The Committee will meet at 10.30 am in Committee Room 2.

1. **Oral questions in the Chamber:** The Committee will take evidence from—
   
   - Alasdair Morgan, Group Convener of the Scottish National Party;
   - Bill Aitken, Business Manager of the Scottish Conservative and Unionist Party;
   - George Lyon, Chief Whip of the Scottish Liberal Democrat Party;
   - Robin Harper, Principal Speaker of the Scottish Green Party;

2. **Scottish Civic Forum:** The Committee will nominate members to represent it at a Scottish Civic Forum summit on 25 November.
The following papers are attached for this meeting:

**Agenda item 1**
Submission by individual MSPs
Submission by the Executive
(to follow)
Note by Business Information Technology

**Agenda item 2**
Note by the Clerk

The following papers are attached for information:

Correspondence with the Convener of the Health Committee on the Primary Medical Services (Scotland) Bill
Letter from the Presiding Officer about Sewel motions (attaching a note by the Executive)
Correspondence about the previous committee’s *Founding Principles* Report
Minutes of the last meeting
PROCEDURES COMMITTEE
INQUIRY INTO ORAL QUESTIONS IN THE CHAMBER
Submissions by individual MSPs

Submission from Fergus Ewing, by e-mail, 10.10.03

Here are some comments:

1. Some questions which are plainly irrelevant are permitted during Oral Question time.

2. Ministers are allowed to abuse their answers (a) by the length of their answers – in particular the First Minister who regularly goes on for far too long (b) by making irrelevant party political rants (c) when giving an answer to member A, uses the answer to attack member B. This is surely against existing standing orders which require certain standards, and is a bad advert for the Parliament.

3. The experiment of moving FMQT to 12 noon is failing. Audience levels are dropping off.

4. The requirement of submitting a question a week in advance seems unnecessary. Why so long?

5. Questioners are rarely given the opportunity for a supplementary. This should change.

6. There may be growing support for subject based questions e.g. on Health/Economy on one occasion per month. We are a relatively young Parliament and should be willing to try out changes, and experiment a bit. The holding of subject based Question Times say once a month or a fortnight with a different policy area, would allow for more sustained questioning. For example, very often there are one or two issues where a series of questions should be put, and where the first answer would lead to further questions arising. This would be of interest to the public and the press, and I hope it is tried out.

Submission from Tricia Marwick, by e-mail, 10.10.03

Thank you for the opportunity to comment on question time and FMQs.

Timing of FMQs
I am not convinced that the current slot is the right one. I think there are problems in separating FMQs from Ministers' Question time (QT). The 12 pm slot is in my view simply not working and has contributed to less attention
being paid to Ministers’ QT. Members will be aware that the media are missing from QT and there does seem to be fewer MSPs in the Chamber from 2.30 pm.

I would prefer FMQs to be at 2 pm followed by QT.

Question Time
What is the purpose of QT? It is to scrutinise and hold Ministers to account. I do not think that the present format allows that to happen. Because of the random selection of questions some Ministers are not asked questions at all some weeks and topical questions are not possible because of the requirement to table questions so far in advance.

I think QT needs radical surgery to achieve topicality and to achieve necessary scrutiny.

I suggest that we need to group QT by portfolio with 3 ministers each week given a 10 minute slot and up to five questions selected randomly as at present. This will mean that Ministers will only be required to answer questions every 3 weeks or so. To ensure topicality I suggest that each week there would be an open session lasting 15 minutes at which any Minister could be questioned. These questions to be tabled on Monday each week and selected by the Presiding Officer

FMQT and QT could look something like this:

Week One
2.00 - 2.30 pm----FMQs
2.30 - 3.00 pm----QT
----Enterprise and Lifelong Learning
----Minister for Justice
----Minister for Tourism, Culture and Sport
3.00 - 3.15 pm----Topical QT

Week Two
2.00 - 2.30 pm----FMQs
2.30 - 3.00 pm----QT
----Minister for Health and Community Care
----Minister for Finance and Public Services
----Minster for Environment and Rural Development
3.00 - 3.15 pm----Topical QT

Week Three
2.00 - 2.30 pm----FMQs
2.30 - 3.00 pm----QT
----Minister for Education and Young People
----Minister for Communities
----Minister for Transport
3.00 - 3.15 pm----Topical QT
I recognise that there is no slot for the law officers but questions directly to them are few and far between. They can either be covered in the Justice slot or under the topical QT.

I hope you will consider these suggestions.

Submission from David Davidson MSP, by e-mail, 14.10.03

I believe that FMQs should be put at 2.30 followed by two twenty minute slots for questions without notice to individual Ministers.

Submission from Jamie Stone MSP, by fax, 16.10.03

Question Time and FMQT

I feel that the disconnection between the above has turned out to be a mistake. Interest in ordinary oral questions has dropped off – both general public and press. Better to have p.m. orals followed by FMQs, i.e. like the old system, but possibly longer for FMQs. Why not a 14.00 start?

Submission from Brian Adam MSP, by e-mail, 16.10.03

First Minister’s Questions should revert to the afternoon and if necessary Oral Questions could start at 2 pm or 2.15 pm. Having First Minister’s Questions in the morning at the conclusion of the morning debates is less successful than an afternoon slot. The addition of the minor parties on alternate weeks with a right to ask open-ended questions of the First Minister is an addition which is fair, but the frequency is unfair in that the Greens and the SSP have around a quarter of the SNP MSPs but are given as of right a greater share of the questions; so a reduction in the frequency should be considered. There are still only 6 questions for FMQs and we reach them all now – perhaps a further 2 might be considered.

I do not favour a thematic approach to oral questions as it will reduce topicality which is already lost with the 8-day lead time, and I think that lead time should be further reduced to the same basis as FMQs. The current random selection method has my support.

Submission from Richard Lochhead MSP, by e-mail, 21.10.03

Thank you for the opportunity to respond to your call for evidence on your inquiry into oral questions in the Scottish Parliament.

Random selection

I can see no alternative to random selection but retain an open mind should any viable alternatives be suggested.
Thematic
This has many attractions in that issues could be explored more thoroughly. For instance, I would favour one on Europe and External Relations. However, the challenge would be to allow for topicality. If Justice was the theme one week but the biggest issue of the day was education then clearly the latter would have to be allowed for otherwise the scrutiny system would lack credibility.

Other issues
It is too easy for Ministers to avoid answering the questions or to stick to their prepared briefs even in response to supplementary questions.

I would suggest that MSPs are allowed more than one supplementary to provide an opportunity to ensure their question is answered or to further explore an issue.

Ministers should be encouraged to avoid referring to prepared answers other than in their first reply.

Finally, the decoupling of Question Time and First Minister's Questions appears to have removed any likelihood of the former as any kind of parliamentary event and the committee may wish to look at that, although perhaps this is not the criteria for a meaningful question time anyway.

Submission from Helen Eadie MSP, by e-mail, 26.10.03

First Minister's Question Time
Should questions by the main opposition party leaders continue routinely to be selected for every First Minister's Question Time – and should this be extended to include the leaders of the smaller parties on some proportional basis?

I would say yes. It's fair to give all opposition party leaders a chance to ask PQs. The Greens and SSP should be allowed to alternate week by week.

Alternatively, should only backbench questions be selected, on the understanding that party leaders would then be called to ask supplementaries?

Don't see the point in that one. No.

At FMQT, should the main opposition party leaders continue to be able to ask "open questions" (i.e. very general questions about the First Minister's diary commitments, which enable almost anything to be raised in a supplementary question and which represent an element of surprise)? If so, should other party leaders or backbenchers also be able to ask open questions?
No. It's an anachronism not suited to a modern Parliament. Removing this procedure would also save time. But opposition party leaders should be able to ask any question they like, just as they do now as a supplementary.

**Question Time**

*Should Question Time continue to cover all areas of Executive activity each week, or should a thematic element be introduced, with some or all of the allotted time reserved for questions on particular subjects, or to particular Ministers?*

Some time should be allocated each PQ, perhaps 3 questions on a theme. This would allow for carefully crafted questions and time for the Minister to prepare for the answers. More preparation time would increase the depth and quality of debate. The themed questions should be to particular Ministers to avoid confusion.

*Should questions for Question Time (whether it remains general or becomes thematic) continue to be selected on a purely random basis?*

The Presiding Officer should be able to include questions which are particularly topical, pertinent or important for any other reason. Also, the Presiding Officer should be able to reject PQs which could be answered another way, e.g. by SPICe, subject to appeal of some kind.

**General**

*Should the member asking a question always be able to ask the first (and perhaps also the last) supplementary?*

Always the first. Not necessarily the last.

*What are the ways in which an appropriate balance can be struck between the benefits of having advance notice of what questions to be asked and spontaneity and topicality?*

Existing system seems to work OK. Perhaps more time could be kept for emergency questions.

*Should Ministers be under an obligation to keep their answers brief and relevant to the question asked?*

Yes. This would allow Ministers to make announcements as part of an answer but would help cut down the use of PQs and answers as lead-ins to ministerial speeches.

**New Opportunities for Questioning**

*Should there be more regular opportunities for oral questions addressed to the Presiding Officer and other members of the Parliamentary corporation (SPCB)?*
Yes. There is constant confusion over standing orders. This would allow for smoother, more focussed question times.

Submission from Mike Rumbles MSP, by e-mail, 27.10.03

I believe moving First Minister’s Questions has been a mistake. It should be returned to the 3.10 pm Thursday slot a.s.a.p.
PROCEDURES COMMITTEE: INQUIRY INTO ORAL QUESTIONS IN THE CHAMBER

I enclose a memorandum setting out the Executive’s response to the Committee’s inquiry into oral questions in the Chamber and regret that we have been unable to do so earlier.

I would be happy to attend the Committee meeting on 18 November to discuss any of the points covered in the memorandum in more detail if the Committee would find that helpful.

I hope you will find this useful. I am sending a copy of this letter and enclosure to the Clerk of the Committee, Dr Andrew Mylne.

PATRICIA FERGUSON
First Minister's Question Time

- Should questions by the main opposition party leaders continue routinely to be selected for every First Minister’s Question Time – and should this be extended to include the leaders of the smaller parties on some proportional basis?

The Executive agrees that First Minister’s Question Time (FMQT) should afford the leaders of the smaller parties the opportunity to question the First Minister, on a proportional basis. However, it is important to recognise that the aim of the additional time was to allow more backbenchers to question the First Minister.

- Alternatively, should only backbench questions be selected, on the understanding that party leaders would then be called to ask supplementaries?

The Executive believes that the structure of FMQT would benefit from greater flexibility. However, it is a matter for the Parliament and the Presiding Officer to determine how best to achieve this.

- At FMQT, should the main opposition party leaders continue to be able to ask “open questions” (i.e. very general questions about the First Minister’s diary commitments, which enable almost anything to be raised in a supplementary question and which represent an element of surprise)? If so, should other party leaders or backbenchers also be able to ask open questions?

As noted above, we believe FMQT would benefit from greater flexibility. However, if members are looking for information and a full answer it would be advisable to give advance notice of the topic.

Question Time

- Should Question Time continue to cover all areas of Executive activity each week, or should a thematic element be introduced, with some or all of the allotted time reserved for questions on particular subjects, or to particular Ministers?

The Executive does not have a formal position on the format of Question Time, believing this to be a matter for the Parliament and that it should establish arrangements that it believes provide the best balance of topicality and scrutiny.

However, should the Committee recommend the introduction of a thematic Question Time, this could allow a more in-depth scrutiny of Executive policy by backbenchers and improve Ministerial accountability in an open and transparent forum. Dispensing with the “scatter gun” approach would allow for the questions and any points made by backbenchers to reach a greater in-depth exploration of issues than the current system permits. However, in adopting a thematic approach, it would be important to strike an effective balance between frequency of theme and increased workload for relevant Ministers and Departments.
The Bureau will no doubt wish to be involved in developing any system and the
Executive would wish to be consulted on any proposal. The Executive has considered
how a thematic Question Time might best be achieved, for example, 6 themes with 1
theme forming the subject of discussion during each Question Time slot with 2 slots
of 20 minutes each Wednesday and Thursday. The themes might possibly comprise:
Enterprise, Transport and Lifelong Learning; Education, Tourism, Culture and Sport;
Justice and Law Officers; Environment and Rural Development; Finance and
Communities and Health and Community Care. This proposed format would,
however, require some adjustment to the Parliamentary week with the biggest change
likely to be an earlier start to Chamber business on Wednesdays.

It will be important that advance notice of the schedule of themes is given to ensure
that all those with an interest would be able to make arrangements to watch Question
Time (by TV, webcast, on the Internet or attendance in the public gallery). It should
be recognised, however, that the narrower focus of themed question times may
dissuade MSPs and members of the public from attending serving only to attract more
specialist interests.

- **Should questions for Question Time (whether it remains general or becomes
  thematic) continue to be selected on a purely random basis?**

The Standing Orders currently state that questions for Question Time shall be selected
on a random basis. While topicality could be enhanced if questions were selected by
an assigned person e.g. the Presiding Officer, rather than on a random basis, the
Executive believes that the current random method of selection should be retained.

The current system of general (unthemed) questions currently enables topicality
within Question Time.

**General**

- **Should the member asking a question always be able to ask the first (and
  perhaps also the last) supplementary?**

The Executive believes that the member asking the question should be afforded the
opportunity to ask the first supplementary to ensure a more in-depth element of
questioning. It is a matter for the Presiding Officer to determine how to manage
Question Time bearing in mind the need to be fair to all MSPs.

- **What are the ways in which an appropriate balance can be struck between the
  benefits of having advance notice of what questions to be asked and spontaneity
  and topicality?**

Advance notice is helpful in eliciting a full answer.

- **Should Ministers be under an obligation to keep their answers brief and relevant
to the question asked?**
The Executive believes that Ministerial answers to questions should be no longer than necessary. The length of answers are, of course, influenced by the complexity of the issue raised and the clarity of the question.

New Opportunities for Questioning

- **Would there be merit in providing a regular (perhaps twice-yearly) opportunity for committee conveners to question the First Minister at a public meeting of the Conveners’ Group?**

  The First Minister has already indicated in his letter of 8 May to the Presiding Officer that he would be happy to take part in a twice-yearly question session with the Conveners’ Group.

- **Should there be more regular opportunities for oral questions addressed to the Presiding Officer and other members of the Parliamentary Corporation (SPCB)?**

  This is a matter for the Parliament.

The Scottish Executive
October 2003
At its meeting on 9 September 2003, the Committee considered a request from the Scottish Civic Forum to participate in an event to be held in November to discuss the outcome of the Forum’s local participation summits. The Committee agreed in principle to participate and to take a decision as to which particular members would attend at a later date.

The event is to be held in the Chamber on Tuesday 25 November at 6 pm and is expected to last for around 2 hours.

Members of the Committee are now invited to indicate whether they are able to attend.
LETTER FROM CONVENER OF HEALTH COMMITTEE

The Health Committee have been considering the above Bill at Stage 1. At its meetings on 2 and 9 September, the Committee considered evidence from a number of organisations, in addition to that of the Minister for Health and Community Care.

During the course of that evidence the Committee raised a number of points and were concerned to discover that many of their questions could not be answered because at the present time the draft Regulations are still subject to significant further negotiation.

The Committee has major concerns regarding this legislation and the fact that it cannot scrutinise the Regulations that will implement the main provisions of this Bill, and therefore the new GMS contract.

We have made a number of recommendations in the Stage 1 Report, published this week, the most crucial of which state—

- The Committee is not content that this Bill should proceed to Stage 2 before all draft Regulations, UK and Scottish based, are brought in their entirety before the Committee.

- Furthermore, the Committee is extremely concerned that where a Bill creates regulation-making powers that so fundamentally affect the implementation of Executive policy, Standing Orders currently prohibit amendment of those Regulations by subject committees.

- The Committee believes that its vital scrutiny function is fundamentally impaired because it is not permitted to amend Regulations such as these. It is for this reason that we have outlined our determination to see drafts in advance of Stage 2. The Committee also intends to raise this with the Procedures Committee at the earliest opportunity.

I would like to raise the possibility of changing Standing Orders in such a way as would allow subject committees to amend regulations. The result of this change would be to allow committees to suggest improvements to those regulations, rather than simply accepting or rejecting them, the result of which may have a knock-on effect for the timeous implementation of legislation already passed by the Scottish Parliament. This is especially our view where implementation of the primary legislation depends so comprehensively on them.
Additionally, the Committee would like to explore the possibility of establishing a protocol that obliges the Scottish Executive to produce Regulations in draft form to accompany the primary legislation to which they relate. This would substantially allay the concerns of this Committee in relation to this type of enabling legislation, in particular.

I would be obliged if you could consider the points I have raised with your colleagues on the Procedures Committee.

Christine Grahame MSP
6 October 2003

Cc: Conveners – Communities, Education, Enterprise and Culture, Environment and Rural Development, Equal Opportunities, Justice 1, Justice 2, Local Government and Transport, Finance and Subordinate Legislation,

REPLY FROM CONVENER

Primary Medical Services (Scotland) Bill

Thank you for your letter of 6 October about the above Bill and your committee’s Stage 1 recommendations. You raise two specific points for the attention of my Committee.

The first is whether Standing Orders could be changed to enable subject committees to amend regulations, rather than being limited to the options of either approving or rejecting them outright.

Your second suggestion is that there should be a protocol requiring the Executive to provide draft regulations to accompany the Bill which confers the power under which the regulations are to be made.

So far as the first is concerned, I am aware that there have been a number of occasions when committees have expressed frustration at their inability to amend instruments that have been referred to them. The issue is one that the Procedures Committee may wish to consider in a major inquiry on subordinate legislation procedure that it expects to conduct during the course of this session in conjunction with the Subordinate Legislation Committee.

But it is unlikely there will be any easy answer. In particular, it is not simply a matter of amending the standing orders (as your letter suggests). A combination of factors determines the system of Parliamentary scrutiny to which a particular instrument is subject – the Rules in Chapter 10, a “transitional Order” under the Scotland Act (SI 1999/1096) and the “enabling provision” in the particular Act under which the SSI is made. The transitional Order, in particular, specifies the overall timescales for Parliamentary scrutiny.
and provides a basis for the standard types of scrutiny, according to whether the instruments (or drafts) are “subject to annulment” (negative instruments), require “approval by resolution” (affirmative instruments), etc. Which type of procedure applies to a particular instrument is determined by the “enabling provision” in the parent Act. The Rules in Chapter 10 simply flesh out in more detail how each type of Parliamentary procedure operates.

It is, of course, for the Parliament to decide, during the passage of a Bill, what the terms of each enabling provision should be. A provision drafted so that instruments made under it are subject to negative procedure can be amended so that they are instead subject to affirmative procedure, or vice versa. There have also been cases where a “super-affirmative” procedure has been imposed by amendment, so that the Parliament is given an opportunity to comment on an early draft of an instrument before the final draft is laid for approval by resolution. But all these options are compatible with the transitional Order and the existing Rules.

To enable a substantially different procedure – for example, one that enabled direct amendment of instruments as part of their Parliamentary scrutiny – to be imposed in a particular instance, it would also be necessary to amend or supplement the range of options currently provided by the transitional Order. New standing orders would then be needed to flesh out in more detail how the new procedure would work.

My Committee is already aware of the need for a Bill to replace the transitional Order at some point. If the inquiry on subordinate legislation that I mentioned earlier concluded that a procedure for amending instruments was needed in certain cases, no doubt the Bill could include the relevant provisions, and appropriate standing orders could also be drafted. Until then, however, it is difficult to see how any amending procedure could be made to work.

Turning to your second point, there is always likely to be room for legitimate disagreement about how the line is drawn between what is put on the face of a Bill and what is provided in subordinate legislation. It would clearly be impractical to require drafts of all the instruments proposed to be made under a Bill to be provided at the time the Bill was introduced (or during Stage 1). The protocol you suggest would therefore need to identify in advance those Bills (or, more precisely, those provisions in Bills conferring powers to make subordinate legislation) in respect of which the additional condition (i.e. to provide advance drafts of the instruments) would apply. But I see no reason why it should be easier to decide whether such a protocol applied in a particular instance than it is for your committee to resolve with the Executive your current difference as to whether sight of the draft regulations is necessary.

For these reasons, I don't think that the issues you raise in your letter are appropriate subjects for inquiry by my Committee at this stage.

I am copying this letter to the other members of my committee, and to the other recipients of yours, for information.
Dear Iain

The Sewel Convention and Sewel Motions

I refer to your letter of 26 June 2003 concerning discussion of Sewel motions at the Parliamentary Bureau, and my response of 3 July 2003 in which I indicated that I would advise you of the outcome of the Bureau’s future consideration of a paper on the current practice of handling Sewel motions.

At its meeting on 2 September 2003, the Bureau considered a Supplementary Note by the Scottish Executive, which follows on from the Executive Memorandum submitted to the Procedures Committee in January 2003 on procedural and practical aspects of the Sewel convention. The Supplementary Note provides further detail on the practices for the referral and timetabling of Sewel motions.

The Bureau agreed that the continued approach will be for all Sewel motions to be considered in Committee and for time to be allocated for a short debate in the Chamber if there are concerns that the Committee felt had not been satisfactorily addressed. The Bureau also agreed that a Sewel motion should be the subject of a Chamber debate should any Bureau Member request it.

It was further agreed that the Supplementary Note addresses the issues raised in your letter of 26 June and I enclose a copy for the Procedures Committee’s information.

Yours sincerely

GEORGE REID
29 September 2003
THE SEWEL CONVENTION AND SEWEL MOTIONS

A SUPPLEMENTARY NOTE BY THE SCOTTISH EXECUTIVE

Background

The Bureau has been invited by the Procedures Committee to review and to provide a note on the existing practices for the referral and timetabling of Sewel motions. The Committee’s Convener asked particularly for an explanation of the process that leads to Sewel motions being lodged and debated, including the role of the Bureau in deciding:

- when such a motion is taken;
- whether it should be referred to a Committee or debated in the Chamber; and
- how much time to allow for any such debate.

In the substantive memorandum\(^1\) that it submitted to the Procedures Committee on 22 January 2003, the Executive set out its considered position in relation to various procedural and practical aspects of the Sewel convention. The Executive holds to the position set out there and, indeed, in light of a favourable response from the Committee, has already adopted the new practice suggested in paragraph 5 of the memorandum. This means that Parliamentary consideration of Sewel motions is now taking place between Introduction and the last amending Stage in the first House at Westminster (rather than between Introduction and Second Reading). As the Executive continues to signify its intention to seek a Sewel motion in relation to the Bill, and to make available an Executive Memorandum about the scope and content of the Sewel motion, as soon as possible after the UK Bill is introduced, this allows more time for the Parliament to consider the Executive’s proposals for a Sewel motion, while still ensuring that the relevant provisions could be removed from the Bill while it was before the first House in the event that the Parliament withheld its consent.

The purpose of this further note is to assist the Bureau by providing supplementary information, where appropriate, in relation to areas of particular interest to the Committee.

Past Practice

The previous memorandum and accompanying letter from the Minister for Parliamentary Business described the process through which the UK Government and Executive reach agreement that, subject to the consent of the Scottish Parliament, a Bill at Westminster should legislate for Scotland on a devolved matter. Once such agreement has been reached, it is for the Executive to invite the Scottish Parliament to give its consent by approving a Sewel motion, informed by a memorandum. The memorandum sets out the purpose and scope of a Sewel motion and the Executive aims to make it available to the Parliament as soon as possible after the relevant Bill has been introduced at Westminster. The Business Managers

---

\(^1\) The memorandum was considered (as paper PR/03/4/5) by the Procedures Committee at its meeting on 4 February 2003.
have had the role of deciding whether a Sewel memorandum should be considered
in Committee and when any Chamber debate on a Sewel motion should be taken.

The approach to considering such memoranda and the associated Sewel motions
has evolved over the years. Originally, the Minister for Parliamentary Business, on
behalf of the Executive, would liaise with non-Executive Business Managers,
providing them with a copy of the memorandum and seeking their views on whether
the issue should be considered in Committee or in the Chamber. It was understood
that

- a consensus in favour of Committee consideration would mean that the
  motion would subsequently be taken purely formally (i.e. without debate) in
  the Chamber, unless substantive objections were raised in Committee, in
  which case only would time be made available in the Chamber for a short
  debate;
- an absence of consensus in favour of Committee consideration would
  mean that the issue would not be referred to Committee, but would be
  scheduled for consideration in the Chamber.

More recently, a practice developed that involved all motions being debated in the
Chamber, whether or not they had been considered in Committee. Ultimately, a
situation was reached in which very few Sewel memoranda were being referred to
Committees at all. However, towards the end of the last Parliamentary session,
there were suggestions that it might be appropriate for Committees to resume their
former role.

**Future Approach**

The Executive is mindful of the pressures on Parliamentary time and the need to
avoid duplication of effort. It would be content to agree that the usual approach
should again be for all Sewel motions to be considered in Committee and for time to
be allocated for a short debate in the Chamber only if there were concerns that the
Committee felt had not been satisfactorily addressed. Under such an arrangement,
with the role of Committees recognised, the Minister for Parliamentary Business
would liaise with the lead Committee over timing and for passing copies of the
memorandum to the non-Executive Business Managers.

It would still be open to Business Managers to make representations about
considering the Sewel in the Chamber, after it had been debated in Committee. The
Executive would not oppose such representations. In order to avoid duplication of
effort, however, the Executive would generally wish to follow the approach that
pertains in relation to affirmative SSIs, with time allocated only for short speeches
from the frontbench spokesperson. That said, if it became clear that this was
insufficient the Executive would clearly give consideration to allocating more time for
debate on a particular Sewel motion.

**Draft Bills**

Devolution Guidance Note 10 makes clear that there is “no requirement to seek
consent of the Scottish Parliament before publishing a draft [Bill]”. However, DGN10
does go on to suggest that “it may sometimes be helpful for the consent of the Scottish Parliament for a Bill to be sought on the basis of a (published) draft”.

In practice, given the timing and content of Bills may change significantly in light of consultation on a draft, the Executive has generally thought it more appropriate and a better use of Parliamentary time to lodge a formal Sewel motion only after the provisions are more settled and a Bill has actually been introduced at Westminster. That said, of course, the Executive recognises that on occasions the Parliament may wish an opportunity to comment at this early stage. The Executive is adopting a practice, therefore, of writing to relevant Committee conveners to draw attention to draft Bills that appear to be directly relevant to devolved matters in Scotland. Thus, for example, when the draft Nuclear Sites and Radioactive Substances Bill was published in June 2003, the Executive provided a memorandum to the conveners of the Environment and Rural Development Committee and the Enterprise and Culture Committee.

Scottish Executive
August 2003
PROCEDURES COMMITTEE

PROPOSED DEBATE ON FOUNDING PRINCIPLES REPORT

Correspondence about progress on considering or implementing recommendations

LETTER FROM CONVENER TO (SEPARATELY) PRESIDING OFFICER, CONVENER OF CONVENERS’ GROUP, CONVENERS OF AUDIT, EQUAL OPPORTUNITIES, FINANCE, LOCAL GOVERNMENT AND PUBLIC PETITIONS COMMITTEES AND THE CLERK/CHIEF EXECUTIVE

As you may be aware, the Procedures Committee is presently considering the way in which best to take forwards the recommendations of the previous Procedures Committee’s report on the application of the Parliament’s Founding Principles.

The Committee is seeking time in either October or November for a plenary debate on the report, in order to gather the views of Members on the issues raised. As the report was published some six months ago, the Committee has agreed that it would be useful to know what steps, if any, have been taken since publication of the report to act on any of the recommendations. I attach a summary note of the recommendations which lists those addressed to [the Presiding Officers, Bureau, SPCB/Conveners Group/your committee/etc].

The Committee is not, at this stage, looking for detailed responses to all recommendations made, but wishes to be aware, in advance of the debate, of the current state of play in relation to the Report’s recommendations.

I would be grateful therefore if you would reply in relation to the recommendations addressed to [the Presiding Officers, Bureau, SPCB/Conveners Group/your committee/etc] by the end of September.

Iain Smith
Convener
10 September 2003

REPLY FROM CONVENERS’ GROUP

Thank you for your letter of 10 September.

There has been no formal consideration or progress of any of the recommendations contained in the report. I would not have expected otherwise, given that the recommendations have not been agreed or endorsed by the Parliament. In addition, the report was only published after
the Conveners’ Group and most of the committees in the last session had concluded their work.

There have, however, been a number of developments which have taken place and which are relevant to the recommendations although they are not as a result of the recommendations. I report on those in the annex to this letter.

The Conveners’ Group, at its awayday, also agreed to look further at the recommendations directed at the Group and the committees and I would hope that the timing of any debate on this report would have regard to this factor.

Finally, and this is a purely personal view, I also hope that there will be no attempt to impose the recommendations contained in the report on the committees or the Conveners’ Group without careful and detailed consideration and analysis of the impact on their work. As can be seen from the Annex, there are already a number of areas where thinking is developing along lines that differ from the views expressed in this Report and it would be unfortunate to impose other solutions at this time.

Trish Godman
Convener of Convener’ Group
24 September 2003

ANNEX

1.  Press events (recommendation 21)

At the Conveners’ Group awayday, there was a presentation from the media relations officer responsible for the committees which set out the range of tools available to committee in their interaction with the media. The recommendation in the Procedures Committee Report seems rather unfocussed particularly when contrasted with the view coming through from the Media Relations Office that interaction with the press should be targeted and appropriate techniques used according to circumstances.

2.  Equal Opportunities (recommendations 29-33)

At its awayday, the Group agreed proposals from the Equal Opportunities Committee for mainstreaming equalities in the work of committees and the Equal Opportunities Committee Report on Mainstreaming will be debated in a committee half day in the Chamber at the beginning of October. The Group discussed the topic of the appointment of equal opportunities champions but views were divided. Interestingly the convener of the Equal Opportunities Committee herself had reservations about these proposals which could be viewed as running counter to the philosophy of mainstreaming.
3. **Budget Adviser (recommendation 50)**

Although not a matter for the Conveners’ Group, I am aware that Professor Arthur Midwinter has been appointed as standing adviser to the Finance Committee. Professor Midwinter gave a presentation at the Conveners’ Group awayday on the budget process and the role of the committees.

4. **Meetings in Private (recommendations 72-79)**

The Group unanimously supported the views of the previous Conveners’ Group contained in the written evidence to the Procedures Committee inquiry. Standing Orders already require decisions to be taken on a case by case basis and committees will continue to operate in terms of the relevant provisions. The recommendation concerning the Business Bulletin is unclear, given that consideration of whether to take an item in private already appears on agendas as separate item in its own right and is therefore already given publicity.

5. **Principle of party balance in committees (recommendation 81)**

I am not clear why this recommendation has been addressed to the Conveners’ Group as the motion for the allocation of membership and convenerships is for the Bureau. The Conveners’ Group is not consulted on these matters.

6. **Meetings outside Edinburgh (recommendation 82)**

In the last session, the Conveners’ Group agreed an external meetings policy which recognised the value of meeting outside Edinburgh. At the Conveners’ Group awayday the Group reaffirmed the value of meetings outside Edinburgh both to the local community and to the committees.

7. **Review of size of committees (recommendation 83)**

The Conveners’ Group has already agreed the recommendation contained in the previous Group’s Legacy Paper to keep the issue of the size of committees under review.

8. **Appointment of advisers (recommendation 86)**

A new system for appointing advisers was introduced earlier this year to meet concerns about equality of opportunity. Open advertisements are placed in the press annually inviting applications from anyone interested in acting as an adviser. Potential advisers are asked to supply standard information in a standard format about their background and expertise for inclusion in the database. The database can be updated during the course of each year as further information and further candidates become available.
9. Consultation by committees (recommendations 87 and 88)

The Conveners’ Group awayday included a presentation from the Head of the Participation Services team. In addition to taking formal evidence in committee meetings, the committees already engage in a full range of activities including fact finding trips, open forums and the organisation of seminars and conferences in their work. Research is being undertaken into the tools and techniques available to committees to encourage civic engagement. In addition, a project is currently underway considering how the clerks, participation services and media staff can work together to promote the work of the committees and encourage civic participation. Reports on this work will be made to the Conveners’ Group early in 2004. As this work is well underway, it does not seem to be appropriate for the committees to be expected to commit to the 2 techniques for consultation identified in recommendation 87.

10. Committee Annual Reports (recommendation 90 together with recommendations 33, 47, 76 and 120)

These recommendations all relate to the mandatory inclusion of certain information in committee annual reports. I intend to ask the Conveners’ Group to consider the current format of committee annual reports and as part of this process will ask them to consider these suggestions.

11. Petitions (recommendations 113 to 116)

These recommendations all relate to the handling of petitions in committees. It has already been agreed that the Petitions Committee will have a role in carrying out inquiries into petitions where a subject committee would otherwise have done so but have been precluded as a result of its workload. This change has been achieved without requiring a change in Standing Orders. It would seem premature to embark on further changes of the system until the impact of the new practice has been considered.

REPLY FROM CONVENER OF EQUAL OPPORTUNITIES COMMITTEE

Thank you for your letter of 10 September 2003 which the Equal Opportunities Committee considered at its meeting on 23 September 2003. The Committee considered a paper on the issues raised in your letter and agreed that I write to you detailing the outcome of our discussions.

In relation to recommendation 25 of the Procedures Committee 3rd Report 2003 the Committee can report that it took evidence from the SPCB and appropriate officials on the implementation of the equality framework at its meeting on 23 September 2003. The Committee has agreed to consider this evidence at a future meeting before considering what further action to take in its monitoring of the implementation of the framework and will inform the Procedures Committee of the outcome of that discussion.
In relation to recommendation 16 the Committee has asked the clerk to liaise with the Procedures Committee clerks regarding a possible approach to carrying out this recommendation in the course of the current session.

In relation to recommendation 31 the Committee has agreed to continue the work of the previous Equal Opportunities Committee in monitoring and scrutinising the work of the Scottish Executive in equality proofing the budget process. Given this ongoing commitment the Committee would welcome further information on the proposed remit, role and membership of the “expert panel” on the Scottish Budget.

In relation to recommendation 36 the Committee has agreed to consider the proposals in the context of its ongoing work in developing an approach to monitoring the implementation of its recommendations on mainstreaming equality in the work of the parliamentary committees.

Cathy Peattie MSP
Convener, Equal Opportunities Committee
25 September 2003

Cc:  Members of the Equal Opportunities Committee
     Clerk to the Equal Opportunities Committee
     Clerk to the Procedures Committee

REPLY FROM FINANCE COMMITTEE

Thank you for your letter of 10 September regarding the recommendations of the previous Procedures Committee’s report on the application of the Parliament’s Founding Principles.

I understand that following their meeting on 23 September 2003, the convener of the Equal Opportunities Committee wrote to you regarding recommendation 31. This recommendation also involves the Finance Committee in considering the creation of an equal opportunities “expert panel”.

I believe that the Equal Opportunities Committee are seeking from you, further information on the proposed remit, role and membership of such an expert panel and the Finance Committee would also welcome receiving this information, so that we can further consider this recommendation.

Des McNulty MSP
Convener
25 September 2003
REPLY FROM PUBLIC PETITIONS COMMITTEE

Thank you for your letter of 10 September, requesting information on any steps that have been taken by the Public Petitions Committee to act on the recommendations relating to the petitions system made by the previous Procedures Committee in its report on the application of the Parliament’s Founding Principles.

I am pleased to advise you that action has already been taken in relation to certain of the recommendations listed in the table accompanying your letter and I have provided the appropriate details in the attached Annex.

I note that you are not looking for detailed responses to all of the recommendations made in the report at this stage. The Committee would, of course, be delighted to provide a more comprehensive formal response in due course.

Michael McMahon
Convener

Annex

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>111</td>
<td>We recommend that the Public Petitions Committee (PPC) should publish a development plan to extend the use of the petitions system in a measured, realistic and effective way. <strong>No action to date.</strong></td>
</tr>
<tr>
<td>112</td>
<td>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 PPC. The electronic petitions system has been further developed and is now up and running on the Parliament’s website. The system has still to be formally launched and it is likely that this will be done in tandem with the launch of the revised guidance on the submission of petitions (see recommendation 118 below).</td>
</tr>
<tr>
<td>117</td>
<td>We recommend as a matter of routine that petitioners receive regular feedback from the clerking team supporting the PPC on the progress of their petition, and that standards of feedback are developed and published so that petitioners will know the level of service to which they are entitled. Petitioners automatically receive automatic feedback on each occasion that the PPC considers their petition. Advance notification is also provided when a petition is to be considered by the Committee. Subject Committees also notify petitioners of the outcome of their consideration of petitions. However, a standard procedure for keeping petitioners informed, particularly when there is a lengthy delay in progressing petitions for whatever reason (normally at the subject committee stage) has</td>
</tr>
</tbody>
</table>
still to be developed.

| 118 (part) | 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 also should expand the leaflet to explain the process of referring a petition on to another Parliamentary committee, and what that might entail. The revision of the PPC guidance leaflet is currently at an advanced stage. This will be published (hopefully at the end of November 2003) in both English and a range of ethnic languages. It is likely that the revised guidance will be launched at the same time as the electronic petitions system, as a package of measures designed to enhance participation in the work of the Parliament via the petitions process. |
| 119 | We recommend that the PPC should follow up the outcome of such recommendations as it might make. No action to date. |
| 121 (part) | We recommend that the PPC should publish annually a report on progress on petitions. No action to date |
| 122 | We recommend that a range of techniques could be considered to publicise petitioning, 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. The PPC agreed at its recent awayday to seek to identify appropriate opportunities to meet outwith Edinburgh. A media launch is being planned for the electronic petitions system and revised guidance (including ethnic language versions). |
| 124 | We recommend that the PPC should conduct a review of the way these new arrangements (see recommendation 122) have worked at an appropriate point, perhaps 3 years after the creation of any Petitions Development Plan. No action appropriate at this stage. |

REPLY FROM AUDIT COMMITTEE

Thank you for your letter of 10 September which asked for information on what steps have been taken by the Audit Committee since the publication of the previous Procedures Committee report on the application of the Parliament’s Founding Principles. I am sorry this response is a little late.

Recommendation 53 – that subject committees might make use of Audit Scotland reports

At its awayday, the committee discussed the handling of Audit Scotland reports by other committees. It was felt that, provided the audit Committee continued to act as a ‘gatekeeper’ for such reports, it would be entirely appropriate for another committee to consider them. The Audit Committee referred Organ Retention Validation Review (AGS 2002/1) and, more recently, Hospital Cleaning (AGS 2003/2) to the Health Committee. At the awayday,
members agreed to specifically bring AGS reports to the attention of other committees once the Audit Committee’s interest in the report was concluded.

**Recommendation 54 – that there could be a case for plenary debate of major points arising from any audit ‘overview’ report**

Since the publication of the Procedures Committee report, there have been no plenary debates held on points arising from overview reports. The clerks have held preliminary discussions on the issue with Audit Scotland and a dialogue is continuing.

Should you require any further information please do not hesitate to contact either the Clerk, Shelagh McKinlay on 0131 348 5390 or the Senior Assistant Clerk to the Committee, Joanna Hardy on 0131 348 5237 or by email at audit.committee@scottish.parliament.uk.

Brian Monteith
Convener
8 October 2003

**LETTER FROM CONVENER TO (SEPARATELY) PRESIDING OFFICER, AND THE CLERK/CHIEF EXECUTIVE**

When I wrote to you on 10 September, seeking an indication of what had been done or was planned in response to relevant recommendations in the previous Procedures Committee’s *Founding Principles* report, I asked for a reply by the end of September if possible.

This was because my Committee had entered a bid to the Conveners’ Group for committee time in the Chamber to debate the Founding Principles report, and it seemed possible that we might be offered a slot either in October or November.

Since then, however, it has become clear that the debate will be held later rather than earlier within that timescale. Indeed, the Conveners’ Group decided yesterday to recommend that the Founding Principles debate take place on 26 November. Assuming that is endorsed by the Bureau, I would hope to write to backbench members a couple of weeks beforehand encouraging them to participate in the debate and attaching the various replies to my letters as background information. It would therefore be helpful to have a reply from you by the end of October if possible and by the end of the first week of November (the week ending Friday 7) at the latest.

Iain Smith, Convener
8 October 2003
PROCEDURES COMMITTEE

Oral Questions in the Chamber inquiry

Note by Business Information Technology (BIT) on random-number generation

At its last meeting on 9 September, the Procedures Committee asked for further information about the software used by the Chamber Desk to select questions for Question Time on a random basis. In particular, Bruce Crawford asked what IT systems to select random numbers have been examined other than the one currently employed. He wanted to be convinced that the system is robust (Official Report, col 73).

The template used by the Chamber Desk is based on Microsoft Word and has been customised for the purpose of selecting questions by means of programming “code” written in Microsoft’s programming language VBA (Visual Basic for Applications).

The pseudo-random number generator used is “Microsoft's own Rnd()”. This is because all our applications are currently developed using Microsoft products and Rnd() is integrated into the programming language VBA. Writing an algorithm to create our own “random number generator”, or downloading and using an alternative, would involve replacing it with another pseudo-random number generator since, if the algorithm is known, then a pseudo-random sequence is exactly predictable. However, after extensive searching on the internet, BIT has found no evidence of the algorithm being available for deciphering.

The only way to create truly random numbers would be to hook up to some source of randomly-occurring events e.g. atmospheric electrical noise, generation of radioactive particles from a lump of uranium etc.

The Rnd() function returns a number which contains 7 significant figures (in this case 7 decimal places). This effectively means that the pseudo-random number generator has an extremely remote chance of generating the same number. The files are sorted by assigned random number and then sorted alphanumerically by question number. What may have caused some alarm before is that a previous illustration from BIT, in answer to this question, showed examples to only 3 decimal places of the procedure to follow when such an event occurs. If two questions have the same generated random number, then the first question sorted alphanumerically by question number is selected. However, given that the actual number generation extends to 7 significant figures, this scenario is highly unlikely (i.e. 1 in 10 million).
Present:

Mr Richard Baker  
Mark Ballard  
Cathie Craigie  
Bruce Crawford  
Karen Gillon (Deputy Convener)  
Jamie McGrigor  
Iain Smith (Convener)  

The meeting opened at 10.00 am.

1. **Oral Questions in the Chamber:** The Committee took evidence from—

   George Reid MSP, Presiding Officer, and

   Hugh Flinn, Head of the Chamber Desk.

   It was agreed that the Convener would write to the business managers inviting them or other party representatives to give oral evidence at the next meeting. Other MSPs would be reminded of the call for evidence. Information would be sought about how oral questioning is conducted in the National Assembly for Wales and by certain local authorities.

2. **Oral Questions in the Chamber – Witness Expenses:** The Committee delegated responsibility to the Convener to arrange for the Scottish Parliamentary Corporate Body to pay, under Rule 12.4.3, any witness expenses incurred during the inquiry.

3. **Non-Executive Bills:** The Committee agreed to commence an inquiry into prioritisation of non-Executive Bills and to consider at its next meeting a paper setting out a range of options, including the proposal made by the Parliamentary Bureau and SPCB last session.
4. **Mainstreaming Equality:** The Committee took note of the Implementation Notes recently agreed by the Equal Opportunities Committee and endorsed three recommendations made by that Committee in its report on *Mainstreaming Equal Opportunities in the Work of the Committees of the Scottish Parliament* (1st Report 2003 (Session 1)).

5. **Status and confidentiality of draft Reports (in private):** The Committee noted that draft Committee reports were prepared as a basis for discussion and did not reflect the view of the Committee or of any member, and that the content of a draft report considered in private should not subsequently be disclosed in public debate.

The meeting closed at 11.32 am.

Andrew Mylne  
Clerk to the Committee
Question Time

Comment:

At present there appears to be little value in the format for Question Time, primarily because the questions cover a random variety of subjects. This I believe prevents any real in depth questioning of Ministers and is, into the bargain, difficult for the general public to follow.

Suggestion for Improvement:

If the format were altered and question time concentrated on perhaps one, or at most two, dedicated subjects, this would be much more meaningful and would ensure Ministers were properly held to account.

It would also permit individuals, various interest groups and organisations to come to the visitors’ gallery to hear detailed, probing questions on the subject of particular interest to them.

I hope this is helpful.