PROCEDURES COMMITTEE

AGENDA

8th Meeting, 2003 (Session 2)

Tuesday 2 December 2003

The Committee will meet at 10.30 am in Committee Room 4.

1. **Non-Executive Bills**: The Committee will take evidence from—
   
   David Cullum, Head of the Non-Executive Bills Unit;
   
   Mark Richards, Senior Legal Adviser, Non-Executive Bills Unit.

2. **Work programme**: The Committee will consider options for future inquiries, taking account of the views expressed during the debate on the previous committee’s *Founding Principles* report on 26 November.

3. **Scottish Civic Forum Participation Summit**: Members who attended this event on 25 November will report back to the Committee.

4. **Item in private**: The Committee will decide whether to consider in private, at its next meeting, a revised draft report on Oral Questions in the Chamber.

5. **Oral questions in the Chamber (in private)**: The Committee will consider a draft Report.

Andrew Mylne
Clerk to the Committee
Room 5.19 PHQ
Ext 85175
andrew.mylne@scottish.parliament.uk
The following papers are attached for this meeting:

**Agenda item 1**
Paper by NEBU

**Agenda item 2**
Note by the Clerk

**Agenda item 5**
Reports by focus groups

Letter from the Executive

Correspondence with Executive and Presiding Officer

FMQT – supplementary questions and time allocations

Summary of responses to Questionnaires issued to MSPs 19 November 2003

Submission by Sarah Boyack

Memo by the Chamber Desk

Draft Report (**private paper – members only**)

The following papers are attached for information:

Speaking time in debates (correspondence between the Convener, the Presiding Officer and Alex Neil MSP)

Letter to the Convener from the Scottish Parliamentary Standards Commissioner

Minutes of the last meeting
PROCEDURES COMMITTEE

Prioritisation of Non-Executive Bills

Paper by the Non-Executive Bills Unit (NEBU)

The attached papers provide background information for the Procedures Committee based on the first 3 years of working by the Non-Executive Bills Unit. The information is particularly focussed on the period from the initial contact by the member with the Unit to introduction of a Bill.

The process followed by the Unit is shown in the attached flow chart. Subsequent annexes provide more detailed information on certain aspects.

The papers highlight that there is a variety of uses made of the Unit by members ranging from the provision of information covering options to policy development and the production of a Bill. Throughout the process there is a gradual reduction of numbers progressing, this is particularly marked in relation to the number of members producing consultation drafts.

Annex 1 gives details of the initial work undertaken by the Unit to inform discussions with members while Annex 2 shows how many initial inquiries result in proposals being lodged.

Annex 3 provides a breakdown of the proposals showing how many are successful and how many lead to Bills being introduced. Annex 4 contains details regularly found in consultation documents.

It is only after consultation that the current SPCB criteria for assisting members applies and this is shown in Annex 5.

Once the SPCB criteria have been met work on refining the policy and instructing a Bill commences. Annex 6 provides details of the information required by the drafter at this stage. Annex 7 lists other documents prepared to support a Bill drafted by the Unit as well as listing the Members’ Bills which the Unit has prepared to date.

Annex 8 shows a rough estimate of the time that elapses from initial inquiry to introduction. Members should however note that these times are very approximate and based on a small tightly-focused Bill. The larger or more complicated the Bill the longer the process takes and the more resources that require to be allocated to work upon it.

The final annex, Annex 9, provides for each of the 16 Members’ Bills introduced in Session 1 basic data in relation to the number of committee meetings held and the number of amendments to each Bill that progressed beyond Stage 1. The annex also provides information on the length of debate at Stages 1 and 3.

Non-Executive Bills Unit
November 2003
Initial Contact with Idea

Proposal Paper Prepared (Annex 1)

Meeting with Member

Explore intention
Issues discussed
Options discussed e.g.
Bill/ Motion/
Debate/ PQ
Process explained

If Proceeding (Annex 2 has statistics)

Proposal Drafted and Lodged (Annex 3 has statistics)

Consultation Required (Annex 4 notes process)

Consultation Issued

Consultation Responses Analysed

SPCB Criteria Applies (Annex 5 provides)

Instructions for Drafter Prepared (Annex 6 sets out process)

Instructions Issued and Contract agreed

Draft Bill Adjusted

Accompanying Documents prepared (Annex 7 lists)

Bill Lodged and Introduced

Bill Progresses through Parliamentary Stages
(Annex 8 has preparation time statistics)
Member’s Bill Initial Proposal Paper

Usually when a member contacts the Unit wanting to discuss a proposed Bill some initial research is routinely undertaken. A paper is prepared to assist in discussion with the member containing information generally under the following headings.

Intention of Proposal

Background

Existing Law

Parliamentary Position

Competence Questions

ECHR Questions

EC Questions

Matters requiring clarification
Members’ Proposals Enquiries to the Non-Executive Bills Unit

The Unit has been keeping records in relation to the number of enquiries handled. Not all enquiries lead to a proposal being lodged. Often the information provided by the Unit leads to other avenues being explored such as PQ’s, motions and members debates.

The figures given below cover both sessions although it needs to be remembered that the Unit was only created in August 2000, some 16 months into the first session.

Session 1

Proposals Enquiries investigated: 47  
Lodged Proposals: 46**

** Includes 18 pre-NEBU lodged proposals

Session 2

Proposal Enquiries investigated: 43  
Lodged Proposals: 27
Annex 3

**Proposals Lodged**

Not all proposals lead to the drafting and introduction of a Member’s Bill. The right to introduce is dependent on obtaining 11 supporters. The under-noted figures provide information on the numbers lodged, successful and introduced.

**Session 1**
- Successful Lodged Proposals: 43
- Unsuccessful Lodged Proposals: 3
- Proposals Leading to Introduction: 16*
- NEBU Drafted: 5

**Session 2**
- Successful Lodged Proposals: 27
- Unsuccessful Lodged Proposals: 0
- Proposals Leading to Introduction: 2
- NEBU Drafted: 1

The Unit also gives, on request, advice and comment to members preparing their own drafts.

*6 of these were lodged prior to the Non-Executive Bills Unit being established. A further 4 were produced by members who, after initial contact and assistance, did not wish to follow the Unit’s process (in particular to undertake a consultation exercise). One was drafted for the Member independently by a draftsman who is a member of the panel of drafters contracted to the Unit.
Structure of Consultations for Proposed Members’ Bills

Part of the current criteria (see Annex 5) for assistance from the Non-Executive Bills Unit is a requirement to consult. The Unit assists members in drafting consultation documents by commenting on drafts and preparing questions for inclusion. The Unit also provides a list of potential consultees for the member.

Guidance on drafting a consultation document has recently been finalised, covering the following headings.

1. **Introduction**
   - Introduce the proposal and the Member
   - A brief summary of why the proposal has been suggested
   - Who to return the responses to, a postal and e-mail address and the deadline date
   - Notice that the responses will be made public unless a request is made for them to remain confidential
   - Invite the consultees to pass the consultation on to any other interested parties that they may be aware of
   - Contents list for easier reference

2. **Background**
   - Background to the need for the legislation being proposed
   - Current law
   - Review of relevant report and papers
   - Examples of good practice

3. **Main Body of Consultation**
   - What the proposal will do
   - Who will be affected
   - Issues arising from legislation being proposed
   - Difficulties with legislation
   - Possible financial implications
   - Enforcement

4. **Questions**
   - List of questions from the consultation

5. **Glossary of terms**
   - Perhaps useful for people who feel they have no expertise in the field but are responding to the consultation. i.e. ECHR

6. **Bibliography**
Annex 5

Current Non-Executive Bills Unit prioritisation criteria

The SPCB considered the demands on the Unit and sanctioned an informal prioritisation system which:

- recognises that Committee Bills should be given (limited) priority over Members' Bills;
- provides that all Members should continue to be supported up until the lodging of the proposal;

and that in relation to the further development and drafting work on proposals the following criteria should be met for assistance continuing to be available:

- only proposals appearing to be broadly within the legislative competence of the Scottish Parliament should have drafting assistance provided;
- external consultation with all interest groups and affected bodies should have been undertaken by the Member in relation to the proposal or by others in a similar area;
- there should be no likelihood of legislative action in the reasonable future either in the Scottish Parliament or at Westminster in the same area of law.

The Corporate Body also agreed that other factors which need to be taken into account where demand exceeds capacity are:

- the breadth of support that a proposal has attracted; and
- the potential size and scope of a Bill.
Annex 6

Preparation of Drafting Instructions

The process of setting out on paper for the drafter background information and details about what the Bill should contain is time consuming and detailed. In addition details of current law and any anticipated legal issues are raised for the drafter’s consideration.

The process involves exchanges between the staff of the Non-executive Bills Unit. It inevitably involves further research to fully understand issues and precedents. It generally involves the member in responding to policy issues that arise either to clarify intentions in specific areas or to make decisions when options emerge.

The preparation of instructions is critical to allow the drafter to provide a Bill which fully meets all of the policy requirements of the member and enables the desired outcome to be met. Invariably additional issues emerge throughout the process of drafting. The process is time consuming, as an estimate for a small (c10 section) straightforward Bill it will take around 3-4 months and involve numerous drafts to finalise the instructions for issue.

Instructions do not follow an entirely consistent format; it depends on the subject matter and the intention of the proposal. As an illustration attached is the list of headings used when instructing the Dog Fouling (Scotland) Bill. These took 7 months to finalise given the complexity and novelty of some aspects of the Bill.
Dog Fouling (Scotland) Bill Drafting Instructions

- Overview of proposal
- Policy aims
- Background to proposed bill and existing law
  - Existing offence
  - Land to which the offence applies
  - Evidence
  - Enforcement
- Existing law in relation to fixed penalties
  - Fixed penalty for litter
  - Fixed penalty, dog fouling in England and Wales
  - Fixed penalty vehicle emissions
  - Fixed penalty road traffic offences
  - Fiscal fines
- Fixed penalty scheme for Bill
- Scope of Bill
- Offence being created
- Land to which the Bill applies
  - General
  - Exemptions
- Penalty
- Evidence
- Exemptions
  - Existing exemptions
  - New exemptions
- Defences
- Enforcement
  - General
  - Issue of fixed penalty notices
  - Amount of fixed penalty
  - Information to be contained in fixed penalty notice
  - Effect of fixed penalty
  - Increase in fixed penalty
  - Recovery of unpaid fixed penalties
  - Evidence of payment
  - Withdrawal of fixed penalty notice
- Additional Information
  - Consequential amendments and repeals
  - Commencement and Transitional Provisions
- Competency
  - ECHR
  - Community law
  - Scotland Act
- Crown consent
- Short Title
Annex 7

Accompanying Documents Provided

As well as producing a Bill fit for introduction the Unit also prepares the Accompanying Documents to support the Bill. Although there is no mandatory requirement to produce all of these it is considered essential that the Parliament be supplied with similar documentation to that which accompanies an Executive Bill.

- Explanatory Notes
- Financial Memorandum
- Policy Memorandum
- Subordinate Legislation Memorandum
- Legislative Competence Note (internal document only)

Bills drafted by the Unit in Session 1

Members’ Bills
Public Appointments (Parliamentary Approval) (Scotland) Bill
University of St Andrews (Postgraduate Medical Degrees) Bill
Dog Fouling (Scotland) Bill
Organic Farming Targets (Scotland) Bill
Gaelic Language (Scotland) Bill
Fire Sprinklers In Residential Premises (Scotland) Bill (Draft only)

Committee Bills
Protection from Abuse (Scotland) Bill
Scottish Parliamentary Standards Commissioner Bill
Commissioner for Children and Young People (Scotland) Bill
Members’ Interests (Scotland) Bill (Draft only)
Annex 8

Timings to Prepare a Member's Non-Executive Bill

The following details are given as an approximation and are based upon a small straightforward proposal (less than 10 sections) from which arise minimal legal or policy difficulties. The time taken also very much depends upon the availability of staff and the time of year. For example staff generally take holidays over the summer recess and at Christmas, inevitably this increases the timings. The time involved to develop policy and draft as a general rule increases exponentially with size and complexity.

- Initial contact to initial meeting (including preparation of background paper) 2 weeks
- Initial meeting to drafting proposal 1 day
- Drafting consultation paper to issue 2 months
- Consultation period to analysis 4-5 months
- Policy Development work and preparation of drafting instructions to issue 3-4 months
- Drafting of Bill and accompanying documents 3 months
- Consideration by PO and authorities 3 weeks

**Total time** initial contact to introduction 13-15 months
Members’ Bills: Time taken through the Parliament

This Annex contains details on every Member’s Bill introduced in Session 1.

It shows:

- The number of meetings at Stage 1
- The length of Stage 1 debate in plenary
- The number of amendments considered at Stage 2
- The number of amendments considered at Stage 3
- The length of Stage 3 debate

<table>
<thead>
<tr>
<th>Bill</th>
<th>Stage 1 Meetings*</th>
<th>Time at Debate</th>
<th>Stage 2 Amendments</th>
<th>Stage 3 Amendments</th>
<th>Time at Debate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abolition of Poindings and Warrant Sales Bill</td>
<td>14</td>
<td>1 Hour 32 Mins</td>
<td>38</td>
<td>3</td>
<td>2 hours 22 Mins</td>
</tr>
<tr>
<td>Council of the Law Society of Scotland Bill</td>
<td>5</td>
<td>1 Hour 20 Mins</td>
<td>3</td>
<td>0</td>
<td>20 Mins</td>
</tr>
<tr>
<td>Dog Fouling (Scotland) Bill</td>
<td>9</td>
<td>1 Hour 21 Mins</td>
<td>18</td>
<td>1</td>
<td>55 Mins</td>
</tr>
<tr>
<td>Family Homes and Homelessness (Scotland) Bill</td>
<td>8</td>
<td></td>
<td>Bill Withdrawn</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gaelic Language (Scotland) Bill</td>
<td>11</td>
<td>1 Hour 27 Mins</td>
<td>Bill ran out of time</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Leasehold Casualties (Scotland) Bill</td>
<td>5</td>
<td>1 Hour 54 Mins</td>
<td>7</td>
<td>0</td>
<td>17 Mins</td>
</tr>
<tr>
<td>Mortgage Rights (Scotland) Bill</td>
<td>6</td>
<td>1 Hour 20 Mins</td>
<td>38</td>
<td>11</td>
<td>1 Hour 44 Mins</td>
</tr>
<tr>
<td>Organic Farming Targets (Scotland) Bill #</td>
<td>9</td>
<td>1 Hour 18 Mins</td>
<td>Bill defeated at Stage 1</td>
<td></td>
<td></td>
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<tr>
<td>Proportional Representation (Local Government Elections) (Scotland) Bill</td>
<td>7</td>
<td>1 Hour 40 Mins</td>
<td>Bill defeated at Stage 1</td>
<td></td>
<td></td>
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<tr>
<td>Prostitution Tolerance Zones (Scotland) Bill</td>
<td>12</td>
<td>1 Hour 41 Mins</td>
<td>Bill defeated at Stage 1</td>
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<td></td>
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<tr>
<td>Protection of Wild Mammals (Scotland) Bill</td>
<td>28</td>
<td>2 Hours 23 Mins</td>
<td>126</td>
<td>100</td>
<td>5 Hours 57 Mins</td>
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<tr>
<td>Public Appointments (Parliamentary Approval) (Scotland) Bill #</td>
<td>8</td>
<td>1 Hour 29 Mins</td>
<td>Bill defeated at Stage 1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>School Meals (Scotland) Bill</td>
<td>12</td>
<td>1 Hour 32 Mins</td>
<td>Bill defeated at Stage 1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sea Fisheries (Shellfish) Amendment (Scotland) Bill</td>
<td>3</td>
<td>40 Mins</td>
<td>2</td>
<td>1</td>
<td>30 Mins</td>
</tr>
<tr>
<td>Tobacco Advertising and Promotion (Scotland) Bill</td>
<td>11</td>
<td></td>
<td>Bill Withdrawn</td>
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<tr>
<td>University of St Andrews (Postgraduate Medical Degrees) Bill</td>
<td>3</td>
<td>21 Mins</td>
<td>1</td>
<td>0</td>
<td>10 Mins</td>
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</table>

* Includes meetings to identify potential witness and consider draft reports.
# Bill prepared by NEBU for the member
PROCEDURES COMMITTEE

OPTIONS FOR FUTURE WORK

Note by the Clerk

1. At its meeting on 24 June 2003, the Procedures Committee agreed to conduct an inquiry into oral questioning procedures as well as to look at two minor issues (suspension of standing orders and Emergency Bills). The oral questions inquiry is expected to be concluded by the end of the year, although a certain amount of time will also be required in January to review the trial period of FMQT. Officials have been working on the two smaller issues and papers on those are expected to be ready for consideration shortly. It is not expected that they will require a great deal of committee time. The Committee has also begun an inquiry into Non-Executive Bills which is expected to run into the early part of 2004.

2. The Committee is asked to consider what issues it wishes to consider over the period until Easter. The committee might then revisit the programme after the Easter recess with a view to updating it and extending it further into 2004.

3. In considering what issues to consider, the Committee may wish to refer to the options outlined at its last discussion, which are attached at Annex A. The Committee will also be aware that various recommendations were made by MSPs in the Chamber during the Founding Principles debate on Wednesday 26 November. Those issues raised are attached at Annex B.
## ANNEX A – OPTIONS FOR NEXT INQUIRY (POSSIBLE OUTSTANDING ISSUES REMAINING FROM INITIAL CONSIDERATION)

<table>
<thead>
<tr>
<th>Option</th>
<th>Description</th>
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<tbody>
<tr>
<td><strong>HIGHER PRIORITY/SHORTER TERM</strong></td>
<td>The options in this category all raise issues that could have a significant impact on an important area of the Parliament's business.</td>
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</table>

<table>
<thead>
<tr>
<th>1</th>
<th>Changes to timescales and deadlines applicable to the Stages of Bills. In particular, such an inquiry could consider:</th>
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<tr>
<td></td>
<td>• whether it would be desirable to specify (in Standing Orders or the form of non-binding guidance) minimum periods for the overall duration of Stages 1 and 2 in normal circumstances;</td>
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<td>• increasing the minimum intervals between Stages 1 and 2 (currently laid down by Rule 9.5.3A) and between Stages 2 and 3 (Rule 9.5.3B);</td>
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<td>• increasing the notice-period given for amendments, thus requiring amendments to be lodged further ahead of proceedings taking place;</td>
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<td></td>
<td>• reviewing the process for timetabling Stage 3 debates – specifically the lack of flexibility allowed to the Chair once a timetabling motion has been agreed, which can lead to debate on important groups of amendments being cut short or even prevented altogether.</td>
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<td></td>
<td>Other topics which could also be included within a slightly broader inquiry could include:</td>
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<td></td>
<td>• whether the current two amending Stages are sufficient, or whether the Rules should, for example, require as a matter of course what Rule 9.8.5 allows as an exception – namely, taking the debate on whether to pass the Bill on a later date than the consideration of Stage 3 amendments, and allowing technical/consequential amendments only to be lodged for the latter;</td>
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<td>• whether there should be an additional criterion of admissibility (in addition to those in Rule 9.10.5) applicable to Stage 3 amendments, to prevent substantial new issues being raised at that Stage (one of Donald Gorrie’s suggestions to the previous committee).</td>
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*Source: CSG Report (RR 38-44); Donald Gorrie; Legislation Team*
<table>
<thead>
<tr>
<th>Option</th>
<th>Description</th>
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| 2      | An inquiry into Sewel motions – i.e. motions giving the Parliament’s approval to Westminster legislating on a devolved matter. The inquiry could consider:  
  - the general process by which it is decided that a particular devolved matter would be better dealt with by Westminster legislation rather than by Scottish Parliament legislation, and why such decisions are made more frequently than was originally envisaged;  
  - the adequacy of the procedural mechanisms used to seek the Parliament’s consent to Westminster legislating on such a matter (currently by the Executive lodging a motion, accompanied by a written memorandum, with the motion usually debated in the Chamber);  
  - the mechanisms used to ensure that Westminster stays within the bounds of any consent given and how, if an amendment is tabled or agreed to in Westminster that would take the legislation beyond the scope of that consent, the Parliament’s further consent is sought.  
  
  The previous committee had undertaken some work on this, and had received evidence from the Executive and the Scotland Office, and recommended that the new committee continue this work. |
| 3      | Changes to Chapter 9A (Private Bills), specifically to:  
  - build more flexibility into Rules assigning specific roles to the Convener of the Private Bill Committee (e.g. in moving the motion to pass the Bill), to allow for circumstances where the relevant person has ceased to be an MSP; and  
  - alter the Rules about the admissibility of amendments to prevent a Private Bill being amended in ways that could adversely affect the interests of persons not given an opportunity to object at the time the Bill was introduced.  
  
  Such an inquiry could also look more generally at the implications for Parliamentary time and resources of anticipated Private Bills relating to railways and related works; and consider what scope there is to streamline the process set out in Chapter 9A as it applies to such Bills. |
Option | Description
--- | ---
| LOWER PRIORITY/LONGER TERM | The options in this category are matters of lesser importance or urgency. The final two (nos. 7 and 8) are matters individual MSPs have recently invited the Committee to consider.

4 | Parliamentary scrutiny of “arms-length” bodies (NDPBs and Executive agencies). The CSG Report envisaged a general review of this area, looking at all aspects of how such bodies are subject to scrutiny by the Parliament.

[Note: the previous committee agreed an improved system for dealing with written PQs about the work of such bodies, to enable answers given by chief executives to be published in an annex to the Written Answers Report. When this new system is implemented (expected to be September), the committee will receive a paper for information about how it will work in detail.]

Source: CSG Report (R 68)

5 | Changes to the committee’s own remit to enable it to consider constitutional and governance matters.

Source: CSG Report (R 70)

6 | Petitions – whether there should be a prohibition on their being lodged by MSPs (on the ground they have other mechanisms available, and petitions were intended to be from the public).

Source: Convener of the Public Petitions Committee

7 | Allocation of non-Executive Business in Chamber – whether Rule 5.6.1(b) is being complied with in allocation of non-Executive time in the Chamber to the 3 independent MSPs.

Source: Dennis Canavan

Note: the following are issues that are expected to come forwards at a later date, but are not options that the Committee would be in a position to pursue at present; or bigger issues that may be suitable for later in the session.

A | Financial implications of Bill amendments – a review of the Rules that govern consideration of amendments to Bills, with a view to better ensuring that cost implications are always taken into account before amendments are agreed to. The Audit Committee has agreed to undertake such an inquiry, consulting the Finance Committee. It was prompted to do so by a report by the Auditor General into amendments made to the Standards in Scotland’s Schools Act which introduced a
<table>
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<th>Option</th>
<th>Description</th>
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| B | A general review of the regulatory framework (i.e. the subordinate legislation system generally), with a view to proposing a Bill to replace the existing “transitional Order”, which currently sets the basic parameters governing the Rules in Chapter 10. [Note: a substantial amount of preparatory work is likely to be involved for this, involving the Subordinate Legislation Committee and the Executive. At present, the SLC does not envisage seeking changes to Chapter 10 on a shorter timescale than would be required to bring forward a Bill.]  
  
  **Source:** Subordinate Legislation Committee |
| C | A review of the Parliamentary week, looking specifically at:  
  * what proportion of the normal sitting week is allocated to Chamber business;  
  * how that time is divided according to the various categories of business (motion-and-amendment debates, other debates, questions, etc.) and between categories of members (Executive time, opposition parties’ time, backbenchers’ time); and  
  * how the available speaking time is divided up within each debate or item.  
  
  [Note: the “Time in the Chamber” legacy paper (PR/S2/03/1/5) is directly relevant to this Option.]  
  
  **Source:** CSG Report (R 66) |
ANNEX B – OPTIONS FOR WORK PROGRAMMING (RECOMMENDATIONS MADE DURING FOUNDING PRINCIPLES DEBATE)

Extracts from Official Report, 26 November 2003

Selection of motions for Members’ Business

We [Session 1 Procedures Committee] felt that the process by which motions were selected for members' business debates could be more transparent and that those debates could occasionally be given a more prominent slot in the parliamentary day. I urge the new Procedures Committee and the Parliamentary Bureau to consider how to take that recommendation forward. Ken Macintosh, col. 3605.

As Ken Macintosh said, a more transparent system for selecting motions for members' business debates should be considered. Many people outside the Parliament think that if many members sign a member's motion on a cross-party basis, that motion will be debated. They do not realise that such decisions are still taken in the Parliamentary Bureau. I am not saying that that involves anything sinister, but we must address the gulf between the public's expectation and the practical reality of how we operate. Susan Deacon, col. 3615.

Parliament to take control of its own proceedings (R 106)

Recommendation 106 attracted all-party support. It asked for increased powers over our internal processes. In the previous session of Parliament, our inability to increase the number of Presiding Officers, even temporarily, created a substantial increase in work load for the two remaining Presiding Officers when their colleague was unavailable for a period of time. This morning, the Queen's speech to the Westminster Parliaments has made it clear that the Scotland Act 1998 will be opened up to allow one part of it to be changed. Westminster ought to be able to respond to a request from the Scottish Parliament to make the non-contentious and widely supported changes that recommendation 106 proposes. Stewart Stevenson, col. 3608.

Sewel motions (R 48)

I want to address recommendation 48, in which the committee expresses a desire that further research should be done on Sewel motions. I suggest that the research should consider whether the frequency of such motions is appropriate. My position and that of my colleagues is well enough known for me not to rehearse it. More to the point, the research should also examine whether Sewel motions are effective in delivering faster legislation and better law. The recent development whereby committees consider Sewel motions is a substantial improvement and I welcome it. Stewart Stevenson, col. 3609.
Legislation timetabling

More time could be found for scrutiny of amendments because there is often not enough time for MSPs to grasp what amendments mean. Jamie McGrigor, col. 3611.

We need to slow down the bill process. If we do that intelligently, we will have passed just as many bills at the end of four years, but they will be much better bills. We need more time between stage 1 and stage 2 to allow members to consult interest groups and those who really know about the subject so that members can compose their amendments sensibly. We need to have more time between lodging of amendments and the moment when they are debated. Very often, the Executive produces amendments in response to points that were made at stage 1. Members need to consult the people who really know the score as to whether the amendments meet the point at issue. As I said, the bill process needs to be slowed down. A new stage needs to be added between stages 2 and 3, which could be called stage 2b or stage 3a. At that stage, a committee could examine a bill and say, "It has got out of shape. We need to do X, Y and Z." Consultation could then be held with the Executive. I also envisage two sets of amendments: the stage 2b set and the stage 3 set. We need to scrutinise bills better in order to avoid the problems that David Steel identified correctly but to which he offered the wrong solutions. Donald Gorrie, cols. 3616-7.

Donald Gorrie has not yet addressed the Executive's practice of lodging significant new amendments late in stage 3 of the bill process. That practice does not allow any consultation, let alone the opportunity for members to scrutinise properly the amendments, because such amendments do not go before a committee. Does the member agree that that is a weakness in the current system? Should the new Procedures Committee address that matter? Brian Adam, col. 3617.

I agree entirely with Brian Adam. Part of the argument that I am making is that the timetable is far too fast. If the Executive lodges amendments, there has to be a proper procedure in which those amendments can be evaluated and consulted on with outside people who know about the subject. They must be dealt with more sensibly because we go wrong at the later stages of the bill process. Moreover, as Susan Deacon pointed out, we must introduce a monitoring system that allows us to find out whether, two years or so after it has been passed, a bill has achieved what it was supposed to achieve. Donald Gorrie, col. 3617-8.

Recommendation 44 suggests that the timetable for stage 3 debates should be advisory, to ensure that those who wish to speak on amendments for which time has not been allocated can do so. During the stage 3 debates on some controversial legislation, such as the Protection of Wild Mammals (Scotland) Act 2002 and the Agricultural Holdings (Scotland) Act 2003, members were unable to speak to new amendments that appeared at the last moment, even though some of them had spent a great deal of time on the legislation over the years. That was a fault not of the Presiding Officer but of the system. That situation is completely unacceptable and it needs to be changed. Mike Rumbles, cols. 3627-8).
I believe that recommendations 38 to 40, which discuss the timing of the analysis of bills as they go through stages 1, 2 and 3 in the Parliament, are the most important. I identify with Donald Gorrie and the other members who have emphasised that there has to be change on that issue. *Phil Gallie, col. 3636.*

My particular disappointment was the fact that, in a number of cases, the Executive felt it necessary to lodge major amendments at stage 3, some of which introduced new material that had not passed through the pre-legislative consultation stage in any way. We will have to address that weakness in the system and the Executive will have to give serious thought to the practice. If new material is to be introduced, a stop should be put on the legislative process so that the bill has to go back into the system again. We have to allow appropriate time for legislation. *Brian Adam, col. 3644.*

We must consider whether the balance is right in the timetable for stages, between stages and at stage 3, and whether there should be any intervening periods. *Iain Smith, col. 3651.*

**Committees meeting in private**

I was struck by the discussion about the number of committee meetings that are held in secret. My final remark relates to members' bills. Karen Gillon said that it is difficult for a member of a committee to analyse and scrutinise a bill of which he or she is the author. That happens and it can be difficult, but it is wrong that a member who is pursuing a bill through committee is not allowed to sit in on the private meeting that is discussing the bill in detail. It leads to less informed debate, because there are some issues of detail that the member may be able to comment on during those deliberations, but currently that opportunity is denied. I believe that that should certainly also be considered. *Tommy Sheridan, cols. 3620-1.*

A big issue that has come out of the debate is the division of opinion on whether draft reports should be considered by committees in private. The issue is not straightforward and will have to be addressed in more depth. *Iain Smith, col. 3649.*

**Role of Bureau in determining business**

There should be a better balance between the front benches and the back benches. With all due respect to our Presiding Officers, who are three excellent people, the fact of life is that David Steel sold the jerseys to the party bosses right at the beginning of the Parliament. I say to our new Presiding Officers that they should take back the reins of powers. They should not let the party bosses determine who speaks, when they speak and for how long they speak. If they care about it, they should free up the Parliament and make it worthy of being a truly national Parliament. *Alex Neil, cols. 3622-3.*
Parliamentary timetabling

If we want to engage in proper debates, we need more time. I am not sure how we are going to do that, but the Procedures Committee and the rest of the Parliament need to find a way. It is simply not possible to develop an argument properly—let alone take interventions—in a speech that is restricted to four minutes or thereabouts. Members do not have to be ex-Westminster windbags to understand that point. John Home-Robertson, col. 3629.

Written questions

Does [Fergus Ewing] support the committee’s recommendation, to which Ken Macintosh referred, for a review of the parliamentary questions system? Susan Deacon, col. 3634.

I noticed only today that Des McNulty seems to be trying to submit the highest number of written questions—at least according to recent business bulletins. Of course I support the recommendation of a review. Responses to parliamentary questions are, to be frank, appalling. Recently, a snooty sort of addition at the end of answers refers the questioner to a website. Fergus Ewing, col. 3635.

Oral Questions

[Note: these comments are more relevant to the Committee’s consideration of its draft Report on oral questions than to the forward work programme.]

The report's recommendation on ultra-long ministerial answers has been dismissed rather casually by the Executive, which says that there is no need to alter standing orders. Time and again, we have heard the Presiding Officer say that he has no power over the answers that are given. Time and again, members—including me, the chamber might be surprised to hear—are cut off by the Presiding Officer because they go on for too long. That is to keep order, but why is it that ministers can ramble on and on, taking up inordinate amounts of time and not actually revealing a great deal? Fergus Ewing, cols. 3634.

On oral questions and First Minister's questions, I again identify myself with the comments made by my colleague Jamie McGrigor. One issue that I feel strongly about is that the Presiding Officer should be able to some extent to control responses from ministers. Ministers should stick to the point of the question. Members are obliged to do that and Presiding Officers ensure that they do. There should be no exceptions for ministers in those circumstances. Phil Gallie, col. 3637.
Subsequent to the four focus group submissions that were issued with the papers for the last meeting on 18 November, the following groups have responded and their submissions are attached:

(NB: copies of these submissions were issued to Members at the meeting on 18 November.)

- Community Connections Project, based in Easterhouse, Glasgow. 12 people attended the Parliamentary session on 6 November.

- Inverclyde Community Development Trust, based in Greenock. 17 people attended the Parliamentary session on 6 November. This group submitted an interim and a full response, both are attached.
SUBMISSION FROM THE COMMUNITY CONNECTIONS PROJECT

Background to Community Connections and “Moving On Lanarkshire” programme.

Community Connections is an intermediary organisation operating within the social economy with its key role to connect local people into learning.

Built on partnership working, the project was initiated in 1996 jointly by One Plus: One Parent Families and John Wheatley College. The project provides a variety of information, support and training programmes to lone parents, women, long-term unemployed men and local people involved in community activity who reside within the Greater Easterhouse area and more recently in Lanarkshire.

Over the 7 years the project has been operating, it has continued to expand its services and recently, in partnership with Scottish Enterprise Lanarkshire and Careers Scotland, the project has piloted a new initiative in the Lanarkshire area.

This initiative offers local people the opportunity to be employed for a 40-week period and gain a recognised SVQ Level 2 Community Development Work qualification. This work-based qualification provides the candidates with a quality employment experience within the Lanarkshire area.

The candidates that attended the visit to the Scottish Parliament are all, at present, participating in work experience placements within the Lanarkshire area and working with young people between the ages of 16 and 25 years and long-term unemployed.

First Minister’s Question Time

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

Response

Participants agreed that questions should continue to be routinely selected to give a fair balance but felt that the time designated for FMQT should not be restricted and there needed to be more time to allow questions to be answered in full.

Participants felt that all political parties should be allowed the opportunity to question the First Minister. Although there are a number of smaller parties within the Parliament, opinion was that they were being discriminated against by not being able to regularly participate in FMQT and they should be able to do so on a proportional basis.

They were in agreement that all parties, no matter how small, had been elected to undertake a role within the Parliament and represent their communities. FMQT should provide an opportunity for party leaders to display their political skills and offer the electors the opportunity to judge their performance and their ability to represent them.
Alternatively should only backbencher questions be selected, on the understanding that the party leaders would then be called upon to answer supplementaries?

Response
Participants felt that there is scope for backbenchers’ questions on specific topics to be selected and the party leader would decide who would be the most suitable person to answer. This would allow the party leader an opportunity to give information he thinks is important.

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 represents an element of surprise)? If so, should other party leaders or backbenchers also be able to ask open questions?

Response
Participants felt that ‘open questions’ should continue, but the First Minister should only answer questions on matters on which he is responsible to the Parliament.

They indicated that they felt that open questioning allowed an opportunity for relevant and current issue based questions to be raised, for the First Minister to be accountable to the nation and to answer “on the spot” questions and be scrutinised by other party leaders.

Although the group feel this form of questioning allowed the main opposition parties to score points, to try and reveal weaknesses in his performance and expose the First Minister to considerable criticism, “open questions” should continue.

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 a particular subject, or to particular Ministers?

Response
Participants agreed that in principal a thematic element to question time would allow current issues to be raised in more depth and for Ministers to be accountable but felt that if the thematic element was not current it would be a waste of dedicated time.

They felt that Question Time should continue to cover all areas of the Executive week, and this would allow an opportunity for issues to be raised and MSPs to represent their communities and question Ministers on issues as they arise.

Should questions for Question Time continue to be selected on a random basis?

Response
The group felt that questions should continue to be selected randomly to ensure that all questions have an equal chance of being answered orally by the appropriate person. A discussion arose around questions lodged but not selected. The group
felt that it was still important to answer these questions and that written questions should also be answered and published in the session minutes.

**General**

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

**Response**
Participants agreed and felt that this would allow questions to be fully answered and will restrain members from introducing or inviting arguments or initiating debates.

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

**Response**
Participants felt that it was very important that advance notice is given to members allowing them to obtain detailed information from the appropriate source for questions lodged. This would allow questions to be answered in as much detail as possible. They felt that the system already in place for oral and written questions to be lodged is appropriate.

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

**Response**
Participants agreed that there should be an element of flexibility in the length of time allowed to Ministers to answer questions appropriately. The length of time designated should depend on the complexity of the question being asked. Ministers should be compelled to answer the question in full and not give a limited response.

**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?*

**Response**
Participants agreed that having the opportunity for committee Conveners to question the First Minister at a public meeting would be an excellent opportunity for the Executive to be accountable to the local people they represent, although they feel that it should be on a more regular basis than twice per year.

*Should there be more regular opportunities for oral questions addressing the Presiding Officer and other members of the Parliamentary Corporation?*

**Response**
This question was not discussed fully as participants did not see the relevance of questioning the Presiding Officer or Parliamentary Corporation.
INTERIM SUBMISSION FROM THE INVERCLYDE COMMUNITY DEVELOPMENT TRUST

First Minister’s Question Time

With regards to FMQT, the group felt overall that it was staged and not a natural progression of debate.

It was also suggested that the Presiding Officer take a more active part in so much as to ensure that the First Minister does answer the question.

- 1 hour should be dedicated to FMQs - this would hopefully ensure adequate response of questions to be fully debated and answered.
- 8 questions should be the minimum answered.
- All party leaders should have the opportunity to put a question to the First Minister.
- The remaining questions should be randomly selected.

Question Time

- 1 hour to be allocated to this procedure
- Keep to the allotted 30 questions which would allow for more debating time on the issue.
- Questions should be selected on an issue basis i.e. 5 health questions, 5 justice questions, etc.

General

Overall it was felt that MSPs should be in the Chamber on time for both of these procedures as it was very off-putting having people wandering in and out all the time.
At the Procedures Committee meeting on 18 November, I undertook to provide you with the statistics on the volume of Parliamentary questions by Ministerial Portfolio and Department which informed a possible format for a thematic Question Time as set out by the Executive should the Committee wish to take up that option.

The information is set out in the attached table. Based on past trends, the figures show that 3 Departments - Enterprise, Transport and Lifelong Learning, Health and Education could expect to prepare answers for the majority of questions.

I hope that this is helpful.

Patricia Ferguson
20 November 2003

GUIDE TO SHARE OF QUESTIONS BY MINISTERIAL PORTFOLIO AND DEPARTMENT

September 2001 to March 2003

<table>
<thead>
<tr>
<th>Theme</th>
<th>Portfolio(s)</th>
<th>Department</th>
<th>Guide to Share of Questions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Enterprise and Lifelong Learning Transport</td>
<td>Enterprise, Transport and Lifelong Learning</td>
<td>21%</td>
</tr>
<tr>
<td>2</td>
<td>Education and Young People Tourism, Culture and Sport</td>
<td>Education</td>
<td>19%</td>
</tr>
<tr>
<td>3</td>
<td>Justice Law Officers</td>
<td>Justice Crown Office Procurator Fiscal Service</td>
<td>11%</td>
</tr>
<tr>
<td>4</td>
<td>Environment and Rural Development</td>
<td>Environment and Rural Affairs</td>
<td>13%</td>
</tr>
<tr>
<td>5</td>
<td>Finance and Public Services Communities</td>
<td>Finance and Central Services Development</td>
<td>16%</td>
</tr>
<tr>
<td>6</td>
<td>Health and Community Care</td>
<td>Health</td>
<td>20%</td>
</tr>
</tbody>
</table>
Thank you for attending the Procedures Committee meeting on Tuesday, and for your oral evidence.

Later in the meeting, a point was raised about Emergency Questions, by reference to a note circulated to the Committee about oral questioning procedures in the National Assembly for Wales. The system in Wales is that a member may table an oral question with less than the normal 5-10 days’ notice required and the Presiding Officer may, if satisfied the question is both urgent and of public importance, enable it to be taken. Perhaps because the normal oral questions procedure allows relatively little room for topical questions to be asked, this urgent question mechanism is used considerably more frequently than our own Emergency Questions procedure – approximately once every 3 weeks.

The Committee agreed I should write seeking your views on the merits of such a mechanism. Given that we already have Rule 13.8, which most witnesses in our inquiry agree is rightly used only in rare cases, I envisage instead a new element of flexibility in Rule 13.6. The idea would be that an MSP could lodge a question for First Minister’s Question Time with less than the normal 3 days’ notice required by Rule 13.6.5 – perhaps up to the end of the day before FMQT was scheduled to take place. The Presiding Officer would have the right, if he felt the question was sufficiently important and topical, to select it either in addition to the 6 questions he had already selected for that week’s FMQT, or in substitution for one of those selected questions. The Presiding Officer could also have the right (again, up to the end of the day before) to re-visit his selection of questions for FMQT if circumstances had changed in such a way as to give added importance to one of the questions he had originally chosen not to select. (Since the Presiding Officer has no role in selection of questions for Question Time, I do not see an equivalent case for such last-minute alterations to the questions for Question Time.)

On the other hand, it could be argued that the ability of members to ask topical supplementaries to party leaders’ open questions is sufficient to enable matters of concern that have arisen at short notice to be raised with the First Minister.

I would be grateful if you could let me know your views on the above, by next Wednesday (26 November) if possible. This is to enable your reply to be circulated to the Committee for its next meeting.
I am writing in similar terms to the Presiding Officer.

Iain Smith MSP
Convener
20 November 2003

REPLY BY THE MINISTER FOR PARLIAMENTARY BUSINESS

Thank you for your letter of 20 November seeking my views on introducing a mechanism for asking urgent or topical questions on the lines of the system in the National Assembly for Wales.

As you note, besides the emergency question facility which is already available to members, the opportunity is also presently available for topical questions to be asked as supplementary to a party leader’s question at First Minister’s Question Time. The extended period for FMQT allows more time for questions from backbenchers which was the First Minister’s intention in proposing the change and one which the Presiding Officer endorsed. It is worth noting that there are times when portfolio Ministers are best placed to answer questions and that facility should continue to be provided. Besides oral and written questions, members may also elicit information by writing to individual Ministers where the information is not otherwise available.

The arrangements for FMQT appear to be working well and I note that that you propose to review these after being in operation for 6 months. In all the circumstances, I am not persuaded that there is a need to introduce a new procedure along the lines that you suggest.

Patricia Ferguson
25 November 2003
Dear Iain

Oral Questions in the Chamber

Thank you for your letter of 20 November.

I am very conscious of the fact that issues can arise, after the deadlines for Question Time and First Minister’s Question Time, which are important and topical and on which a member wishes to question the Executive. That is why I have used the extension of First Minister’s Question Time to thirty minutes to give greater latitude to backbench members to ask supplementary questions to party leaders’ questions at First Minister’s Question Time, often on precisely this kind of urgent topical issue. So far I consider that this arrangement has worked well and I am not convinced of the need of an additional mechanism. Indeed I have looked at some examples of urgent questions in the National Assembly for Wales and they were on the kind of issue, such as recently announced constituency factory closures, where the supplementary questions route could be followed at First Minister’s Question Time here.

In addition I have concerns about the particular mechanism you suggest for allowing additional First Minister’s Questions to be lodged. I would be most uncomfortable about any mechanism which gave me the power to “deselect” a First Minister’s Question that I had already selected and I can imagine the points of order that might follow from aggrieved members. Having six questions in a thirty minute First Minister’s Question Time provides a lot of flexibility for supplementary questions and, as I have already indicated, I consider that this gives the flexibility to deal with issues that are urgent but not emergencies sufficient to justify the use of Rule 13.8.

I hope this is of assistance to your committee.

Yours sincerely

GEORGE REID
# PROCEDURES COMMITTEE

## Oral Questions in the Chamber

**FMQT: Supplementary questions and time allocations**

**Questions Called at First Minister's Question Time (since Rules were changed)**

<table>
<thead>
<tr>
<th>Date</th>
<th>Initials</th>
<th>Q1 No. of SQs</th>
<th>Q2 No. of SQs</th>
<th>Q3 No. of SQs</th>
<th>Q4 No. of SQs</th>
<th>Q5 No. of SQs</th>
<th>Q6 No. of SQs</th>
<th>All opp’n party Qs</th>
<th>Time spent on each question</th>
</tr>
</thead>
<tbody>
<tr>
<td>11 Sep</td>
<td>JS</td>
<td>(4 + 0); 10 mins</td>
<td>DM (2 + 1); 3 mins</td>
<td>TS (1 + 1); 3 mins</td>
<td>(1 + 1); 0 mins</td>
<td>(1 + 2); 0 mins</td>
<td>(1 + 4); 2 mins</td>
<td>3 Qs 20/30 mins (67%)</td>
<td>7.0 mins</td>
</tr>
<tr>
<td>18 Sep</td>
<td>JS</td>
<td>(4 + 0); 6 mins</td>
<td>DM (2 + 2); 3 mins</td>
<td>RH (2 + 0); 0 mins</td>
<td>(1 + 0); 0 mins</td>
<td>(1 + 1); 0 mins</td>
<td>(1 + 5); 2 mins</td>
<td>3 Qs 17/30 mins (57%)</td>
<td>7.4 mins</td>
</tr>
<tr>
<td>25 Sep</td>
<td>RC</td>
<td>(3 + 0); 1 min</td>
<td>DM (2 + 2); 1 min</td>
<td>TS (2 + 1); 1 min</td>
<td>(1 + 1); 0 mins</td>
<td>(1 + 1); 1 mins</td>
<td>(1 + 3); 0 mins</td>
<td>3 Qs 19/32 mins (59%)</td>
<td>4.8 mins</td>
</tr>
<tr>
<td>2 Oct</td>
<td>JS</td>
<td>(3 + 1); 8 mins</td>
<td>DM (2 + 1); 4 mins</td>
<td>ES (2 + 2); 1 min</td>
<td>(1 + 2); 3 mins</td>
<td>(1 + 0); 1 min</td>
<td>(1 + 0); 9 mins</td>
<td>3 Qs 21/30 mins (70%)</td>
<td>4.2 mins</td>
</tr>
<tr>
<td>9 Oct</td>
<td>JS</td>
<td>(3 + 1); 3 mins</td>
<td>DM (2 + 0); 6 mins</td>
<td>TS (2 + 3); 1 min</td>
<td>(1 + 1); 2 mins</td>
<td>(1 + 0); 2 mins</td>
<td>(1 + 1); 8 mins</td>
<td>2 Qs 17/31 mins (55%)</td>
<td>3 mins</td>
</tr>
<tr>
<td>30 Oct</td>
<td>JS</td>
<td>(3 + 0); 2 min</td>
<td>DM (2 + 4); 3 mins</td>
<td>TS (2 + 2); 1 min</td>
<td>(1 + 1); 1 min</td>
<td>(1 + 1); 1 min</td>
<td>w/d</td>
<td>3 Qs 24/32 mins (75%)</td>
<td></td>
</tr>
<tr>
<td>6 Nov</td>
<td>JS</td>
<td>(3 + 0); 1 min</td>
<td>DM (2 + 2); 3 mins</td>
<td>RH (2 + 2); 1 min</td>
<td>(1 + 1); 3 mins</td>
<td>(1 + 1); 3 mins</td>
<td>(1 + 1); 1 min</td>
<td>3 Qs 19/30 mins (63%)</td>
<td></td>
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<tr>
<td>13 Nov</td>
<td>JS</td>
<td>(3 + 0); 2 min</td>
<td>DM (2 + 2); 4 mins</td>
<td>TS (2 + 2); 1 min</td>
<td>(1 + 2); 2 mins</td>
<td>(1 + 1); 0 mins</td>
<td>(1 + 0); 3 mins</td>
<td>3 Qs 18/31 mins (58%)</td>
<td></td>
</tr>
<tr>
<td>20 Nov</td>
<td>JS</td>
<td>(4 + 0); 0 min</td>
<td>DM (2 + 1); 1 min</td>
<td>RH (2 + 2); 0 mins</td>
<td>(1 + 2); 1 mins</td>
<td>(1 + 0); 1 min</td>
<td>(1 + 2); 1 min</td>
<td>3 Qs 18/28 mins (64%)</td>
<td></td>
</tr>
</tbody>
</table>

The figures in each box indicate:

- Initials of questioner (opposition party leaders or their deputies): JS = John Swinney; RC = Roseanna Cunningham; DM = David McLetchie; TS = Tommy Sheridan; RH = Robin Harper; ES = Eleanor Scott.
- No. of SQs called (by original questioner + other members); no. of members not called
- Time taken for the entire question (including all supplementaries) to nearest minute

The final column indicates the amount and proportion of time taken by the 2 or 3 questions asked by opposition party leaders (or their deputies) – i.e. those grey-shaded in the table.
Summary of responses to questionnaires issued to MSPs, 19 November 2003

<table>
<thead>
<tr>
<th>Q1: The Procedures Committee is minded to recommend introducing a thematic element, for a trial period. Would you prefer:</th>
<th>Total</th>
<th>Lab</th>
<th>SNP</th>
<th>Con</th>
<th>Lib</th>
<th>Gre</th>
<th>SSP</th>
<th>Ind</th>
<th>anon</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) a mixture of themed and general questions</td>
<td>35</td>
<td>74%</td>
<td>5</td>
<td>7</td>
<td>5</td>
<td>4</td>
<td>4</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>(B) general questions only (as at present)</td>
<td>3</td>
<td>6%</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>(C) themed questions only</td>
<td>9</td>
<td>20%</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

1 response also suggested combining option C with a ‘starred’ system for urgent questions lodged on the day before (Jeremy Purvis).

Q2: The Procedures Committee believes that it would be preferable to cover all 6 themes at least once every 3 weeks. But it also believes that 20 minutes is the minimum length of time that could usefully be devoted to each theme if in-depth questioning is to be possible. It is not possible to achieve both, while also retaining some general questions, within the existing 40 minutes. Would you prefer:

<table>
<thead>
<tr>
<th>Q2: Would you prefer:</th>
<th>Total</th>
<th>Lab</th>
<th>SNP</th>
<th>Con</th>
<th>Lib</th>
<th>Gre</th>
<th>SSP</th>
<th>Ind</th>
<th>anon</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) to keep to the current 40 minutes but limit themed questions to 1 theme per week (20 minutes themed and 20 minutes general)</td>
<td>16</td>
<td>33%</td>
<td>6</td>
<td>2</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>(B) to increase the total time each week by 20 minutes (2 x 20 minutes themed and 20 minutes general)</td>
<td>20</td>
<td>43%</td>
<td>1</td>
<td>6</td>
<td>6</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>(C) to increase the total time each week by 30 minutes (2 x 20 minutes themed and 30 minutes general)</td>
<td>5</td>
<td>11%</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
</tbody>
</table>

suggested 2 x 30 minutes themed and no time for general (Margaret Mitchell and anonymous), and with other responses each suggesting 3 x 10 minutes themed and 15 minutes general (Tricia Marwick), 3 x 18 minutes themed and 6 minutes for a ‘starred’ question (Jeremy Purvis), and 2 x 15 minutes themed and 40 minutes general (anonymous).

Q3: If there are to be themed questions as well as general questions each week, would you prefer:

<table>
<thead>
<tr>
<th>Q3: Would you prefer:</th>
<th>Total</th>
<th>Lab</th>
<th>SNP</th>
<th>Con</th>
<th>Lib</th>
<th>Gre</th>
<th>SSP</th>
<th>Ind</th>
<th>anon</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) separate slots for Thematic Question Time and General Question Time</td>
<td>13</td>
<td>28%</td>
<td>3</td>
<td>4</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>(B) a single Question Time slot including both thematic and general questions</td>
<td>33</td>
<td>70%</td>
<td>4</td>
<td>5</td>
<td>7</td>
<td>4</td>
<td>3</td>
<td>0</td>
<td>2</td>
</tr>
</tbody>
</table>

1 further response indicated no preference (Alex Fergusson).

Q4: If the total amount of time each week is to be increased to include themed questions as well as general questions, would you prefer:

<table>
<thead>
<tr>
<th>Q4: Would you prefer:</th>
<th>Total</th>
<th>Lab</th>
<th>SNP</th>
<th>Con</th>
<th>Lib</th>
<th>Gre</th>
<th>SSP</th>
<th>Ind</th>
<th>anon</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) the extra time to come out of the existing time available (i.e. by reducing the time available for other business)</td>
<td>13</td>
<td>28%</td>
<td>5</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>(B) making extra time available by starting at 2 pm on Wednesday afternoon</td>
<td>9</td>
<td>20%</td>
<td>1</td>
<td>0</td>
<td>3</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>(C) making extra time available by starting at 2 pm on Thursday afternoon</td>
<td>12</td>
<td>24%</td>
<td>0</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>(D) making extra time available by starting at 2.15 pm on both Wednesday and Thursday afternoons</td>
<td>8</td>
<td>17%</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

Further responses indicated a preference for either options A or C (anonymous), options B or C (Alex Neil and John Swinburne), options C or D (anonymous), and one suggested the extension of sitting time into Wednesday evenings (Brian Monteith). Nora Radcliffe also commented, noting that lunch times provide an important opportunity for meeting outside bodies and constituents, and for attending Cross Party Group meetings, and that this time was already constrained.

General comments were also received: An anonymous response indicated that the PO should have more control over the responses given by Ministers, ensuring conciseness and brevity in the answers as is already provided for in the Rules relating to questions; Alex Fergusson indicated it was essential that FMQT be moved back to its original slot, following Question Time.
PROCEDURES COMMITTEE
INQUIRY INTO ORAL QUESTIONS IN THE CHAMBER

RESPONSE TO QUESTIONNAIRE BY SARAH BOYACK MSP

Thank you for the opportunity to comment on the issue of changes to Ministerial Question Time. The consultation paper does not identify what the problems the committee think there are with our existing Question Time. It merely says that the Committee is “minded to recommend introducing a thematic element” without saying why.

The timing is also strange given that we are in the middle of an experimental pilot session on moving FMQs. I would not support any change without a proper evaluation of members’ views on the success of the separation of FMQs from Ministers Questions. I also note that the Procedures Committee does not see any link between the two sets of Question Time. My view is that we should review Ministerial Question Time including FMQs at the same time.

There have been two significant changes to Ministers Questions over the last four years, firstly to enable a range of members to ask supplementary questions and secondly to enable members to ask questions during FMQs as supplementaries Leaders’ Questions. I believe both changes have been beneficial and make QT more interesting and effective in holding Ministers to account.

I would not be against the principle of thematic questions. However, I disagree with the topic groupings set out in the preamble to the questionnaire. They do not represent the existing configuration of Scottish Executive departments, or the Parliament's own committees. I would not accept them as the correct groupings if any restructuring of QT were to be considered.

One of the benefits of the current arrangements has been the fact that all members attend the session. If there is to be any trial element then there needs to be careful thought to avoid downgrading the process. This has been evident in the past few weeks when FMQs and Ministers Questions have been separated.

Q1
I do not support the proposed changes in the paper. I certainly do not see the point in a combination of themed and non-themed Ministers Questions every week. What could work would be a combination of FMQs on the new style and themed questions.

There should be either be the opportunity for backbenchers to ask questions every week ensuring topicality or sessions on a less frequent basis but ensuring a more in-depth accountability.

If the Committee is determined to run a pilot then the Committee should consider the Standing Orders position in relation to what qualifies as an emergency question.
If we had to wait three or four weeks say then it would be appropriate for people to raise questions that were more topical which would be lost if we moved to a longer timescale.

**Q2**
The Committee has not justified the categories it has proposed and I therefore would not support the three week groupings set out. One of the reasons given for moving FMQs to 12 noon was so that there would be time freed up for the afternoon debate on a Thursday. Is there any evaluation of whether this has been successful? Until we know this I do not see the point of an increase in the total time.

**Q3**
What is meant by General Question Time? What point is there in having a Thematic Question Time in addition if there is to be a General Question time running every week? Would this mean that there would be questions on every subject bar those being covered in that week’s Thematic Question Time?

I cannot see the point in retaining a General Question Time in parallel if the purpose is to enable more accountability and a greater focus on different Ministerial responsibilities. This goes back to the problems that the proposed changes are meant to address. Without knowing what they are it makes it difficult to see what the criteria would be for suggesting change.

I would not support adding more time to Question Time overall.

Sarah Boyack
MSP for Edinburgh Central
LETTER FROM CONVENER TO ALEX NEIL

Thank you for your letter of 6 November and the copy of your memo to the Presiding Officer.

I have seen the reply sent to you by the Presiding Officer on 10 November, and have little to add to it. As he indicates, the role of the Presiding Officer in calling speakers operates within the confines established by the business programme proposed by the Bureau and agreed to by the Parliament as a whole. If you remain concerned about the proportion of time being made available to backbench members as compared with party spokespersons, that is something you may wish to take up with your own business manager. It is not something that the Procedures Committee has any plans at present to consider.

I am copying this letter, together with yours, to the members of my Committee.

Iain Smith
18 November 2003

LETTER FROM PRESIDING OFFICER TO ALEX NEIL MSP

Thank you for your memo of 6 November in relation to speaking times in the Chamber.

I am acutely aware of the need to allow backbenchers to have their fair share of debating time. However, I do not believe that the picture is as bleak as the one you paint. By my reckoning, open debate time exceeds 50% of the debate time in five of the nine examples set out. When you bear in mind that three of the other four examples are rarely, if ever, used, it can be seen that in the majority of cases, the time available for open debate speeches is more generous than you suggest.

That said, you will appreciate that the Presiding Officers must work within the confines of debate times that are set out in the business motions agreed by the parliament. There is always a difficult balance to be struck between meeting backbench demand, allowing longer backbench speeches where possible, observing party balance, and providing sufficient time for opening and closing statements in support of motions and amendments. For that reason, we keep debate management arrangements under constant review and will keep your comments in mind in doing so.
Lastly, I would like to point out that the table you refer to is guidance issued to Business Managers to assist them in preparing for parliamentary debates, rather than being formal guidance from the Presiding Officers. The point being that the Presiding Officers can still use their discretion in managing the allocation of time in debates.

George Reid
10 November 2003
Dear Ian

I should like to formally request that the Procedures Committee look at the issue that I have highlighted in the memo to George Reid which is attached. I am sure that you will agree that back benchers are getting a raw deal and that there is an imbalance between the time allocated to back benchers and front benchers. I think that this is an issue that needs to be addressed as part of the general improvement in the Parliament’s procedures.

Meantime I look forward to hearing from you.

Yours sincerely

Alex Neil MSP

Enc.
MEMO

FROM: ALEX NEIL MSP

TO: GEORGE REID PRESIDING OFFICER

DATE: 6th NOVEMBER 2003

SUBJECT: SPEAKING TIMES

Dear George

Per my copy of the Presiding Officer’s Guidance in speaking times which has been issued I should like to draw your attention to the fact that with the exception of the 90 minute and 4 half hour debates, the time allocated to back-bench speeches is no more than half of the speaking time and in some cases as little as \( \frac{1}{3} \) of the speaking time.

I am sure that you will agree with me that this is out with the spirit of how the new politics in the new Parliament should work and I am writing to ask you to review these speaking times so that back benchers can get more of a say in the Parliament. The situation is particularly bad when you consider that back benchers make up about \( \frac{3}{4} \) of all 129 MSP’s

I hope that you will give this due consideration and I look forward to hearing from you.

Yours sincerely

Alex Neil MSP
Dear Mr Smith,

Procedures committee “leaks”

Since it is some time since I last wrote, I thought I should let you know that I reported to the Standards Committee on 1st October 2003, having concluded that this was an undirected complaint in terms of Section 10 of the Code of Conduct which passed the relevance test in Section 6(4) of the Scottish Parliamentary Standards Commissioner Act 2002.

The Standards Committee has been taken up with other matters since then and has not yet considered my report. The Clerks will be able to advise as to when this might happen.

Yours sincerely,

Dr J A T Dyer
Scottish Parliamentary Standards Commissioner
PROCEEDURES COMMITTEE

MINUTES

7th Meeting, 2003 (Session 2)

Tuesday 18 November 2003

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

The meeting opened at 10.32 am.

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

   Patricia Ferguson, Minister for Parliamentary Business;

and then considered the range of issues raised during the inquiry. It agreed to issue a short questionnaire seeking the views of members on options for including a thematic element in Question Time. It was also agreed that the Convener would write to the Executive and the Presiding Officer, seeking their views on the merits of a procedure similar to that available in the National Assembly for Wales where urgent questions may be lodged with less notice than is normally required.

2. **Item in private**: The Committee agreed to consider, in private, a draft report on Oral Questions in the Chamber at its next meeting.

3. **Non-Executive Bills**: The Committee considered a paper on options for a system of prioritisation. It agreed that the proposal made by last session’s Parliamentary Bureau should form the basis of the inquiry, but that the option of prioritisation being decided by a committee of backbenchers would also be considered.

The meeting closed at 12.09 pm.

Andrew Mylne
Clerk to the Committee