might like the PPC to do more initial spadework on petitions before passing them to another committee, if that was appropriate; or to publicise the petitions process more.

840. Mr. McAllion wished the PPC could travel around Scotland more as a way of publicising petitions, but he recognised that there were resource constraints. He also explained the way in which petitions can have an effect on committees' consideration of policy; but pointed out that the conclusion of any one committee on a policy matter might not necessarily please the relevant petitioner. He observed that petitions had limited capacity to 'shift' political power.

841. While the PPC has the option of lodging a motion to ask the Parliament to debate on petitions it has not done so thus far because it has not felt any petition to date has merited it. While there is no claim from the PPC that petitioners thus far represented a 'fair reflection' of Scottish society, Mr McAllion pointed out that the PPC does not receive petitions from the 'usual suspects' only but from ordinary citizens.

842. When he returned to speak to us on 11 December 2001 Mr McAllion made the interesting point that Parliament was at something of a crossroads. Did it wish to have 'only' a PPC, or a "petitions system" to which all committees are committed and which allows them to allocate sufficient time to give petitions serious consideration."

843. He suggested that other parliamentary systems had a more 'joined up' approach to petitions: "About all the new democracies are exhibiting public petitions systems. Almost all have a petitions act that sets out the powers of petitioners, the right to petition, the focus of the petitions committee and its relationship to subject committees." He suggested that this Parliament should look at other systems, "... to find ways of strengthening our system." The PPC had undertaken a visit to learn about petitions in the German Bundestag which receives more than 20,000 petitions annually. The petitions process there is conducted on a vastly larger scale and legal and political context than our own.

844. Mr McAllion said that other committees had not been generally helpful in co-ordinating correspondence which conveyed the final decisions on petitions to the petitioner.
845. The idea of 'joint reporters' to link the PPC and subject committees in dealing with petitions was raised. Mr McAllion's letter of 21 November 2001 to the Committee raised the idea that the PPC might be permitted to conduct full enquiries at its own hand. Mr McAllion welcomed the prospect, raised by Frank McAveety, of monthly debates on petitions chosen by the PPC.

846. Communications with petitioners during the Parliamentary progress of their petitions was generally recognised as being of great importance, but Mr McAllion felt that to do this full justice would require an improvement in the 'resources, profile and status' of the PPC. The PPC was willing to consider monitoring actions on petitions which it had recommended.

**Concerns and points: petitioners**

847. Agnes MacKenzie was concerned that petitions should be given full consideration and that petitioners be given an appropriate opportunity to speak prior to final decisions being taken. She thought that subject committees should be accountable for their decisions on petitions, and wondered whether an 'appeals' process would be appropriate.

848. The history of Allan Berry’s petition pointed up the extreme length of time petitions could be within the Parliamentary process, and the lack of resources Parliament itself had in taking forward such complex matters as were raised in some petitions.

849. Allana Parker noted a contrast between her experience of the stage at which the PPC was dealing with the petition and the subsequent process with the subject committee. She found the latter to be less sympathetic and she was not given the opportunity to participate as she would have wished, nor provided with detailed guidance. The process was also lengthy and she suggested to us that the PPC might have a role in chasing up petitions which had sat with subject committees for some time. She thought that the PPC should take ownership of petitions from the outset of the process, and thereafter.

850. William Watson thought that grouping and processing similar petitions might prove a sound idea, raised the need for a 'review of petition outcomes', and suggested that petitions and the final outcomes be posted together on the Parliament's website. He was an enthusiastic proponent of a petitions system which extended to local government and non-departmental public bodies.

851. Duncan Hope was critical of what he saw as the Parliament's failure to publicise petitions sufficiently.

852. Councillor Charles Kennedy was critical of his experience of the petitions system, in particular, the shortness of the time he was permitted to address the PPC (a standard 3 minutes currently provided to all witnesses at that committee); on what was a petition with 45,000 signatures, the limited
opportunities to question health board officials at a further meeting; the poor physical arrangements for at least one committee meeting in which he was involved; the absence of an opportunity to speak when the subject committee considered the matter; and what in his view was the inadequate final outcome.

853. Finally, John MacPherson noted how intimidating a committee appearance could be for a member of the public, and suggested that the support of a local MSP could be of great assistance.

854. These welcome points of constructive criticism need to be placed in the context of the general view of those who wrote to the inquiry, which was that petitions were an important and refreshing feature of the work of the Parliament. Indeed, of all the elements of parliamentary work, the petitions process appeared to be one of the most highly regarded. We believe that the Parliament should consider how it can strengthen and develop the present arrangements for petitions.

855. The purpose of our petitions system is to facilitate the participation of individual members of the public and organisations, and to assist policy development, thereby enabling the public to have a direct effect on the agenda of the Parliament, and to permit the voices of members of the public to be heard directly at a national level. To affect the agenda of the Parliament and to have one's voice heard in this way is to share political power.

856. "Developing" this system appears to entail both quantitative expansion, i.e. allowing more people to participate in the Parliament using this system; and also qualitative enhancements to the procedures which we use to deal with petitions. These two strands must be developed together. There is little point in encouraging more petitions to flow into a system which is currently finding difficulty in coping with the relatively small number of petitions received to date.

857. In encouraging such development, we are not fostering unrealistic goals for the system in operation here. Nor do we encourage petitioners to expect that committees will interfere in the executive and policy decisions of local councils, which enjoy the same democratic mandate as this Parliament.

858. We believe that the work of the PPC, and the subject committees who deal with the substance of many petitions, should be encouraged and that a higher profile should be given to the petitions system than exists at present.

859. We recommend that the PPC - as the lead body in the Parliament for developing and processing petitions - should publish a development plan to extend the use of the petitions system in a measured, realistic and effective way. Access to such a plan should be made available to
the public and comments sought on a continuing basis. The plan should be updated as ‘milestones’ are passed. {Recommendation 95}

860. We suggest that the PPC might foster the further evolution of petitions in the Parliament by the use of modern technology.

861. There appears to be considerable potential for the e-petitioner partnership between the PPC and Napier University’s Interactive Teledemocracy Centre to enable members of the public to submit petitions to the Parliament electronically, and with a high degree of technical integrity. However, few petitions are received in this way.

862. Petitions can also be submitted via the Parliament's website using a form there by e-mail, but this method has a lower level of security and the e-mail must be supported by a hard copy, a significant disadvantage. About 10% of petitions are sent in e-mail backed by hard copy.

863. We recommend that high priority should be attached to ensuring that all electronic arrangements for petitions are housed on the Parliament's own website; and that the numbers of petitions submitted electronically should be quantified and monitored by the Public Petitions Committee. {Recommendation 96}

864. There was considerable discussion about where the 'ownership' of a petition lay once it entered into the Parliament. Reference was made to Rule 15.6.2(a) of the Standing Orders which has been interpreted to indicate that on transfer of a petition from the PPC to another committee, or other body, the responsibility for action on, and the handling of, that petition also transferred to the body and away from the PPC.

865. The inquiry heard however that in practice the PPC tracks such petitions and seeks to maintain an interest in them, but that communication was sometimes difficult between subject committees and the PPC. Finally, it was noted that the PPC was willing to undertake some inquiries into petitions at its own hand, so long as it had the resources to do so, but there was some reluctance among the subject committees who responded to us to countenance this.

866. As noted earlier, Mr McAllion said that the Parliament should decide whether having the PPC was sufficient to the task, or whether a 'petitions system' is needed which allows subject committees to give petitions sufficient time. He went on to refer to the subject committees' heavy workload: "...it's only natural that they will give less and less time to petitions." Those subject committees who wrote to us did not give the impression that they were giving petitions progressively less time however, and we have drawn attention to petition PE 327, the subject matter of which was debated by the Parliament.
867. We consider that it is very important for the subject committees to continue to deploy their specialist expertise in considering petitions, and to allocate sufficient time in their programmes to do so. If their role were to diminish or disappear, the key link between petitions and other work of subject committees would be broken, to the probable detriment of both committees and petitioners. We therefore recommend strongly that the `mainstreaming' of petitions in the Parliament should be maintained. {Recommendation 97}

868. Nevertheless, pressure on subject committees would be eased if the PPC, with the agreement of the relevant subject committee and in cases, for example, where a petition matter might not require very great input of subject committee expertise, to undertake more inquiries itself. In these circumstances consideration might be given to a member of the relevant subject committee or committees joining the PPC for consideration of a particular petition. There is also the option of the PPC obtaining expert assistance.

869. It may be that few referable petitions would fall into this category. Nevertheless so great is the perceived pressure of day-to-day business on the subject committees that any possible means of relieving the pressure should probably be explored - particularly if more publicity in future increases the numbers of petitions. The integrity of the consideration of petitions needs to be maintained but must be balanced with any sensible steps which can be taken to quicken what we have heard can be a lengthy process.

870. We recommend that the PPC and the subject committees, through the Conveners' Group, should reach agreement for the PPC to undertake more inquiries itself, and bring forward proposals for any changes to the Standing Orders (Rule 6.10 and Rules 15.4, 5, 6) which may be required. {Recommendation 98}

871. We note the considerable preparatory work undertaken by the PPC before referral of appropriate petitions to subject committees.

872. We consider that the `ownership' of a petition referred on from the PPC to another committee should be shared between the PPC and the subject committee concerned. We heard that the PPC's liaison with petitioners had been excellent, and we are reluctant to see the PPC's interest in petitions stop at the point of referral to a subject committee.

873. We suggest that it would simplify matters greatly for petitioners if the PPC, and its clerks, were to be made the single point of Parliamentary contact for petitioners at all stages of the petition process: and if they were responsible for effective liaison with the subject committee clerks, correspondence with the petitioner, monitoring the progress of petitions, and issuing the final decisions. In normal circumstances, this would be a letter enclosing a detailed memorandum from relevant subject committees.
874. We recommend, in the interests of transparency, that Rule 15.6 should be amended to make explicit the 'joint ownership' of petitions, between the PPC and subject committees. We are aware of considerable progress made in this area through the Conveners' Group, and we invite the Group to agree with the Petitions Committee an appropriate formula for revised Standing Orders. {Recommendation 99}

875. Those subject committees which wrote to us about their handling of petitions told us that the present balance of work on petitions with the PPC was broadly right, and that they were confident that the consideration they were able to give to petitions was fully adequate; but they did advise us that petitions impacted on their very heavy general workloads.

876. We heard some dissatisfaction from petitioners. Dissatisfaction is not necessarily evidence that petitions are being considered inappropriately, but may relate instead to the different focus subject committees give to petitions compared with that given by the PPC.

877. The PPC naturally focuses on the petitioner, whereas subject committees focus predominantly on the subject of the petition and how it fits with other parallel committee concerns. These factors mean that the subject committee stage of the process might be less satisfactory for the individual petitioner than the initial presentation/consideration at the PPC.

878. Relatively minor changes on the part of subject committees, and the PPC, could remove the perception expressed to us by some petitioners that their role and treatment fell beneath the standards they felt was appropriate.

879. We recommend that, where a subject committee is discussing a petition, the petitioner should invariably be notified and invited to all of the relevant sessions, and should be invited to make a brief oral contribution on the record as a witness, if they wish, at an appropriate stage in the consideration of the petition. We suggest that this would add only a little to the length of subject committees' proceedings. {Recommendation 100}

880. Petitions can on occasion take a considerable time to bring to conclusion. We recommend that petitioners whose petitions are likely to take a greater than average time to deal with should be kept periodically in touch by the PPC on progress. {Recommendation 101}

881. We would encourage petitioners to seek the advice of their local MSPs when petitioning the Parliament. MSPs are in an excellent position to offer their constituents detailed guidance on how the petition system can assist them in dealing with their concerns.

882. We heard a complaint that three minutes was too short a period for an initial presentation of a petition to the PPC by the petitioner. We think that
three minutes is not necessarily too short, particularly as there are likely to be
drop up questions to petitioners, allowing them additional scope to get their
key points across.

883. Through pressure of time in the PPC many petitioners do not get the
chance to speak at all to the PPC, although the committee assured the inquiry
that it does its best to accommodate people - sometimes breaking its self-
imposed limit of 3 oral presentations each meeting if it considers petitions
merit such evidence.

884. It is clear that being invited to speak to the PPC, or a subject
committee, is enormously prized by petitioners, and that the PPC is
correct to extend such invitations where the circumstances of particular
petitions merit them. We encourage the PPC to offer petitioners
opportunities to address it as generously as possible.

885. We heard one plea for an 'appeals' process to ensure that committees are
accountable for their decisions on petitions. Committees are of course
accountable to the Parliament for their decisions and conclusions, and that is
the reason for committees reporting to the Parliament on their work.

886. Where a petitioner feels the point of his petition has been missed, the
opportunity exists for him to submit a second petition. We heard that this has
been done, with assistance from the PPC, and, given this, a separate
petitions 'appeals' process hardly seems necessary.

887. As there seemed to be confusion on the part of some petitioners, we
recommend that the PPC should amend its guidance leaflet to ensure
that potential petitioners are aware of their freedom to submit a second
petition; and to expand it to explain the process of referring a petition
on to another Parliamentary committee, and what that might entail. We
recommend that the guidance leaflet should be translated and made
available in the languages used by significant ethnic groups in
Scotland. {Recommendation 102}

888. Where the PPC recommends action on a petition, or where a subject
committee so recommends after having considered a referred petition, there
is scope for it to follow up the recommended action to see whether any has
been taken, and to report on this to the Parliament.

889. We recognise that the PPC does not have the power to enforce its
decisions or those of any other committee. We do believe, however, that
the reports and recommendations of a committee of the Parliament can
carry considerable moral authority, and we recommend that the PPC
should follow up the outcome of such recommendations as it might
make, as this action may encourage the recipient of the petition to act
on its recommendations. {Recommendation 103}
890. Petitioners’ frustrations can be reduced if they feel that their petition has been given appropriately full consideration, where reporters on committees who may be dealing with a petition inform the petitioner of any report prior to publication, where petitioners have been given a reasonable opportunity to contribute at each stage, and where their points have been understood - even if agreement has been withheld.

891. While we received evidence about the need for a petitions system to apply in local government, our remit does not extend to making recommendations about the value of petitions in the local government context. Certain local councils may make arrangements, but we are not aware of any universally applied petitioning system operated by all local councils in Scotland.

892. Petitions have been debated in the Parliament where they have contributed to, or have been the subject of, subject committee inquiries. The PPC has not itself used its power to propose such a debate to the Parliamentary Bureau.

893. There are two possible routes to Chamber procedure in respect of petitions. The first is that petitions, or groups of petitions, may be debated on the substance of the issues which they raise. Any such debate would require to be promoted by an appropriate subject committee, except where the PPC itself had conducted an inquiry.

894. There may be a case for committees to consider whether they could do more to promote debates in the Chamber arising from petitions referred to them. On the other hand, there is pressure for the available slots for committee business, and it may be unrealistic to expect committees to refer more petitions for plenary debate unless there more time is made available.

895. Petitions could be a rich source for the 'subject debates' recommended earlier in this Report, and might also be a source for Members' Business.

896. Secondly, there is the opportunity for the PPC Convener to provide Parliament with a brief report on progress on work to promote the petitions system and, for example, the number, origin and nature of petitions received, work on e-petitions, outreach issues, publicity, and development plan milestones met.

897. We recommend that each subject committee should report on its petitions activity in its Annual Report, and that Rule 12.9 of the Standing Orders should be amended to place this requirement on all subject committees. {Recommendation 104}

898. It appears common ground that petitions are important, and the system is one that touches most MSPs and committees, as well as many people outside the Parliament. We suggest therefore that the Parliament may consider it perfectly reasonable to receive and debate
such a periodic report from the PPC Convener on the drive to develop
the system. This would in itself probably assist in raising the profile of
petitions outside.

899. We recommend that the PPC should publish annually a report on
progress on petitions, and that consideration should be given to
whether the PPC’s report has identified issues which should be debated
in committee time in the Chamber; and that a proposal for changes to
Standing orders to give effect to this recommendation should be
brought forward in due course. {Recommendation 105}

900. MORI Scotland produced some evidence that knowledge of the existence
of petitions was not widespread. The number of petitions received to date has
been relatively modest. We were concerned to learn, for example, that no
petition had been received from an ethnic group.

901. It is important for the dynamic of the petitions process to be maintained, if
it is to meet the Parliament’s aspirations. (A strategy for this purpose would be
useful in the context of the overall role envisaged for the PPC in heightening
the profile of petitions and the PPC development plan noted earlier.) The
expertise of the Parliament’s Media Relations Office, Education and
Participation Services should be made available to the PPC.

902. The focus for this work might be to devise a carefully controlled
outreach and publicity strategy, in order to inform more of the Scottish
people about the existence of a petitions process, in particular offering
a route into Parliament for those not yet engaged with the Parliament, or
the political process generally, and for whom a petition could be
appropriate.

903. We recommend that a range of techniques could be considered,
such as more PPC meetings outside Edinburgh, media publicity, using
former petitioners as a resource to publicise the system, the use by PPC
members of other civic participation events, and informal meetings
convened by PPC members around Scotland. {Recommendation 106}

904. It will be vital to ensure that the capacity of the Parliament is sufficient to
cope with any increase in the increased numbers of petitions.

905. We were advised that resources available to the PPC are insufficient
for the present scope of operations. It is not part of this inquiry’s remit
to discuss the detail of resources available to other committees, but we
are conscious of resource constraints on expanding the current service
to any significant degree. We recommend that the SPCB should make
additional resources available to ensure that the PPC is able to carry out
the additional work which is likely to be generated by the
recommendations set out in the foregoing paragraphs. {Recommendation 107}. 
906. **We recommend that the PPC should conduct a review of the way these new arrangements have worked at an appropriate point, perhaps 3 years after the creation of any Petitions Development Plan.** {Recommendation 108}

907. The present system, in its essentials, appears to be an adequate base on which to build for the future. The adjustments suggested in this report could assist those directly responsible to provide an even better Parliamentary service to petitioners in future, and also to develop it in a meaningful way.

908. We make no apology for spending a considerable amount of time on this aspect of Parliamentary business. Petitioning is becoming increasingly popular and has the capacity to be a main driver in expanding and deepening participative democracy, and sharing power, in Scotland.

*Consultation, pre-legislative scrutiny and the development of policy*

909. The nature of the pre-legislative process, consultation, and the manner in which legislation emerges was of considerable interest and concern to those who responded to our call for evidence.

*Consultation*

910. Consultation may be used to involve those consulted in the development of policy (*power sharing*); and to enable the scrutiny of firm proposals (*accountability*). In both of these cases the action of consulting - if carried out adequately - encourages *access* by consultees to the national political process, by inviting their *participation*.

911. Consultation at the pre-legislative stage of Bills by the Scottish Executive, for Stage 1 inquiries by committees of the Parliament, and for a variety of policy initiatives in other contexts has become commonplace.

912. Comment has been made already on the importance of consultation, and its unintended negative effect on some consultees, and we have already made recommendations about Parliamentary consultations on draft legislation.

913. A small number of further points may be relevant here.

914. The Scottish Executive considers that: "Good consultation is an essential pre-requisite to effective policy-making." From July 1999 to October 2001 the Scottish Executive carried out 230 public consultation exercises. It has prepared ‘Good Practice Guidance’ on consultation which makes amongst its key recommendations the following:

- a **12 week minimum** period for responses to consultations
- use of **summaries** to increase the accessibility of key issues
use of sampling techniques to cover all relevant interests
use of the internet as a consultation tool
research to determine the best ways of reaching the public
working closely with Scottish Civic Forum

915. A dedicated team in the Central Research Unit of the Executive has been set up to review and develop practice.

916. We consider the Executive's approach to consultation, research and development of practice to be commendable, and we wish to draw attention to this work.

917. As noted above, the Scottish Council for Development and Industry has made a plea for a 12 week minimum, initial period in all cases of Parliamentary consultation. Some of the deadlines for consultations noted in the SCDI's letter were tight. In certain cases, effective response times can be severely constrained if consultation does not take into account the possible impact of holiday periods on consultees. Recommended guidelines for consultations on legislation may help ease matters.

918. In this legislative context deadlines are likely to remain short because committees of the Parliament charged with reporting on Stage 1 of Bills are invariably set extremely challenging timetables. This is a feature of almost all modern legislatures. The effectiveness of consultees' responses will continue to be in proportion to their ability to pace themselves appropriately to work within the timetable set.

919. In the case of committee inquiries, however, committees may have some more control over their own timetables. This control will be relative, of course, as committees will almost invariably have several projects in play simultaneously, including legislation.

920. We recommend that no initial consultation by any Parliamentary committee or body on any non-legislative matter should normally contain a deadline for responses of fewer than eight weeks. Where it proves impossible to meet this target, the committee or body should provide a clear explanation for this in the consultation document. {Recommendation 109}

921. We recommend that, where a second or subsequent consultation on substantially the same subject is issued, the deadline for this should normally be four weeks. {Recommendation 110}

922. Interesting forms of Parliamentary 'engagement' or 'consultation', examples of which are given in the 'General Points' section of the Report, are in line with the ideas of the CSG. These have been successful events, though
doubtless resource intensive to run. Appetite also exists in the Parliament for further innovation.

923. We noted Alex Neil’s vision of a body or bodies external to the Parliament and feeding to it a ‘sectoral’ view. This has resonances with the idea of ‘commissions’ in key policy areas that Canon Kenyon Wright proposed and on which we have made a separate recommendation earlier.

924. The CSG dismissed consultation after policy has been decided by the Scottish Executive, or after the formulation of views by a parliamentary committee, as inadequate:

"Consultation in the form of inviting comments on specific legislative proposals for example, would not meet our aspirations for a participative policy development process... What is desired is an earlier involvement of relevant bodies from the outset - identifying issues which need to be addressed, contributing to the policy making process and the preparation of legislation."

925. We have already recommended in the Introductory section of this Report that the Parliament’s effort must be directed at reaching out participatively not only to "relevant bodies", important as these are, but to the public generally, and especially those members of the public who have yet to become engaged with the Parliament and the political process.

926. The reason for the CSG’s general position was clear enough. Where consultation takes before policy has been developed into specific proposals, those consulted have the opportunity to contribute to the outcome in genuine partnership with those promoting the policy development. This represents consultation as power sharing.

927. The earlier consultees are drawn into the process, the more they will be able to influence the policy proposed, that is they will have a genuine opportunity to share power. The later they are consulted, and the more specific the proposals for consultation, the less chance consultees have to initiate significant changes, or to share power. We therefore favour the earliest possible involvement of consultees in all consultation exercises.

928. Of course, we accept that not all consultations are able to take place at the start of policy development. Policy will be at a variety of stages of development across the range of issues which the government is dealing with at any one time. We consider that it is very important for those being consulted to understand at what stage of the policy process a consultation is taking place. This will enable them to ‘pitch’ their contribution appropriately - if they choose to contribute. It will also enable them to gauge more accurately the impact on policy which any contribution of theirs might have. We recommend that the Executive and the Parliament, whenever they initiate consultation, should
invariably make the policy position clear in the consultation documentation, so that those responding to the consultation are entirely clear about what decisions they might be able to influence. {Recommendation 111}

929. An outstanding example of good practice in 'consultation' was given in evidence taken from Dr Pamela Tosh, a post-graduate researcher of the University of Edinburgh, on work she had completed on the Housing (Scotland) Bill.

930. Dr Tosh conducted a case study on the Bill between July 2000 and October based on 64 interviews with interest groups, MSPs, and civil servants involved with the Bill. This research was complemented by earlier work based on survey responses from 117 organisations involved with housing and homelessness.

931. The research covered a number of the Parliament's principles. The point of particular interest in the present context was the Scottish Executive's initiative to open up the policy development on the homelessness section of the Bill by the creation of a 'Homelessness Task Force' which included individuals from outside government:

"One further aspect of power sharing (which is interdependent with another key principle which is based on developing procedures to make possible a participative approach to the development and consideration of policy) is the use of working groups and task forces by the Executive. The recommendations of the Homelessness Task Force provided the basis for the homelessness section in the Housing (Scotland) Bill. Representatives from organisations, both those who sat on the Task Force and those who were not part of it, welcomed the homelessness provisions that were set out in the consultation document. The Task Force was welcomed by many organisations as a process of opening up policy development to experts in the field. Indeed, a member of the Labour Party commented that the way in which the Homelessness section of the Bill had been developed could well represent a model for future policy making."

932. It might have been thought that difficulties would be encountered over the choice of Task Force participants. If this was the case in this instance, they appear to have been overcome. As noted by Dr Tosh, even those bodies not represented directly on the Task Force supported its recommendations, suggesting that the outside participants effectively represented the aspirations of a much wider group of interested parties.

933. Another potential difficulty related to the position of non-Executive members of the committee dealing with the Bill at Stage 2. They had not been party to the policy debate and arguments in the Task Force.
934. Such co-operative work on legislation, involving between the governing parties, civic society and the non-Executive parties, should be developed much further within the present Parliamentary context. While no formal evidence has been received on this point, other such task forces are in operation. The 'stakeholder scope' in legislative proposals could be extended *widely* through the use of inclusive Task Forces, public meetings, presentations, seminars, conferences, innovative consultation and so on, so that the eventual legislation mirrors as closely as possible a workable social consensus. It is particularly important that a unicameral Parliament brings all potential resources to bear on the development of legislation to ensure that it is of the highest possible standard.

935. We recommend therefore that the Executive should go further in developing the Task Force concept, encouraging them, where appropriate, to invite participation by MSPs, including members of non-Executive parties (although we recognise that there would be circumstances where such parties would not wish to participate, where they felt that they would be likely to be critical of the thrust of the legislation). We consider that developing participation along these lines would build cross-party support for the recommendations of Task Forces, and develop means of co-operation in policy development which do not compromise MSPs' essential political identities. {Recommendation 112}

936. This was an interesting and commendable example of modestly innovative consultation where the process was engineered to ensure active participation by representative people from outside government in such a way that civic society was represented and participating *at the point of policy development*. The policy product delivered as a result appears to have been one which commanded widespread support among people and groups who are actively involved in the debate on housing and homelessness.

937. We applaud the introduction of such innovative consultation practices, and recognise that it might be used to cast the net of participants in policy creation more widely. We recommend that the Executive, and non-Executive parties, should develop this co-operative means of policy creation as a priority. {Recommendation 113}

938. We heard a lot about the problems of consultation. We consider that some of these problems could be addressed by joint Executive-Parliament work in this area.

939. The general difficulty is that the Executive might consult upon a legislative proposal which, later on, is consulted upon by the lead committee appointed to undertake the Stage 1 report. One result is irritation on the part of consultees who may be asked virtually the same questions twice, against a decreasingly adequate deadline for responses. The alternative is for the
committee to rely on the Executive's consultation and analysis, which may be inherently unsatisfactory.

940. **There may be scope for the Executive and Parliament to discuss co-operative working here.** If there were to be a system of pre-notification by the Executive to the Parliament of consultations on legislative proposals and work programmes in general, and an earlier identification of lead committees (all assisted, perhaps, by the earlier suggestion of an annual Parliamentary outline business programme), it may be possible to devise a single consultation exercise, to the benefit of consultees, by enabling a longer response deadline, and to those consulting, by streamlining existing practices. We recommend that the Executive and the Parliament should consider the possibilities for so streamlining their consultation processes. **{Recommendation 114}**

941. **We also heard concerns about how the Parliament launches its consultation exercises and how, in certain cases, the only notice given of consultation exercises was by means of a press release:**

"We have also been concerned that, on a number of occasions, major Committee Inquiries, which have significant implications for the HIE Network, have been launched simply with a press release appearing on the website. While we have generally picked these up, there is a danger that key players in Scotland are not submitting evidence because they are not aware such an Inquiry is underway."

942. **We do not consider that it is sufficient to 'publicise' a consultation by posting a press release on the Parliament's web site.** If NDPBs consider that there is a risk that they might miss the launch of committee consultations, it is clear that there is an even greater risk that other interested parties, who are less well-resourced, and the general public, will also miss them. We agree that press coverage is valuable, but it is not realistic to assume that there will be coverage and that all relevant parties will be informed by it.

943. **We suggest therefore that placing a press release on the Parliament's web site should be considered only as one technique for engaging the public.** Press articles should also be prepared for specialist publications wherever possible, and deployed along with other means of engaging people, for example, electronic consultation, public presentations and roadshow opportunities. For example, for this inquiry, we sought responses by writing out with the details of the inquiry to a substantial data base of organisations and individuals which we had built up beforehand. We consider that the public must be engaged so far as possible on its own terms, and that those consulting should plan carefully how to bring the issues which are the subject of consultation to the attention of those whom committees hope will respond.
944. We commend the use by Committees of 'civic participation' exercises, such as the Equal Opportunities Committee's Event on the Race Relations Acts (SP Paper 427); the Enterprise and Lifelong Learning Committee's Report on the Lifelong Learning Convention (SP Paper 577); and the event commissioned by SPICe for the Justice 1 Committee on issues of Sentencing and Alternatives to Imprisonment. A total of 366 individuals from outside the Parliament participated in these events. The evidence we received suggested that events like these were generally welcomed, and we expect that such events could be used more widely in a range of committee activities as good practice develops.

945. It is essential that the "process of consultation" is more than a tokenistic, add-on' activity, and that it is an integral part of all policy-making by the Parliament and the Executive. This means that, if adequate engagement is to be achieved with civic society and the public on specific policy issues within the challenging terms set by the CSG, and if there is to be genuine 'power sharing' through consultation, both the Scottish Executive and Parliamentary Committees must work at drawing civic society and individuals into the policy-making process earlier than has always been thought appropriate in the past. The governance partners may require to invest enormously more effort and resources in imaginative ways of engaging the public in this process if consultation is to contribute effectively to policy development and governance.

946. The enormous importance of involving young people of all ages in the consultation and policy processes cannot be overstated. The Scottish Executive was asked what was being done to promote such activity and provided an encouraging answer.

"Work is underway to determine ways of including young people in decision making at local and national levels; the Executive has said that it is committed to financial and other support to young people involved in the Scottish Youth Parliament; it has noted the existence of some local youth councils whose members engage with local authority officials; work is underway to strengthen the youth dimension of community learning; earlier in the year, consultation was conceived on the development of youth work and the development of participative approaches to young people; the Executive notes that the national priorities for school education include a commitment to teach pupils citizenship duties and responsibilities; an announcement was anticipated on developing a national statement of education for citizenship."

947. This is an impressive amount of activity involving young people. We invite the Executive to report to the Parliament in due course how the effects of these initiatives are measured, what success these individual measures have
had, and how they have been worked together into a coherent and targeted programme to draw young peoples' voices into governance.

948. More generally, we think it will be very important to the continued drive for co-operative government between the Executive and the Parliament and the development of better government, for the work plans of the Executive and the Parliament, to be co-ordinated where possible in order to ensure that the opportunities for consensus working across all areas of government, policy and legislation, are identified. We recommend that the Scottish Executive and the Parliamentary authorities should discuss how this might be taken forward. [Recommendation 115]
FUTURE ACTIVITY: SELF ASSESSMENT AND MONITORING

949. The CSG proposed that the Parliament itself should review its performance against the 4 key principles regularly: at least once during each Parliamentary session; and that this role should be one for this Committee.

950. There was broad support for a process of review amongst those who contributed to the inquiry. We had to consider therefore the extent to which the review process can be made an integral part of the Parliament's work in the future.

951. The decision to conduct an overview of the principles as a whole in this initial review was correct. We expect that the work undertaken will establish a useful broad platform for future review work.

952. The time and resources allocated to this review have been considerable, and they have deflected us from other areas of work. In addition, the broad approach which we have taken may have prevented us from looking in sufficient depth at some aspects of the Parliament's work. Subsequent reviews in future Parliaments can probably afford to be narrower in focus and therefore more detailed in nature.

953. We therefore recommend that our successors on this committee should not attempt a full annual review of the application of the CSG principles. Instead, they should consider whether the principles remain valid, or require refinement, and they should review particular aspects of their application, with a view to producing shorter and more focussed reports. Any such reports should be considered for debate in the Parliament. {Recommendation 116}

954. Reviews of the equal opportunities principle should be conducted in close collaboration with the Equal Opportunities Committee.

955. Any comprehensive review, along the lines of this inquiry, should be conducted at longer intervals, possibly on a 2 to 3 Session cycle.

956. We have considered suggestions that the review of the application of the CSG principles should be undertaken by an outside body, such as the Scottish Civic Forum. While we would welcome any work by outside bodies to contribute to Committee's regular reviews of the application of the principles, we recommend that the process of reviewing the application and development of the key principles should remain the business of the Parliament, and should be considered the responsibility of this Committee. {Recommendation 117}
957. Any future review of the CSG principles should, of course, be conducted in a fully inclusive and participative manner, as recommended in paragraphs x-y above for all Committee consultation and inquiry.

958. In addition, therefore, to the valuable, traditional methods of gathering evidence through written memoranda, witness sessions and public meetings, we recommend that our successors on this Committee should establish a regular convention or Chamber event, along the lines of those held by some other committees. Such events should be open principally to participants from outside the Parliament, but should include MSPs and their staff and Parliamentary staff, and the proceedings of such civic participation events should inform the reports of the Committee. {Recommendation 118}

959. Such an approach to civic participation could make a significant contribution to the Parliament's drive to reach out to politically disengaged sectors of society, a drive which we see as the key outcome of this present inquiry.

960. We suggest that our successors, as preparation for the next stage of review work, should, where possible, establish quantitative benchmarks against which to measure its performance in moving forward on each principle. This is likely to involve a major effort, and to take a considerable period to implement. We consider that it is be important that this work is co-ordinated with the ongoing work of the SPCB on corporate governance, communications and management planning.

961. We think it is logical that the substance of the next such inquiry should include a review of the application by the Parliament of the recommendations and conclusions set out in the present report.

962. Finally, we concluded that it was no longer necessary or helpful to allude to the CSG principles, or to try and recapture the CSG's thinking in applying them to the Parliament's procedures and practices. The Parliament, and future Procedures Committees, should not regard themselves as restricted by principles which they may wish to broaden and deepen in the future.

963. The CSG principles have already been adopted, and adapted, by the Parliament, and we are certain that they will evolve significantly in the future. We therefore recommend that the four principles:

- the Scottish Parliament should be accessible, open, responsive, and develop procedures which make possible a participative approach to the development, consideration and scrutiny of policy and legislation

- the Scottish Parliament in its operations and its appointments should recognise the need to promote equal opportunities for all
• the Scottish Executive should be accountable to the Scottish Parliament and the Parliament and the Executive should be accountable to the people of Scotland

• the Scottish Parliament should embody and reflect the sharing of power between the people of Scotland, the legislators and the Scottish Executive

should be known and understood as the Parliament's principles, and that our successors on this Committee should review them on that basis. {Recommendation 119}
Optional Insertion for discussion after Paragraph 812

1. The importance of recognising and defending the interests of backbenchers institutionally has been recognised earlier by our proposal that the Bureau's membership should include backbench representation, to allow backbench perspectives to be given directly on all aspects of Bureau business.

2. Effective backbench representation will probably only work efficiently if it is founded on a secure appreciation and clear articulation of backbench concerns and views. We suggest that a structure could be created to facilitate the articulation of backbench concerns and views in the Parliament.

3. **We consider that there could be benefits to the Parliament as a whole in the creation of a Backbenchers' Group, analogous to the Conveners' Group, to provide a forum in which matters of common concern and interest to backbenchers could be expressed, and views crystallised and conveyed onwards. We recommend that the Standing Orders should be amended to provide for the creation of a Backbenchers' group.** (Recommendation)

4. Such a proposal would present a considerable challenge, not least to backbenchers themselves. There are many calls on the time of MSPs, and the number of groups in the Parliament is already extensive. The overall potential advantages to consolidating the importance of backbench MSPs and providing a focus for this key voice in the Parliament seem to us likely to outweigh the challenges of proceeding however.

5. We do not think it is appropriate to propose any detailed arrangements for such a body in this Report. If the proposal is agreed in principle, we will consult on the detailed arrangements, and bring forward firm proposals in due course.

6. Nevertheless, consideration could be given to such a group acting as the selection forum of the backbench Bureau representative; a means of gathering and conveying backbench views on the arrangement of Parliamentary business in the Chamber; a focus for any representations about backbench roles throughout the Parliament; a sounding board for the SPCB, the Bureau and the Presiding Officer in considering all matters of relevance to backbenchers; and a source of subjects for Members' Business debates, and plenary debates - including the 'new look' subject debates proposed above. We consider that the existence of such a Group would
indicate to the world at large backbenchers’ importance within the formal structure of the Parliament.

7. The proposed rules for any such Group would be set out in the Standing Orders of the Parliament. A firm definition of who constitutes a backbencher in the Scottish Parliament would need to be established, but we envisage a Group consisting of all backbench MSPs, perhaps with a small elected steering body. The provision of any administrative support would require to be discussed with the SPCB.

8. **As a first step we recommend that the Presiding Officer should take steps to ascertain the views of backbenchers. We recommend that this should be done quickly.** {Recommendation}