The Committee will meet at 10.15 am in Committee Room 4.

1. **Item in private**: The Committee will consider whether to take item 3 in private.

2. **Bills – timescales and Stages**: The Committee will take evidence from—

   Professor Alan Page, Department of Law, University of Dundee;

   Patricia Ferguson, Minister for Parliamentary Business, Michael Lugton, Head of Constitution and Parliamentary Secretariat, Andrew McNaughton, Parliamentary Liaison Unit, and Lorna Clark, National Health Service Reform (Scotland) Bill Team Leader, Scottish Executive.

3. **Non-Executive Bills**: The Committee will consider possible changes to procedures governing the introduction of Members’ Bills.

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 2**
Extract from previous Committee’s *Founding Principles* report

Duration of Stage 1 inquiries (note by the Clerk)

Correspondence between Convener and Dorothy McDonald

**Agenda item 3**
Outline of possible solution (Note by the Clerk)

Extract from previous Committee’s *Founding Principles* report

Non-Executive Bills Terminology (Note by the Clerk)

Case study Bills (Note by the Clerk)

Party balance in House of Commons committees (note by the Clerk) (*NB: copies previously handed out to members*)

The following papers are attached for information:

Minutes of the last meeting
PROCEDURES COMMITTEE

Timescales and Stages of Bills

Extract from previous Committee’s *Founding Principles* report

**Note by the Clerk:** The following extract is from the previous Procedures Committee’s major report on the Parliament’s founding principles (3rd Report, 2003 (Session 1)) and includes a number of recommendations relevant to the current inquiry. That Report was published in March 2003, so some of the data (in footnotes, in particular) is now out of date.

**LEGISLATION INQUIRY**

Timetabling pressures

321. We conducted a restricted inquiry in 2000-2001 into some aspects of the timetabling of Bills. As a result of this work, we recommended a number of changes to the Standing Orders, some concerning the timing of amendments to Bills.¹ These changes were accepted by the Parliament.²

322. We are firmly of the view that sufficient time must be allocated between the Stages of Bills, to allow for the consideration and lodging of amendments, and for Stage 2, to ensure that the relevant committee is able to give sufficiently full consideration to all amendments.

323. Some tension is probably inevitable between the requirements of those who wish to contribute to a Bill and those who are its authors and are responsible for managing that process to a successful conclusion. It may be impossible to set a timetable which will satisfy all parties absolutely, but we do consider that every effort must be made by the Parliamentary authorities to balance these competing requirements.

324. The Committee received evidence of the severe pressure committees are under to process legislation against tight deadlines. The Convener of the Justice 2 Committee wrote to us in the following terms:

“… the Justice Committees have suffered from unrealistic timetables for Executive legislation. It has regularly been the case that Committees were having to agree draft reports without having digested the evidence taken; in a recent case (the International Criminal Court (Scotland) Bill at Stage 1), the report had to be agreed on the same day that the Official Report of the evidence was published. This clearly works against considered scrutiny and proper questioning of the Executive.”³

325. Also, the Convener of the Equal Opportunities Committee noted that her committee had been restricted in considering and proposing committee amendments because of the timetable imposed on it. She indicated that proper consultation is not possible within the timescales set:

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² The main recommendations eased slightly the time intervals between the Stages of Bills.
³ Justice 2 Committee, written evidence.
“The committee has repeatedly remarked that it does not have sufficient time to consult organisations...The lack of time is a huge problem, which the committee has discussed.”

326. Alex Neil MSP, Convener, Enterprise and Lifelong Learning Committee, told us that:

“the Bureau should consult much more with committees and should involve committee conveners more in the process to ensure that the timing of Bills is more appropriate.”

327. It is important to note that the complaints of the committees about the legislative timetabling constraints are not made only on their own behalf, but in respect of the potential danger of such speed to the quality of the resulting legislation and the quality of the wider process involving civil society. We received evidence that constraints on the overall timetable for Bills do affect the ability of the committees to consult outside bodies.

328. The comments in this respect of Ian McKay of the Educational Institute for Scotland were representative of several:

“At Stage 2, our experience has been that the timetabling decision – whether it is made by the Bureau or the Executive – does not allow enough time for civil society to be as involved as it would like in a committee inquiry.”

329. The point here was not that “civil society and external interest groups” were invariably unable to contribute to the rationale for and drafting of amendments put forward by members at Stage 2, but that the speed at which Stage 2 was taken meant that full discussion was truncated.

330. Alan Wilson, Chief Executive of the Scottish Council for Development and Industry (SCDI), wrote to the Presiding Officer on 14 August 2002 about the variations in deadlines for consultations. The letter was copied by Mr Wilson to the Committee and is produced in the volume of written evidence. The SCDI noted that consultation periods for Bills at Stage 1 varied from 3 to 9 weeks, and put forward a case for a standard consultation period of 12 weeks, with 8 weeks for subsequent requests on the same inquiry, on the grounds that a shorter period undermined the quality of responses.

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4 Kate MacLean MSP, Procedures Committee SPOR, col 887.
5 Alex Neil MSP, Procedures Committee SPOR, col 1376. We understand that on most occasions when the Bureau is discussing the timetabling of a Bill in committee the relevant convener is invited to take part in that part of the Bureau meeting. We have made no analysis of how often the conveners’ views have been adopted however.
6 Procedures Committee SPOR, col 1387.
7 Procedures Committee SPOR, col 1387.
8 Committees are able to invite external bodies to attend as witnesses to explain the rationale for amendments which an MSP has lodged on their behalf. This has happened very infrequently indeed however because the time at Stage 2 usually does not allow for it.
9 Scottish Council for Development and Industry, written evidence. The Scottish Executive recently conducted a review of its own consultation practice which showed the 44% of written consultation exercises requested a response in 10 weeks or less. 47% allowed the specified 12 weeks or more for consultees to respond. In the balance of cases no decision had been made or the information was unavailable. Source: Letter of 30 September 2002, Office of Chief Researcher, Scottish Executive, to Clerk, Procedures Committee.
331. Tom McCabe MSP, then Minister for Parliament, gave evidence that, up to 30 October 2001, 155 days or part days had been spent in committees addressing 22 Executive and 4 Members' Bills. He considered that there was less pressure of Executive business on committees than was often thought.

332. The Presiding Officer said in evidence that he suspected that “... an analysis of the legislation that the Executive has introduced would show that some of it has been kicking around for a while, waiting for an opportunity that did not present itself at Westminster ... As time goes on, that will stop.” If this were the case some easing of the legislative pace might reasonably be expected as time goes by. There is no firm evidence on this point.

333. The Presiding Officer also suggested that pressures on timetables could be eased considerably if the Parliament adjusted fully to the fact that Bills do not have to be completed in a single parliamentary year. Sir David Steel’s written evidence to us advised that the Presiding Officers believe:

“... that the Parliament has failed to adapt fully to the concept of a 4-year legislative term. In general, the Parliament, in particular the Executive, still works to an annual cycle, aiming to complete the bulk of the legislative work by each summer recess. This leads to unnecessary pressure on the Parliamentary timetable at that time. It has also led to complaints from civil society about insufficient consultation time in between the different stages of Bills. The same can be said of Committee Inquiries.”

Timetabling Improvements

334. One of the major benefits to Scotland of having a Parliament with legislative competence is the increased opportunity to legislate in a context in which legislative quality can be assured by enlightened models of consultation, pre-legislative activity, and sufficient time for all stages in the process.

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10 Sir David Steel MSP, Presiding Officer, Procedures Committee SPOR, Col 1012. See also, Sir David’s evidence to the House of Lords Select Committee on the Constitution where he repeated this point in essence on Friday 17 May 2002. He also however considered the increasing legislation a real issue when he noted that there was a risk of what Lord MacGregor of Pulham Market terms "legislative overkill": "Yes, there is a risk ... We proudly quote the number of Bills we have put through as thought that is automatically a good thing. Well, I think the citizens must pause and query whether it always is a good thing." Devolution: Inter-Institution Relations in the United Kingdom, Evidence Complete to 10 July 2002, HL147 (2001-02) cols 754-5.


12 Presiding Officers’ memorandum, written evidence.

13 Consultative Steering Group Report, paragraph 4, page 64. "The establishment of a Scottish Parliament provides a real opportunity to change patterns and levels of participation in the democratic process ... If the formation of a Scottish Parliament mimics the Westminster model then it is likely that levels of democratic participation and political culture will also mimic those of a Westminster-type democracy ... The key lesson to be drawn for Scotland is, therefore, that in the creation of new institutional and political structures it is also vital to consider new methods of political participation and that both these approaches can be mutually reinforcing in terms of enhancing democracy." Democratic Participation and the Scottish Parliament, Rowntree Project, Unit for the Study of Government in Scotland, The University of Edinburgh, December 1997, pages 57-58.
335. We agree with the view of the Presiding Officer that there is ‘unnecessary pressure’ on committees, including Parliamentary staff, and those who would engage with them, and we note that there is similar pressure on the civil servants in charge of many Bills, and that this is borne out by a substantial body of evidence received.

336. We do not challenge the right of the Executive to propose a substantial legislative programme, but we would like to stress that while it is important the passage of Bills is not unduly prolonged, it is of vital importance that the timetabling of legislation allows committees, relevant experts, civil society and the general public to contribute fully in order that the legislation passed in this Parliament is of the very highest quality possible.15

337. It is difficult to explain why there is such pressure to speed legislation through the Parliament, except in terms of a desire to achieve legislation as quickly as possible. As the Presiding Officer pointed out, this pressure could be addressed through the flexibility of the 4 year legislative cycle.

338. The relevant pressure on committees’ time arises not from the overall proportion of time spent by committees on legislation, but from the relative shortness of the time agreed by the Bureau and committee conveners for the passage of particular legislative items. These timetables dictate the quality of the legislative process at all stages.

339. Although we were advised that timetabling extensions for Stage 2 proceedings have been requested by conveners and granted by the Bureau, we remain concerned that conveners will accept unrealistic deadlines.

340. We draw attention in particular to the compression of the committee stage of the Mental Health Bill. As we conclude this report, the Health and Community Care Committee is meeting twice weekly, over several weeks, to consider the amendments which have been tabled to the Bill. We believe that this is not an isolated, or even an unusual, example. This approach to timetabling does not afford committee members as much latitude to consult outside the Parliament about the terms of proposed legislation, particularly between the Stages of Bills, as they would like.

341. Failure to guarantee sufficient time for consultation reduces the opportunity for civil society and the public to co-ordinate written contributions to impending Bill consultations with other work, and a principle of minimum periods for Bill Stages could be considered.

342. Tom McCabe MSP saw the pre-legislative stage as an opportunity to forestall difficulties.16 As a Bill progresses through its stages however, unforeseen issues often arise which require careful consideration. The quality and pace of legislative

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14 One example of a very tight Bill timescale was the Education and Training (Scotland) Bill, which was modest in length, though with a high profile. The Bill was introduced on 28 April 2000 and published by the Parliament on 2 May. The timetable was swift - 10 weeks, including the mandatory breaks between Stages as set out in the Standing Orders. Source: Enterprise and Lifelong Learning Committee clerks.

15 “We should make sure that we shape our politics thoughtfully. We should do less, but do it better.” First Minister, 27 November 2001, Scottish Executive News Release: SE4933/2001.

16 Procedures Committee SPOR, Col 946.
consideration therefore require to be consistently appropriate throughout the entire process.

343. Research conducted by the clerks suggests that in the case of Executive Bills, the average time which has elapsed to date between the start of Stage 1 and its completion was 33 days; that the corresponding time from the start to the completion of Stage 2 was 8 days; that the average time between Stages 1 and 2 has been approximately 14 days, and between Stages 2 and 3 approximately 12 days.

344. At present the principle governing time made available for Bill Stages is unclear. Sir David Steel’s letter to Alan Wilson indicates that conveners have rejected a “standard” period for external consultation. This is not surprising in circumstances where the overall timing constraints are out of their hands, and effectively in those of the Parliamentary Bureau.

345. What appears to be happening as a consequence is that committees are adopting a ‘best endeavours’ approach to consultation with external parties, trying to maximise the time available for the submission of written evidence. In some cases, committees rely on consultations undertaken at a prior stage by the Executive; but committees do not always consider this reliance to be appropriate.

346. There is therefore some inconsistency in committees’ approach to pre-legislative consultation, and this reduces the opportunity for local government, civil society and the public to co-ordinate written contributions to impending Bill consultations with other work, and we suggest that the Conveners’ Group should consider establishing minimum periods and consistent standards for pre-legislative consultation.

347. Committee Conveners and the Bureau must also ensure that sufficient time is available for Stage 2 of Bills to proceed at a sensible pace, and for interested parties to contribute to the process. We consider that there can be no question of imposing rigid constraints, and, while we do not propose standing orders changes ahead of any full inquiry into legislative processes in the next Parliament, we do suggest that minimum periods for Bill Stages should be introduced on a voluntary basis.

348. The time allowed for the passage of Bills at Stage 1 and Stage 2 needs to take account of the requirement to consult the public adequately and to consider the rationale for amendments fully. We recommend that minimum periods be agreed but with scope for longer periods to be provided. {Recommendation 38}

349. For similar reasons, and with similar qualifications for extremely complex or wide-ranging Bills, we recommend an increase in the minimum period that must elapse between the day on which Stage 1 is completed and Stage 2 starts. This could give a more realistic opportunity for Members and civil society to consider the Bill and any amendments. {Recommendation 39}

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17 Emergency Bills and Budget Bills are excluded. The first because the ‘committee stage’ comprises a “Committee of the Whole Parliament” (Rule 9.21.3); the second because such Bills attract specific timetabling rules (Rules 9.16.4 and 5).

18 Figures rounded to whole numbers.
350. **Equally, we recommend increasing the minimum period between the day on which Stage 2 is completed and the day on which Stage 3 starts. Such an extended period would provide members and civil society with more time to consider any outstanding issues and for any proposed amendments to be worked up.** {Recommendation 40}

351. We have not completed detailed consideration of the exact minimum periods which might be proposed but, based on some preliminary work done by the clerks, we offer the following examples about the length of the normal minimum periods, in order to inform the consideration by the Bureau in that process: 2 calendar months for Stage 1; 1 calendar month for Stage 2; 21 whole sitting days between Stages 1 and 2; 18 whole sitting days between Stages 2 and 3 where a Bill is amended; 9 whole sitting days between Stages 2 and 3 where no amendments have been made.

352. **Pending the review of the legislative process recommended earlier, we would encourage the Parliamentary authorities to consider and bring forward appropriate times for minimum periods for and between the stages of Bills as soon as possible after the start of the new Session.** {Recommendation 41}

353. Longer time periods between Stages 2 and 3 would allow Ministers and lead committees’ time for reflection on the Bills which had emerged from Stage 2. There would be scope for discussion of amendments which either might wish to bring forward, including any new proposals which might be introduced. Ministers and committees would have time to meet with interested external parties who might still wish to promote significant amendments, and there would be scope to discuss whether any part of the Bills should be referred back for further committee consideration.

354. **We consider that these more flexible time allocations would also assist the Executive, allowing Ministers more time to master their briefs, and provide their advisers with more time to analyse proposed amendments and engage in meaningful exchanges with MSPs to refine amendments to the point where they could be accepted by the Ministers.**

355. The timing allowed for plenary debates at Stage 1 and Stage 3 needs to reflect fully the importance of these points in the legislative process.

356. Mr Alex Neil MSP wrote to the Presiding Officer on 25th June 2002 to complain about a particular instance in which the number of backbenchers called to speak in the Stage 1 debate of the School Meals (Scotland) Bill was, in his view, unacceptably small. In his reply the Presiding Officer noted that the Presiding Officers regularly review the management of debates; he further noted that, “during shorter debates in particular, we sometimes have difficulty in including all of the backbenchers who wish to contribute”; and he expressed, “some sympathy with your point”. He noted that 8 backbenchers spoke in the debate and that 4 who wished to speak were not called.19

357. Because Stage 3 is the Parliament’s last opportunity to amend a Bill, it is absolutely essential that enough time is allocated to allow all of the key points to

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19 Alex Neil MSP to Sir David Steel MSP, Presiding Officer, 25 June 2002, copied to Murray Tosh MSP, Convener, Procedures Committee. Sir David replied on 1 August 2002. The correspondence is included in the volumes of written evidence.
be made, for amendments to be discussed, and for a proportionate debate on all pertinent points to take place.

358. **We acknowledge that the allocation of sufficient time for Stage 1 and 3 debates is always a matter of judgement.** We are concerned that debates at Stage 1 and the committee part of Stage 3 have on occasions been allocated insufficient time to accommodate the Members who have asked to speak, and we recommend that the Parliament should agree a convention that timetabling arrangements should normally be made to allow all MSPs who wish to speak once in a Stage 1 debate, and on a Stage 3 amendment, to do so; and, if necessary, that greater use should be made of the facility to extend debates on Wednesdays. {Recommendation 42}

359. It is also possible to carry debates forward from Wednesday afternoons into Thursdays, if more speakers wish to contribute than is possible in the available time. While this may not be thought to be appropriate at very short notice, given the potential it has to disrupt the following day’s business, those responsible for timetabling debates should consider using the flexibility which the carry-forward provision allows when a high level of interest in participating in Stage 1 debates can be anticipated.

360. **We consider that forward timetabling should attempt to anticipate requests to speak at Stage 1, so that time can be provided for all MSPs who wish to speak, and that the decisions of those responsible for timetabling can take full account of MSPs’ level of interest.** We recommend that a new intranet facility be created to allow MSPs to indicate in advance their desire to speak, so that adequate time can be programmed for Stage 1 debates. We anticipate that MSPs will quickly come to use the facility to bid for all speaking opportunities, and recommend that its use be accepted for all debates. {Recommendation 43}

361. **The time-tabling motion for Stage 3 proceedings does attempt to allocate time fairly among all the major aspects of each Bill, and sufficient time for the final, formal debate.** It is clear that elements of Stage 3 proceedings have often been time-constrained, but it is less clear that more generous overall time allocations are required for them. If debate does not consume the time allocated, the debate can simply end early, but the Presiding Officer has no scope to allocate additional time if pressure to debate amendments is greater than was anticipated. It is not unusual for debate to have been severely constrained in parts of a Stage 3 process where the overall time allocation has been adequate.

362. **Pending a full review of legislative procedures, we therefore recommend that urgent consideration should be given by the Parliamentary authorities to whether the timetable for a Stage 3 debate should be advisory only, so that the Presiding Officers can be flexible in allowing those who wish to speak on amendments, for which time has not been allocated, to do so, and to extend if necessary, the overall time required to debate all the amendments.** {Recommendation 44}
PROCEDURES COMMITTEE

Timescales and Stages of Bills: Stage 1 inquiries

Note by the Clerk

Introduction

1. One of the key issues in relation to the timescales to which Bills are subject is the amount of time available for committees to undertake Stage 1 inquiries.

Current Rules and practices

2. When a Bill is introduced, the Bureau is required to refer it to a lead committee, which is then required to report to the Parliament on the Bill’s general principles. If the Bill falls within the remit of more than one committee, the Bureau must recommend to the Parliament which is to be the lead committee, and the other relevant committees then have an opportunity to report on the Bill to the lead committee (though they are not required to do so) (Rule 9.6.1).

3. The Bureau has the option also to set a timetable within which Stage 1 must be completed – by virtue of Rule 5.4.2, which enables the business programme to include a timetable for consideration by a committee of a Bill. In practice, such a timetable has been set in all, or nearly all, cases. Longer times have generally been allowed for non-Executive Bill Stage 1s.

4. The normal practice has been for the Bureau to decide on the lead committee at its first meeting after the Bill is introduced and to set a Stage 1 timetable at the following meeting. Informal consultation with the convener and the clerk of the lead committee takes place before that later Bureau meeting, so that account can be taken of the committee’s other work priorities. Where the convener of the lead committee feels that the timetable initially proposed is not long enough, he or she is likely to be invited to attend the Bureau meeting at which the proposed timetable is considered.

5. Once the Bureau’s recommended timetable has been endorsed by the Parliament (by agreement to the business motion), it is then binding on the committee. However, where it has become clear during the course of the Stage 1 inquiry that the agreed timetable cannot be achieved, or that it would be desirable to hear additional evidence that could not be accommodated within that timetable, an extension has been sought. The mechanism for this is that the Convener writes to the Bureau formally requesting an extension; if the Bureau agrees, a revised deadline is recommended to the Parliament in the next Business Motion. As far as can be established, such extensions have been formally sought on only a handful of occasions and have always been granted.
Factors affecting duration of Stage 1

6. A number of factors need to be taken into account in deciding how long Stage 1 needs to be. Lead committees are required to consider and report on the general principles of the Bill, and generally wish to conduct a reasonably comprehensive inquiry on the Bill - involving collecting written evidence, hearing oral evidence, and agreeing the conclusions of a Report.

7. The amount of time that will be needed will obviously vary according to the nature and circumstances of the Bill. Key factors will be:

   - the size and complexity of the Bill (Executive Bills have ranged from 1 page to 168 pages);
   - whether the Bill deals with one discrete subject-area or ranges across a broad area of law (e.g. Criminal Justice);
   - how radical or controversial the changes proposed are;
   - whether a draft Bill was published during the pre-legislative consultation stages;
   - how much the policy has changed and developed between pre-legislative consultation and the Bill as introduced; and
   - the number of identifiable “stakeholders” who would expect to be consulted.

8. One issue that arises is the time allowed for collecting written evidence. The lead committee cannot issue a formal call for evidence until after the Bill has been introduced and formally referred to it (i.e. at around the same time that the Stage 1 timetable is being decided), and the deadline for submission of evidence must be early enough in the inquiry to enable the evidence to be taken into consideration before the Report's conclusions are agreed (and, ideally, early enough to inform the choice of oral witnesses).

9. A tight Stage 1 timescale makes it difficult to allow an adequate period for prospective witnesses to prepare their written evidence. Indeed, it is doubtful that any committee undertaking Stage 1 scrutiny has been in a position to allow the 12 week period for consultation that is recommended as a normal minimum by the Cabinet Office and the Executive (in relation to government consultation exercises). It may be difficult for many organisations who would wish to express a considered view on a Bill to study the Bill (and accompanying documents), undertake internal consultation (particularly where evidence needs to be cleared by a board or committee) and submit evidence before the deadline that has been set.

10. A slightly different issue concerns the time available for organising oral evidence and allowing oral witnesses time to prepare. It is striking that
many committees, presumably because of timetabling pressures, begin taking oral evidence on Bills only a few weeks after the Bills are referred to them. It can sometimes be difficult for witnesses to find time in their diaries to attend a committee meeting at only a few weeks' notice. It is certainly unlikely that a Stage 1 timetable will permit a committee to wait until written evidence has been received before deciding on oral witnesses (as is preferred practice with other inquiries).

11. There is a larger issue behind these practical considerations, which concerns what Stage 1 is for. On one view, Stage 1 of an Executive Bill has to be seen within the wider context of the overall process the Executive engages in to deliver its policy commitments. In most cases, this will involve the Executive undertaking at least one major consultation exercise of its own prior to introducing the Bill. The result is that most of the bodies and individuals that committees are likely to wish to hear from at Stage 1 should already be familiar with the main thrust of the Bill by the time it is introduced (and indeed already have contributed to its final shape).

12. On this view, the Stage 1 committee’s role is not to consult on an entirely new idea – and arguably therefore there is no need for the same timescale to be allowed as would be necessary in an inquiry initiated by the committee. It is also sometimes said that less time would be needed at Stage 1 if committees were more prepared to get involved at earlier stages – i.e. by undertaking “pre-legislative scrutiny” while the Executive is consulting. That would, it is argued, ensure that members were up to speed with the issues by the time of introduction, and also familiar with the main views of outside bodies. Stage 1 could then become more focussed on specific witnesses raising particular concerns (i.e. on points where the introduced Bill differs from earlier drafts or proposals), and hence require less time.

13. However, most committees appear to have taken a slightly different view of Stage 1, seeing it more as the first part of a Parliamentary process rather than an intermediate part of an Executive-driven process. On this view, a broad Stage 1 inquiry into the Bill remains worthwhile, notwithstanding prior Executive consultation. Even if it involves some witnesses largely repeating views they have expressed already to the Executive, this may be the first opportunity they have to respond to the Bill itself (rather than proposals) and to air their concerns in a high-profile public forum with members of all parties.

14. The apparent reluctance of committees to engage in pre-legislative scrutiny (which they have done only rarely) may partly be a function of lack of opportunity (i.e. because they are involved in other inquiries while the Executive is consulting). But some have also chosen not to do so, on the principle that getting involved at the policy development stage would compromise their ability to scrutinise the Bill itself later on from a suitably detached perspective. One reflection of this is the duty on Committees (Rule 9.6.3) to consider the Policy Memorandum – i.e. to satisfy themselves as to the adequacy of Executive consultation (for example,
whether the Executive has gone beyond the “usual suspects”) – which would be more difficult if they had played an active part in that process.

**Frequency of comment/criticism about timetables**

15. One possible indicator of whether the timetables that have been set for Stage 1 are adequate is the number of occasions on which committees have commented in Stage 1 reports on the timetable being tight and – in particular – commented critically about not having sufficient time to consider the Bill as a result.

16. This is not necessarily, of course, an entirely reliable guide to the level of satisfaction among committees about the timescales set. A committee that wants to deal with a Bill quickly in order to move on to other inquiries may be prepared to accept a tight timescale; and where it has accepted a tight timescale from the outset, it may be less inclined to complain about it in the report, even if scrutiny was curtailed. A committee may also be more inclined to accept a tight timescale if it is generally supportive of the Bill and of the need to legislate quickly, even though that timescale may cause difficulties for other MSPs or for external organisations with an interest in the scrutiny process.

17. The following table gives the details. It lists all 42 Session 1 Executive Bills for which a Stage 1 Report was published (i.e. excluding Emergency Bills and the Census (Amendment) (Scotland) Bill where the need for a Stage 1 Report was dispensed with by suspension of standing orders). It also lists the 8 Executive Bills that have completed Stage 1 so far this session and which have had Stage 1 Reports (i.e. excluding the Education (School Meals) (Scotland) Bill where, again, there was a suspension of standing orders).

18. Entries in the tables are grey-shaded where the Stage 1 Reports make reference to shortage of time, with those containing comments that appear to amount to a criticism of the timetable in dark grey. For Session 1, such comments were included in 16 of the 42 Stage 1 Reports (either in the main lead committee report, or in a secondary committee report, or both) – a total of 38% – of which perhaps 10 included direct criticisms (24%). It is notable that the frequency of such complaints declined over the course of the session. There have been no such comments in any of the Session 2 Stage 1 Reports so far.

19. The final column to the right of the table gives an indication of the amount of time taken by lead committees at Stage 1 of each Bill. This has been calculated as the number of days between referral of the Bill to the lead committee and the date of publication of the Stage 1 Report – but including only days when the office of the Clerk was open. Counting only days when the office of the Clerk is open ensures that the figures can be compared meaningfully, without the comparison being distorted by recesses. Since most “sitting weeks” consist of 5 days when the office of the Clerk is open, a Stage 1 duration of 20 days, for example, equals 4
sitting weeks – whether or not those weeks are consecutive or fall either side of a recess.
<table>
<thead>
<tr>
<th>No.</th>
<th>Bill</th>
<th>S1 Committees: Report comments on timescale? (L) = Lead committee; (S) = Secondary committee</th>
<th>Date of referral</th>
<th>Stage 1 report</th>
<th>Length of committee part of Stage 1 (days)</th>
</tr>
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<tbody>
<tr>
<td>2</td>
<td>Public Finance and Accountability (Scotland)</td>
<td>Audit (L): None</td>
<td>7.9.99</td>
<td>28.9.99</td>
<td>14</td>
</tr>
<tr>
<td>5</td>
<td>Adults with Incapacity (Scotland)</td>
<td>Justice &amp; Home Affairs (L): extremely tight timescale – committees need a certain amount of time to take evidence and consider a draft report at S1; pre-introduction consultation does not make the committee role at S1 any less required (para 11).</td>
<td>4.11.99</td>
<td>6.12.99</td>
<td>21</td>
</tr>
<tr>
<td>6</td>
<td>Standards in Scotland’s Schools etc.</td>
<td>Education, Culture &amp; Sport (L): None</td>
<td>19.1.00</td>
<td>15.3.00</td>
<td>40</td>
</tr>
<tr>
<td>9*</td>
<td>Ethical Standards in Public Life etc. (Scotland)</td>
<td>Local Government (L): “timescale agreed by the Bureau was relatively short” (para 4) – but committee had already scrutinised the draft Bill and so did not need so much time at Stage 1.</td>
<td>14.3.00</td>
<td>19.4.00</td>
<td>23</td>
</tr>
<tr>
<td>12</td>
<td>National Parks (Scotland)</td>
<td>Rural Affairs (L): very strong dissatisfaction with the timing for S1 as was unable to consider the secondary committee report in time (para 4). Transport &amp; the Environment (S): as above (para 21).</td>
<td>30.3.00</td>
<td>22.5.00</td>
<td>25</td>
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<td>14</td>
<td>Education and Training (Scotland)</td>
<td>Enterprise &amp; Lifelong Learning (L): None</td>
<td>9.5.00</td>
<td>22.5.00</td>
<td>9</td>
</tr>
<tr>
<td>16</td>
<td>Regulation of Investigatory Powers (Scotland)</td>
<td>Justice &amp; Home Affairs (L): unable to consider the Sub Leg report in time for S1 (para 14); criticised the Exec for the delay in receiving the full draft Bill (paras 10-13). NB: initial Stage 1 scrutiny was on a draft of the Bill (because of pressure of time)</td>
<td>25.5.00</td>
<td>12.6.00</td>
<td>10</td>
</tr>
<tr>
<td>17</td>
<td>Bail, Judicial Appointments etc. (Scotland)</td>
<td>Justice &amp; Home Affairs (L): tight timescale meant that it was unable to consider the Sub Leg report in time for S1 (para 2 and 8); critical of Exec for not introducing the Bill early enough (paras 4-7). NB: initial Stage 1 scrutiny was on a draft of the Bill (because of pressure of time)</td>
<td>22.5.00</td>
<td>16.6.00</td>
<td>17</td>
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<td>No.</td>
<td>Bill</td>
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| 18  | Transport (Scotland)                                                | Transport & the Environment (L): insufficient time for witnesses to give views at S1 (para 6).  
Local Government (S): concern over timescales (para 3).  
Equal Opportunities (S): concern over timescales (para 4).  
Social Inclusion, Housing & the Voluntary Sector (S): unable to take evidence nor to be able to input to the lead committee in any detail due to time pressures (paras 2-4). | 8.6.00          | 11.9.00        | 27                                                       |
| 20  | Salmon Conservation (Scotland)                                      | Rural Affairs (L): None                                                                                                                                   | 3.10.00         | 20.11.00       | 24                                                       |
| 21* | Education (Graduate Endowment and Student Support) (Scotland) (No.2) | Enterprise & Lifelong Learning (L): None  
NB: special circumstances (withdrawal of the original Bill and introduction of a replacement Bill mid-way through Stage 1) meant that the original timescale could not be met. | 24.10.00        | 25.1.01        | 54                                                       |
| 23  | Housing (Scotland)                                                  | Social Justice (L): None                                                                                                                                   | 11.1.01         | 9.3.01         | 36                                                       |
| 24  | Regulation of Care (Scotland)                                       | Equal Opportunities (S): tight timescale hindered the range of views that it was able to obtain (para 5).                                                                                   | 17.1.01         | 2.3.01         | 27                                                       |
| 25  | Convention Rights (Compliance) (Scotland)                           | Justice 1 (L): None  
NB: criticism of delays in introduction of the Bill (para 124) but no specific complaints about lack of time for Stage 1.                                                                 | 17.1.01         | 14.3.01        | 35                                                       |
| 27  | International Criminal Court (Scotland)                             | Justice 2 (L): timescale was too tight as the committee felt it had to take evidence prior to the Bill being formally referred so as to meet the deadline for the S1 report.  
The committee needed more time to assimilate evidence and to focus its questioning on the Minister (para 6).  
NB: special circumstances – timetable largely dictated by timetable for separate Westminster Bill. | 25.4.01         | 6.6.01         | 27                                                       |
<p>| 28  | Scottish Local Authorities (Tendering)                              | Local Government (L): None                                                                                                                                   | 25.4.01         | 14.5.01        | 12                                                       |
| 29  | Police and Fire Services (Finance) (Scotland)                       | Local Government (L): None                                                                                                                                   | 6.6.01          | 21.9.01        | 32                                                       |
| 31  | Sexual Offences (Procedure and Evidence) (Scotland)                 | Justice 2 (L): The Committee had to request – and was granted – an extension of time to allow an additional evidence session to be held (para 6).                                           | 6.9.01          | 14.11.01       | 39                                                       |</p>
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<tr>
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<td>34</td>
<td>Community Care and Health (Scotland)</td>
<td>Health &amp; Community Care (L): None</td>
<td>27.9.01</td>
<td>22.11.01</td>
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<td>35</td>
<td>Water Industry (Scotland)</td>
<td>Transport &amp; the Environment (L): None</td>
<td>2.10.01</td>
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<td>36</td>
<td>Freedom of Information (Scotland)</td>
<td>Justice 1 (L): None</td>
<td>25.10.01</td>
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<td>37</td>
<td>School Education (Amendment) (Scotland)</td>
<td>Education, Culture &amp; Sport (L): None</td>
<td>2.10.01</td>
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<tr>
<td>38</td>
<td>Scottish Local Government (Elections)</td>
<td>Local Government (L): due to tight timescale, Convener of Equal Opportunities (S) expressed views of committee in a letter to lead committee Convener rather than as a report.</td>
<td>9.10.01</td>
<td>9.11.01</td>
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<td>39</td>
<td>Fur Farming (Prohibition) (Scotland)</td>
<td>Rural Development (L): None</td>
<td>25.10.01</td>
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<td>41</td>
<td>Marriage (Scotland)</td>
<td>Local Government (L): due to tight timescale, Convener of Equal Opportunities (S) expressed views of committee in a letter rather than as a report.</td>
<td>22.11.01</td>
<td>21.12.01</td>
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<td>43</td>
<td>Scottish Public Services Ombudsman</td>
<td>Local Government (L): None</td>
<td>29.11.01</td>
<td>25.1.02</td>
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<td>44</td>
<td>Land Reform (Scotland)</td>
<td>Justice 2 (L): requested – and was granted – an extension for S1 in order to allow an additional evidence session to be held (para 13). Rural Development; Education, Culture &amp; Sport; Local Government; Equal Opportunities; and Sub Leg (S): None.</td>
<td>6.12.01</td>
<td>15.3.02</td>
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<td>45</td>
<td>Education (Disability Strategies and Pupils’ Educational Records) (Scotland)</td>
<td>Education, Culture &amp; Sport (L): None. NB: Equal Opportunities (S) was critical of short duration of Executive consultation exercise (para 5).</td>
<td>20.12.01</td>
<td>18.2.02</td>
<td>32</td>
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<td>47</td>
<td>Scottish Qualifications Authority</td>
<td>Education, Culture &amp; Sport (L): None</td>
<td>7.2.02</td>
<td>13.3.02</td>
<td>19</td>
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<tr>
<td>50</td>
<td>Criminal Justice (Scotland)</td>
<td>Justice 2 (L): reference to “the challenges of examining a bill of this size within the timescale given” (para 19); that pressure of time did not allow the committee to take evidence on proposed Executive Stage 2 amendments (para 24); and that it would “seek to ensure that significant time is available</td>
<td>28.3.02</td>
<td>13.9.02</td>
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<td></td>
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<td>for Stage 2 to ensure adequate scrutiny of this substantial Bill.&quot; (para 208).</td>
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<td>52</td>
<td>Debt Arrangement and Attachment (Scotland)</td>
<td>Social Justice (L): None</td>
<td>9.5.02</td>
<td>10.9.02</td>
<td>40</td>
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<td>53</td>
<td>Local Government in Scotland</td>
<td>Local Government (L): None</td>
<td>30.5.02</td>
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<td>54</td>
<td>Title Conditions (Scotland)</td>
<td>Justice 1 (L): None</td>
<td>13.6.02</td>
<td>12.11.02</td>
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<td>56</td>
<td>Public Appointments and Public Bodies etc. (Scotland)</td>
<td>Local Government (L): None</td>
<td>27.6.02</td>
<td>4.10.02</td>
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<td>57*</td>
<td>Water Environment and Water Services (Scotland)</td>
<td>Transport &amp; the Environment (L): None</td>
<td>25.6.02</td>
<td>17.10.02</td>
<td>29/37</td>
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<tr>
<td>61</td>
<td>Protection of Children (Scotland)</td>
<td>Justice 1 (S): tight timescale meant the committee was unable to take oral evidence.</td>
<td>12.9.02</td>
<td>15.11.02</td>
<td>36</td>
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<tr>
<td></td>
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<td>&quot;The committee believes that the timescales set for the scrutiny of legislation are generally too short and that this impacts on the ability of secondary committees to carry out proper scrutiny&quot; (para 1).</td>
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<tr>
<td>62</td>
<td>Agricultural Holdings (Scotland)</td>
<td>Rural Development (L): None</td>
<td>17.9.02</td>
<td>6.12.02</td>
<td>47</td>
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<tr>
<td>63</td>
<td>Homelessness etc. (Scotland)</td>
<td>Social Justice (L): None</td>
<td>19.9.02</td>
<td>12.12.02</td>
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<td>64</td>
<td>Mental Health (Care and Treatment) (Scotland)</td>
<td>Health &amp; Community Care (L): None</td>
<td>19.9.02</td>
<td>4.12.02</td>
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<td>65</td>
<td>Building (Scotland)</td>
<td>Transport &amp; the Environment (L): None</td>
<td>24.9.02</td>
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<tr>
<td>70*</td>
<td>Salmon and Freshwater Fisheries (Consolidation) (Scotland) Bill</td>
<td>Consolidation Committee (L): &quot;that due to the timing of the introduction of the Bill, the committee has had limited time to conduct S1 scrutiny&quot; (para 7). NB: Consolidation Bills are subject to a different sort of technical scrutiny at Stage 1.</td>
<td>3.12.02*</td>
<td>3.2.03</td>
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## Session 2

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<tr>
<td>4</td>
<td>Primary Medical Services (Scotland)</td>
<td>Health (L): None</td>
<td>24.6.03</td>
<td>6.10.03</td>
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<td>5</td>
<td>Vulnerable Witnesses (Scotland)</td>
<td>Justice 2 (L): None</td>
<td>24.6.03</td>
<td>13.11.03</td>
<td>47</td>
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<td>6*</td>
<td>National Health Service Reform (Scotland)</td>
<td>Health (L): None</td>
<td>26.8.03</td>
<td>6.2.04</td>
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<td>9</td>
<td>Nature Conservation (Scotland)</td>
<td>Environment &amp; Rural Development (L): None</td>
<td>30.9.03</td>
<td>16.12.03</td>
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<td>10*</td>
<td>Criminal Procedure (Amendment) (Scotland)</td>
<td>Justice 1 (L): None</td>
<td>28.10.03</td>
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<td>11</td>
<td>Education (Additional Support for Learning) (Scotland)</td>
<td>Education (L): None</td>
<td>4.11.03</td>
<td>23.1.04</td>
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<tr>
<td>12</td>
<td>Antisocial Behaviour etc. (Scotland)</td>
<td>Communities (L): None</td>
<td>4.11.03</td>
<td>5.3.04</td>
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<td>14</td>
<td>Local Governance (Scotland)</td>
<td>Local Government &amp; Transport (L): None</td>
<td>25.11.03</td>
<td>19.3.04</td>
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**Notes:**

Bill 9 (Session 1) – the Stage 1 Report was published whilst the Parliament was in recess.

Bill 21 (Session 1) – as this Bill superseded the original Bill of the same name, the date of referral is the date on which the original Bill was referred to the committee.

Bill 57 (Session 1) – the Stage 1 Report was published whilst the Parliament was in recess.

Bill 70 (Session 1) – the referral date is the date on which the Bureau agreed to recommend that a Consolidation Committee be established to consider the Bill.
Bill 6 (Session 2) – the Stage 1 Report was published whilst the Parliament was in recess.

Bill 10 (Session 2) – the Bureau referred the Bill to the appropriate committees whilst the Parliament was in recess.
Introduction

At the last meeting, the Committee agreed to consider whether raising the initial threshold that a Member’s Bill has to cross, together with a review of the criteria that apply (currently only to those proposals seeking NEBU support) might be sufficient to address the problem that has been identified in terms of NEBU resources. This approach, in other words, is a potential alternative to a system of prioritisation as such. (See the separate short note for clarification of the terminology.) This note sets out a possible solution. The main elements of it are:

- to build 2 of the 3 existing NEBU criteria (consultation and likelihood of Executive legislation) into the formal procedure – so they apply to all Members’ Bill proposals (including those not expected to follow the NEBU route);
- to ensure consultation responses are available to members considering supporting the proposal;
- to raise the initial threshold and build in a requirement for cross-party support;
- to alert the prospective lead committee at an early stage; and
- to protect committees from having to conduct full-scale Stage 1 inquiries on Members’ Bills that have not been adequately prepared or have no reasonable prospect of making progress.

A number of variations to the above are then set out for consideration. Options for the actual threshold are then set out. Finally, some explanation is given of how the existing NEBU criteria have been incorporated into the possible solution.
Possible solution in detail

This is a revised procedure for introducing a Member’s Bill. The formal parts of the procedure (i.e. those expected to be set out in Rules) are shown in **bold**. Some of these are unchanged from current Rules. Other parts of the process are outlined in normal type.

1. **The Member lodges a short “initial proposal”**, which is printed in the Bulletin. The Bulletin entry would have to indicate that the initial proposal is open to consultation for a specified period (which must be at least 12 weeks), and indicate how consultation material can be obtained.

   The consultation material could be posted on the SP website (accessible from the Bills page). NEBU would assist all members with the consultation exercise – and would apply basic common standards (e.g. ensuring a question was asked about whether legislation was necessary to secure the policy objective). There would be no opportunity for other MSPs to indicate support for an initial proposal at this stage.

2. **The Bureau is required to identify, for each initial proposal lodged, the “prospective lead committee”** and alert it to the fact the proposal has been lodged. This is to ensure that the committee has formal advance notice of something that might impact on its workload in due course.

3. **After the consultation period is closed, the member lodges a “final proposal”** – which is printed in the Bulletin together with an indication of where the consultation responses are published. The final proposal may differ from the initial proposal – e.g. an element of the initial proposal not supported by consultees might be dropped. Public access to the consultation responses is a formal requirement – so everyone can see the responses made and arguments for and against.

4. **The member must send a copy of the final proposal and the consultation responses to the prospective lead committee.** The prospective lead committee would have an opportunity to comment at this stage if it wished – for example, to discourage a member who hadn’t consulted adequately from proceeding further without doing so.

5. **The final proposal would be printed in the Bulletin for up to a month and other MSPs would be able to indicate support during that time.** The threshold of support would be higher than at present and involve some cross-party element.

   The member would obtain the right to introduce a Bill to give effect to the proposal as soon as the threshold is crossed (as at present) – there would be no need to wait out the whole month.

6. **The member would not secure a right to introduce a Bill if the Executive makes a formal commitment (within one month) to introduce an Executive Bill to give effect to the proposal during the same session.**
This Rule would be drafted to make clear that the Executive could indicate at any point within the month that it was not going to make the relevant commitment – in which case the member would immediately have a right to introduce the Bill.

7. **The right to introduce would apply only until 6 months before the end of the session.**

8. Having crossed the threshold, the Member would have the choice of going to NEBU for drafting support or going outside. NEBU would be expected to provide support to any member asking for it at this stage, unless it believed that:

   - it was not possible to draft a Bill that would be within legislative competence, or
   - it would not be possible to have a Bill ready for introduction more than 6 months before end of session.

As at present, NEBU could go to the SPCB for a final decision if its application of either of the above judgements was disputed by the member. This is to protect NEBU resources from being used on drafting Bills that have no prospect of enactment in the current session.

9. **All Members’ Bills would have to be accompanied on introduction by Explanatory Notes and a Policy Memorandum.** This should be no extra work for NEBU as they assist members with producing such documents in any event (they are currently optional for non-Executive Bills).

10. On introduction, the Bureau refers the Bill to a lead committee to consider and report on the general principles of the Bill (as at present). The Bureau would not be required to refer the Bill to the same committee it has previously identified as the “prospective lead committee” – though it would no doubt do so in the large majority of cases. This preserves the Bureau’s flexibility to choose among relevant committees according to e.g. their respective workloads at the time of introduction.

11. **At Stage 1, the lead committee may recommend (to the Parliament) rejection of the Bill (without first conducting a full-scale inquiry on the general principles) if:**

   - the consultation responses did not demonstrate a need for legislation or a balance of arguments in favour of the policy; or
   - the PO’s statement on legislative competence indicated a basic problem of legislative competence.

At present, committees have quite a lot of discretion as to what sort of Stage 1 inquiry they undertake. But this would make more clear that committees need not conduct a full-scale Stage 1 inquiry on a Bill if they think it has a fundamental flaw. They would not be entitled to recommend rejection of the Bill just because a numerical majority of consultation responses were negative or because the PO had indicated a superficial problem of legislative competence (i.e. one that could be corrected by amendment). They would still have to prepare a Stage 1 Report, and the final decision whether to reject the Bill would still be taken by the
Parliament as a whole. The Parliament would also have the option of referring the Bill back to the Committee to conduct a more complete inquiry.

12. The Bureau would have the right to timetable the Stages of the Bill (as at present). It could exercise this discretion so as to make clear to the lead committee whether a particular Bill needs to be considered as a priority, or whether it can be fitted in after existing work commitments.
Options for variation

Option A: limit to number of proposals at one time

This option would add a further restriction at step 1 of the above process – specifying that any MSP may have only one proposal “live” at any one time. This would mean that from the point a member lodges an initial proposal until the end of the period when the final proposal is printed in the Bulletin, that member would not be entitled to lodge a further proposal.

Option B: limit on number of proposals per member

In addition, there could be a limit – of perhaps 2, 3 or 4 – on the total number of proposals each MSP may lodge during a session. Together with the extra steps a proposal is required to go through, this should help to discourage members from lodging proposals simply as a way of gaining publicity for an issue with no serious intention to legislate. It would help to limit the number of consultation exercises to which NEBU would have to devote resources – and also protect consultees from wasting time on commenting on proposals that the member is never likely to pursue.

Option C: opt-out where consultation is not considered necessary.

Rather than making a full consultation mandatory in every case, this would provide an opt-out in cases where the member believes further consultation is unnecessary (e.g. because consultation has already been undertaken by others). However, the danger might be that any such opt-out could be exploited by a member who simply doesn’t want to consult. At the very least, it would be necessary to require the member exercising the opt-out to give reasons for doing so and citing relevant material (e.g. existing consultation responses). A decision might be needed on whether the opt out was justified in the circumstances – this could be taken by the prospective lead committee (at step 4 of the above process).

Option D: apply a formal test of need for legislation

This would involve the prospective lead committee having a formal opportunity to consider whether a need to legislate at all had been established by the member (taking into account consultation responses). If it did not feel this had been established, it could refer the issue to the Parliament for a decision – and if the Parliament agreed with the Committee, the member would not have a right to introduce the Bill. In other words a decision of the Parliament that a need to legislate had not been established would block the right to introduce in the same way that the Executive’s commitment to legislate would do at step 6.

Option E: dispense with formal identification of prospective lead committee

This option would only be appropriate if Option D was rejected. It would remove steps 2 and 4 of the process altogether. Instead, committees would be forewarned of possible forthcoming Bills by informal methods – e.g. by NEBU officials alerting committee clerks, who would then inform their conveners.
Options for the threshold

1. There has been general agreement that some raising of the threshold is needed – from its current level of 11 supporters with no stipulation of the party balance this involves. The threshold can be raised in two main ways:

   - by increasing the total number of supporters needed;
   - by increasing the number of Bureau-parties that need to be represented.

2. A summary of options is set out below for Members to consider. Some of these options have already been raised during the course of the Committee’s discussions while others are new.

Option 1

3. At the Committee meeting on 16 March, Karen Gillon suggested a threshold of 25 supporters drawn from at least 3 Bureau parties.

4. The increase in number from 11 to 25 may not present too much of a difficulty for the larger parties within the Parliament, but would present significant difficulties for the smaller parties – who would become reliant on gaining a significant level of support from one of the larger parties. A fixed requirement to have support from 3 parties represented on the Bureau is a further significant obstacle, particularly in a situation (such as throughout Session 1) when there were only 4 parties in total in the Bureau. This would mean, for example, that a backbencher from an Executive party in Session 1 who was backed by members of the other Executive party but not by the opposition parties would not be able to introduce a Bill even if the proposal was backed by Ministers. This would in effect rule out all but the most uncontroversial proposals from getting off the starting-blocks.

5. It is worth noting that, out of the eight proposals introduced as Members’ Bills and then enacted during Session 1, only 3 had 25 or more supporters. While it can be argued that, had the threshold been higher, Members would simply have secured the necessary number of signatories, this cannot be taken for granted.

Option 2

6. Paper PR/S2/04/5/3 proposed that the procedural threshold, rather than being a simple fixed limit, should give the member seeking to introduce a Bill different ways of crossing the threshold - i.e. the “matrix solution”. Members would either be able to get more cross-party support but fewer supporters overall, or a larger number of supporters from fewer parties. The idea is that either approach shows a reasonable degree of support, but there is flexibility to meet the different needs of different parties and different types of Bill.

7. The proposal originally put forward included three alternatives of 11, 18 and 25 supporters depending on the level of cross-party support (3, 2 or 1 parties). This could be simplified however to a requirement of either:
(a) **15 supporters**, including at least 1 supporter from each of 3 political parties or groups represented in the Bureau; or

(b) **20 supporters**, including at least 1 supporter from each of 2 political parties or groups represented in the Bureau.

8. This would represent a significant increase on the existing threshold, although not as high a barrier as under option 1. This solution would also provide a degree of flexibility, and so would be more likely to continue to offer an appropriate threshold in future sessions (i.e. with a different balance of numbers among the parties, and a different number of parties represented in the Bureau).

**Option 3**

9. In options 1 and 2 above, specific figures have been proposed in relation to the minimum number of supporters required and the number of Bureau parties from which the supporters must be drawn. However – as already noted – the number of parties represented on the Bureau may change in a new session or even during sessions. For example, should the number of such parties drop from its current 6 to 5, then the requirement to secure 15 supporters from 3 parties represented on the Bureau would become more difficult. In the event that the number of parties on the Bureau drops to 4 then the requirement to secure 15 supporters from 3 Bureau parties arguably becomes unreasonable (as noted above). Equally, should the number of parties represented on the Bureau increase, then the proposed thresholds would become easier to meet.

10. One way of tackling this would be to fix the number of supporters required but to express the number of Bureau parties from which these must be drawn as a proportion of the total number of parties represented on the Bureau at the time the proposal is lodged. This might only be necessary where the level of cross-party support was to involve more than two parties in certain circumstances.

11. For example, option 2 could become:

(a) 15 supporters, including at least 1 supporter from **at least half** of the political parties or groups represented in the Bureau; or

(b) 20 supporters, including at least 1 supporter from at least 2 of the political parties or groups represented in the Bureau.

12. That would mean that, in the current 6-party Bureau, supporters of at least 3 parties would be needed if there were only 15 to 19 supporters in total. If there was a change to a 5-party Bureau, the threshold would not change (since “at least half” of 5 would still be 3) – but in a 4-party Bureau a proposal could succeed with only 15 supporters from 2 Bureau-parties. (In that situation, para (b) above would cease to be an alternative to (a).)

13. This solution would, in effect, be another way of “future proofing” the threshold so that it could be applied regardless of any likely change to the Bureau both within a session and after subsequent Scottish Parliament elections. The disadvantage
would be a perception that the goalposts were being moved if there was a change in the number of Bureau-parties mid-way through a session.
Building in the NEBU criteria

1. A key issue in developing the possible solution has been the extent to which the informal criteria, agreed by the SPCB to decide whether a proposal qualifies for NEBU support, can be translated into formal procedural requirements – i.e. to become part of the threshold that all Members’ Bills must cross.

2. Leaving aside the general priority given to Committee Bills and the recognition that all MSPs should receive NEBU support to prepare and lodge the proposal itself, there are three main NEBU criteria at present. These are considered in turn below.

NEBU criterion 1: proposals should “appear to be broadly within the legislative competence of the Parliament”

3. The main difficulty here is that legislative competence is often difficult to assess with any certainty at the proposal stage – a lot will depend on how the proposal is translated into legislative detail. Even with a drafted Bill, assessing legislative competence is not an exact science and inevitably involves some judgement. The Presiding Officer’s statement, made on introduction, is a statement of his opinion – it is not meant to be, and cannot be, a definitive statement of fact.

4. The word “broadly” is important in the informal NEBU criterion, as it distinguishes proposals that are fundamentally outside legislative competence and those that may stray over the line only in a peripheral respect. A Bill to give effect to a proposal of the latter sort, even if outside competence when introduced, could probably be amended to be within competence by the time it is passed (subject to the Rules on admissibility of amendments). It is no doubt partly for this reason that the Scotland Act provides for non-Executive Bills to be introduced even if the Presiding Officer considers them to be outside legislative competence. But a Bill to give effect to a proposal that is fundamentally outside competence is not going to be capable of being passed in a form that can become law. (That is, it would be subject to challenge under section 33 of the Act, which gives UK Law Officers the right to prevent a Bill passed by the Parliament, which they regard as being outside legislative competence, being submitted for Royal Assent).

5. Although the actual statement made by the Presiding Officer is very brief and formulaic, each statement represents a considerable investment of time and work by the PO himself and by his legal advisers. It would not be reasonable to expect the PO to assess every proposal lodged in such a way – and, since he would continue to have to make a statement for every Bill on introduction, it is not clear how a preliminary assessment by anyone else would carry any weight. It would also be difficult to establish a formal procedural test of legislative competence at the proposal stage without this being seen to pre-empt the view the PO takes at the time of introduction.

6. For these reasons, it is suggested that this remains a criterion that NEBU applies informally, in deciding whether to support the development and drafting of a proposal. This would leave open the possibility of a proposal crossing the procedural threshold but then being judged by NEBU to fail this criterion. In that event, the member would have the option of seeking non-NEBU drafting support.
NEBU criterion 2: “external consultation with all interest groups and affected bodies should have been undertaken in relation to the proposal or by others in a similar area”

7. The possible solution outlined above involves making a consultation process mandatory for all Member’s Bill proposals – although one of the options is to allow this to be waived in specified circumstances.

8. The difficulty is in striking a balance between a fixed procedural requirement that is meaningful and one that allows enough flexibility to allow for the wide range of circumstances. The level of consultation that is appropriate will depend on the nature of the proposal – arguably, some proposals will not need to be consulted on at all (e.g. if there has already been a public debate on the issue, with the views of stakeholders in the public domain).

9. Consultation is also only a meaningful exercise if properly conducted – i.e. if it is distributed widely to all relevant interests, if a reasonable timescale for responses is set, and if the document provides a clear, well-researched explanation of the proposal. A procedural Rule alone cannot guarantee that consultation meets these requirements. NEBU already assists members with consultation exercises. This involves a certain amount of their time and resources, but this is minor compared with the later policy development work.

10. It is suggested that building consultation into the formal process would be much more meaningful if it came before other MSPs have the opportunity to support the proposal. This should help to ensure that prospective supporters can take a more informed decision. If consultation is not embarked upon until after a proposal already has the number of supporters needed to clear the procedural threshold, there is a danger it would just become a token exercise, gone through to “tick the box” without any incentive to adjust the proposal in the light of consultees’ comments.

11. Another suggestion is to make it mandatory for a Member’s Bill to be accompanied by a Policy Memorandum. (This is currently optional – Rule 9.3.3A.) A Policy Memorandum is required to state what, if any, consultation has been undertaken. In practice, NEBU has prepared Policy Memorandums (and Explanatory Notes) for almost all Bills they have supported, so this should not increase the burden on the Unit. But most Members’ Bills prepared without NEBU support have not been accompanied by Policy Memorandums. If these documents are useful to committees, there is a good argument for ensuring they are provided in every case.

NEBU criterion 3: “no likelihood of legislative action in the reasonable future either in the Scottish Parliament or at Westminster in the same area of law”

12. This criterion is intended to protect NEBU’s limited resources from being spent where there is expected to be other legislation on the same subject-matter anyway.

13. However, it would need to be tightened up in a number of respects in order to make it applicable as a procedural criterion. For one thing, both “likelihood” and
“in the reasonable future” are undefined; it is also uncertain what would qualify as being “the same area of law”.

14. Another factor is what should qualify to prevent a Member’s Bill being introduced. The first is whether prospective Westminster legislation should qualify. This is likely to be a peripheral consideration, given that Westminster should not generally legislate on devolved matters (or at least not on matters that are so clearly devolved as to be suitable for a Member’s Bill). In addition, a Westminster Bill – unlike an Executive Bill – does not offer the member an alternative way of seeking a change in the law, since MSPs cannot lodge amendments to Westminster Bills.

15. The second factor is whether it would be sufficient for there to be another Bill forthcoming that covers the same subject-matter – or whether it has to be a Bill to achieve the same policy intention. An Executive Bill that is simply on the same subject-matter, and which may provide the member with an opportunity to lodge an amendment, is not a substitute for an Executive Bill that is drafted to achieve the same result the member is seeking in his or her proposal. It is therefore not clear that this would be a reasonable basis for blocking the Member’s Bill altogether.

16. For these reasons, it is suggested that the procedural mechanism is more closely based on the existing mechanism that applies to Committee Bills (under Rule 9.15.7). This gives the Executive a formal opportunity to prevent a Committee Bill being introduced by making a written commitment (within 5 sitting days) to introduce an Executive Bill to give effect to the Committee’s proposal. This commitment is then published by the Clerk. The principle is that the Rules should not prevent a non-Executive Bill from being introduced unless the alternative is a clear, public commitment that there will be an Executive Bill instead to deliver the same overall objective within the same Parliamentary session.

17. The only variation from the Committee Bill Rule suggested for Members’ Bills is to allow the Executive a longer period – perhaps a month – to exercise the right to block introduction. This is on the basis that a Member’s Bill proposal contains much less detail than a Committee Bill proposal and will not (at the time the Executive’s right is exercisable) have been subject to any committee or Parliamentary consideration. As a result, the Executive may need longer to consider whether to make a commitment to legislate. However, there is no reason why the full month would be needed in most cases; if the Executive is able to say within a few days that it has no intention of blocking the proposal, the member would be free to introduce the Member’s Bill without further delay.
NON-EXECUTIVE BILLS

Non-Executive Bills

695. One of the key provisions for power-sharing in the Scottish Parliament is the provision for committees to generate their own Bills. These could originate from Members’ proposals, petitions, suggestions from other governance partners, or from the committees’ own reports. The significance of committee bills is that they are a means whereby the Parliament, and its partners, can take the initiative, and share the agenda which, at Westminster, lay almost entirely within the control of the Government.

696. There are relatively few European countries where legislation empowers committees of their parliaments to initiate legislation. In published work, Kaare Strøm identified only the Austrian, Icelandic and Swedish Parliaments in which all committees have the power to initiate legislation.¹

697. A Non-Executive Bills Unit was set up in August 2000. The Unit's responsibility in respect of Members' Bills and Committee Bills is:

- to support Members in formulating, developing and lodging proposals for Bills
- to assist committees and Members in formulating their policy objectives
- to support committees and Members in the drafting of a Bill, and taking it through the procedural stages
- to assist committee clerks with the preparation and collation of all necessary papers and documents required for committee scrutiny in relation to non-Executive Bills, which the unit is supporting.

698. As noted earlier, there was considerable disappointment amongst those who wrote to us that committees had not been initiating more legislation. To date, the only committee sponsored Bills which have passed into law are the Protection from Abuse (Scotland) Act 2001 (asp 14) and the Scottish Parliamentary Standards Commissioner Act 2002 (asp 16).²

² We are not dealing here with Members' Bills, but it is a matter of record that at 17 December 2002 the following Members Bills have passed into law to date: Sea Fisheries (Shellfish) Amendment
699. The origin of legislation within the Parliament may appear to be of less importance than that legislation is well-founded, i.e. that it works well and fulfils a palpable requirement; and that its provisions have been the subject of rigorous scrutiny and wide participation inside and outside the Parliament.

700. **We consider however that the origin of legislation does matter. That committees and members have a realistic opportunity to promote legislation appears to be one of the key characteristics of power-sharing in devolved Scottish politics.**

701. The benefit to the legislative process as a whole is that the potential source of proposals within the Parliament has been widened realistically beyond the Scottish Executive. Widening these sources makes it likely that opportunities for people outside the Parliament to interest Members in new legislative proposals increases. It is a matter of considerable importance therefore that this relatively rare procedure amongst European parliaments works well.

702. The Parliament’s overall responsibilities in this area are clear: firstly, to ensure that sufficient resources are available to enable this aspect of participative politics and power-sharing to figure as a regular feature of Parliamentary life; and, secondly, for committees and members to promote worthy legislative ideas when these present themselves.

703. We noted in the introductory section of this Report that the current balance of Executive to non-Executive legislation is weighted very heavily in favour of the former. We were concerned that this imbalance may have reflected the availability of staff to the NEBU, but we understand that there has been an increase in the availability of contract draftsmen, and that staffing shortfalls are no longer a material cause for concern.

704. The principal constraint is not a shortage of resources, but the pressure on committee and plenary time, and we are aware that the selection criteria for NEBU to prepare Bills from Members’ proposals are therefore being discussed currently by the SPCB and the Bureau. We would encourage wide consultation on these criteria, which we would hope could be agreed by the beginning of the new Parliament.

705. **We are aware that the SPCB has increased the level of resources allocated to the NEBU, and that the competing claims on resources for non-Executive Bills, for staff time in the preparation stage and then for committee and plenary time, are likely to present even greater problems in the next Parliament. We consider that the demand for and supply of resources should be kept in balance, to ensure that non-Executive Bills are not impeded by lack of resources, and we expect the SPCB to keep the levels of resources available to the NEBU under constant review.**

(Scotland) Act 2000 (asp 12) - Tavish Scott MSP; Abolition of Poindings and Warrant Sales Act 2001 (asp 1) - Tommy Sheridan MSP; Leasehold Casualties (Scotland) Act 2001 (asp 5) - Adam Ingram MSP; Mortgage Rights (Scotland) Act 2001 (asp 11) - Cathie Craigie MSP; Protection of Wild Mammals (Scotland) Act 2002 (asp 6) - Mike Watson MSP; University of St Andrews (Postgraduate Medical Degrees) Act 2002 (asp 15) - Iain Smith MSP. At 17 December 2002 NEBU was working on 2 introduced private Bills; 2 potential private Bills; 3 introduced Members’ Bills; 3 further lodged Members’ Bills; 4 potential Members’ Bills; 1 introduced Committee Bill; and 1 Committee Bill.
706. The Executive has facilitated committees’ and Members’ Bills on a number of occasions. A current example of this is the Executive’s detailed support for Keith Harding’s Dog Fouling (Scotland) Bill. We applaud support in this way for Members’ and Committees’ Bills, and we recommend that the Executive considers issuing guidance to members about the circumstances in which it might offer such support, the nature of support, and the mechanisms open to Members to open up discussions with the Executive about obtaining such support. {Recommendation 85}

707. Without these conditions being met fully and generously this method of initiating legislation is unlikely to develop in the way envisaged by the CSG from the present modest scale.

708. Two further matters may be relevant. Firstly, Rule 9.15.7 allows the Executive, if it wishes, to pre-empt the proposals for a committee Bill by indicating that "... an Executive Bill will be introduced to give effect to the [committee’s] proposal."

709. It is not clear why the initiative for a proposal should be taken away from a committee in this way. There may of course be practical reasons: for example the resources available to the Executive might allow a more technically sound draft Bill to be published speedily. On the other hand, Executive resources could be brought into play in such circumstances without varying the Bill’s ownership.

710. We consider it unlikely that this provision has been introduced for resource-related reasons, and we suggest that the reasons for it should be considered carefully in the proposed review of legislation procedures.

711. Secondly, Rule 9.14.2 permits Members to introduce, ".... no more than 2 Members’ Bills in the same session."

712. We consider this to be a somewhat arbitrary constraint on this particular legislative route. We acknowledge that, if the number of Bills a member was able to introduce were to be raised, there would be pressure on all kinds of resources, particularly draftsmanship, and committee and plenary time. However, we do suggest that this Rule should be considered carefully in the proposed review of legislative procedures.

713. The CSG did not of course envisage that committees, or members, would initiate the bulk of legislation in the Parliament. Nor is reversing that position realistic, or necessarily desirable. We do envisage the proportion of non-Executive Bills increasing in the future however, and we think it is vital that the process is encouraged by the allocation of sufficient resources, including the allocation of committee and plenary time.

714. Given this background, and that the Parliament is in its first session, we do not believe that the small number of Committee Bills passed to date is a

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3 As, for example, when the First Minister offered to work with members to deal with the "issues that plague their [the public's] lives". The First Minister noted that draft bills on litter and dog fouling were in circulation. SPOR, cols 12389-12390.

4 The Swedish Rikstag offers an example of a government driven programme of manifesto Bills being in more equal balance with the freedom of backbenchers to initiate proposals for examination by committees, and which will be subject to wide consultation prior to the government circulating draft Bills based on those proposals, than is presently the case here. See, Gordon Smith, Politics in Western Europe: A Comparative Analysis, 5th ed., Dartmouth, 1993, pages 206-207. (ISBN 1855211785).

5 CSG Report, paragraph 5, page 65.
cause for concern, but we do think that it would be reasonable to expect the numbers of Committee Bills and Members’ Bills to rise in future years.
PROCEDURES COMMITTEE

Non-Executive Bills: terminology

Note by the Clerk

1. It may aid discussion on this topic to clarify some of the terminology used. In particular, there is a clear distinction to be drawn between:

- **a procedural threshold** – the existing requirement to obtain 11 supporters to a proposal is an example of a procedural threshold. It is an either/or issue – a proposal either crosses the threshold or it does not. A procedural threshold should be as objective as possible – so it is a matter of fact rather than judgement whether it has been crossed.

- **a process of prioritisation** – this is a different concept in a very basic sense, in that it is inherently comparative. Proposals are assessed against each other in order to determine their relative priority – whereas the issue of whether a proposal crosses a threshold is decided by reference to that proposal alone, in isolation from other proposals that may be around at the same time. Within this general definition, prioritisation can mean different things in different contexts. In particular, it can be done either by separating competing proposals into two groups (the prioritised and the non-prioritised), or by ranking them in order (from the highest priority to the lowest priority) – or by a combination of the two (drawing a line across the ranking to separate the prioritised from the non-prioritised).

2. It would be possible to have a process of prioritisation that did not involve the exercise of judgement by an accountable body or individual – but only if a simple, mechanistic system was used – e.g. a random choice (e.g. drawing names out of a hat) or on the basis of first-come, first-served. Any more complex or subtle system that is aimed at prioritising on merit is almost bound to involve the exercise of political judgement.

3. Whether a system for managing the number of proposals for Members’ Bills is based on a threshold or on prioritisation, it is likely to involve **criteria** that have to be satisfied. A set of criteria can function in a similar way to a threshold, in that a proposal must satisfy various criteria in order to proceed. And criteria could also be objective – it can be a question of “ticking the boxes”. But equally, prioritisation could be done by looking at a set of criteria that are much more subjective, and with no fixed rules about the relative weight to be attached to each criterion.
PROCEDURES COMMITTEE

Timescales and stages of Bills: case studies

Note by the Assistant Clerk

Agreed case studies

1. At the 5th Meeting (16 March), the Committee agreed that, in order to impose focus on the taking of evidence, that the Land Reform (Scotland) Bill and the Commissioner for Children and Young People (Scotland) Bill be used as “case studies”. This will enable relevant witnesses to give their different perspectives on the same events and circumstances.

2. Factual information is also provided for each Bill to give Members an overall feel for the timescales that were applied to them.

Land Reform (Scotland) Bill – SP Bill 44 (Session 1)

General

Large Bill (100 sections, 2 schedules)

Timescale

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<tr>
<td>Bill introduced</td>
<td>27 November 2001</td>
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<tr>
<td>Designation of committees</td>
<td>6 December 2001</td>
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<tr>
<td>Stage 1 completed</td>
<td>20 March 2002</td>
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<td>Stage 2 completed</td>
<td>5 November 2002</td>
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<td>Bill passed</td>
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Key players

Ministers
- Ross Finnie
- Allan Wilson (lead Minister)

Committee members
- Alasdair Morrison (Justice 2 & Rural Development)
- Stewart Stevenson (Justice 2 & Rural Development)

Other MSPs
- Jamie McGrigor
- Dennis Canavan
- Rhona Brankin
- Bill Aitken

External persons/bodies
- Highlands & Islands Enterprise
- Law Society of Scotland
- National Farmers’ Union Scotland
- Ramblers’ Association
- Royal Institution of Chartered Surveyors
Scottish Landowners' Federation
Scottish Natural Heritage
Simon Fraser (solicitor who represented the Isles of Gigha and Eigg trusts in their right to buy projects)

Committees

Lead committee  Justice 2 (Convener: Pauline McNeill)

Other Stage 1 committees  Rural Development (Convener: Alex Fergusson)
                           Local Government (Convener: Trish Godman)
                           Subordinate Legislation (Convener: Margo MacDonald)
                           Education, Culture & Sport (Convener: Karen Gillon)
                           Equal Opportunities (Convener: Kate Maclean)

Stage 1 – completed 20 March 2002

Justice 2 - 5 meetings to take oral evidence (9, 14, 23 & 30 Jan, 6 Feb 2002)
          3 meetings to consider report, published 15 March 2002 (27 Feb, 6 & 13 Mar 2002)

Rural Development - 3 meetings to take evidence (8, 15 & 21 Jan 2002)
                    2 meetings to consider report (29 Jan & 5 Feb 2002)

                    [This committee also published an earlier report in June 2001 on the Committee’s fact finding visits, see below]

Local Government - 1 meeting to take evidence (22 Jan 2002)
                    1 meeting to consider report (5 Feb 2002)

Subordinate Legislation - 1 meeting to take evidence and to consider report (29 Jan 2002)

Education, Culture & Sport - 1 meeting to take evidence (8 Jan 2002)

Equal Opportunities - 1 meeting to agree report (22 Jan 2002)

Stage 2 – meetings from 25 June to 5 November 2002

11 days at Stage 2 – 492 amendments (176 Exec amendments)

Stage 3 – 22 & 23 January 2003

2 days at Stage 3 – 215 amendments (114 Exec amendments)
**Additional comments**

- Justice 2 Committee sought an extension from the Bureau for the completion of Stage 1 proceedings on the basis that it felt that a further evidence session was required. This request was agreed to (see Stage 1 report, paragraph 13).

- Justice 2 Committee visits: Isle of Lewis (and failed visit to Isle of Gigha), to meet with the Stornoway Trust, Bhaltos, Grimersta, Garynahine & Soval Estates, Western Isles Council, Simon Fraser, Highlands & Island Enterprise and Argyll & Islands Enterprise.

- The Justice 2 Committee wrote to the Procedures Committee in relation to the publication of secondary committee reports, on the basis that the Rural Development Committee published its Stage 1 report (which would normally have been published as an annex to the lead committee report) ahead of the Justice 2 report.
Commissioner for Children and Young People (Scotland) Bill – SP Bill 71 (Session 1)

General

Small Bill (17 sections, 2 schedules)

Timescale

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<td>4 December 2002</td>
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<td>Stage 2 completed</td>
<td>4 February 2003</td>
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<td>Bill passed</td>
<td>26 March 2003</td>
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Key players

Ministers               Cathy Jamieson (lead Minister)  
                         Nicol Stephen

MSPs                    Jackie Baillie  
                         Irene McGugan

External bodies         Barnardo’s  
                         Capability Scotland  
                         Children in Scotland  
                         Children 1st  
                         Save the Children

Committees

Education, Culture & Sport (Convener: Karen Gillon) – 3 meetings to take evidence (13 & 20 Nov, 4 Dec 2001); 1 meeting to consider report (18 Dec 2001)

[This committee published 3 relevant reports: Children’s Commissioner: Background Information, June 2001; Need for a Children’s Commissioner in Scotland, February 2002; Proposed Commissioner for Children and Young People Bill, July 2002.]

Ad hoc Stage 2 Bill Committee (Convener: Kay Ullrich) – 2 meetings (28 Jan, 4 Feb 2003) – 1 meeting to receive a private briefing; 1 meeting at Stage 2

Stage 2 – 4 February 2003

1 day at Stage 2 – 11 amendments (4 Exec; 3 others supported by Exec)

Stage 3 – 26 March 2003

1 day at Stage 3 – 3 amendments (0 Exec)
PROCEDURES COMMITTEE

MINUTES

5th Meeting, 2004 (Session 2)

Tuesday 16 March 2004

Present:

Mr Richard Baker
Bruce Crawford
Jamie McGrigor
Iain Smith (Convener)

Mark Ballard
Karen Gillon (Deputy Convener)
Irene Oldfather (Committee substitute)

Apologies were received from Cathie Craigie.

The meeting opened at 10.17 am.

1. **Guidance for Conveners:** The Committee considered draft Guidance agreed by the Conveners’ Group and took evidence from—

   Elizabeth Watson, Clerk to the Conveners’ Group.

   The Committee endorsed the draft Guidance.

2. **Non-Executive Bills:** The Committee considered a summary of evidence and a paper from the Clerk (PR/S2/04/5/3) on issues relating to the possible prioritisation of non-Executive Bills. The Committee agreed that MSPs (other than Ministers) should retain the right to introduce two Bills per session; that any system of prioritisation, if introduced, should not apply to Committee Bills; and that Members’ Bills should not be introduced after the end of September in the year preceding an ordinary general election. The Committee would further consider at its next meeting whether it would be sufficient, given the extent of the problem that had been identified, to raise the initial threshold for introducing Members’ Bills and to review the existing criteria used to determine whether a proposal should receive support from the Non-Executive Bills Unit.
3. Bills – timescales and Stages: The Committee agreed that the Land Reform (Scotland) Bill and the Commissioner for Children and Young People (Scotland) Bill should be used as case studies during the inquiry. Members of the Scottish Civic Forum, particularly those who attended the Participation Summit in the Chamber on 25 November 2003, would be invited to give evidence in the inquiry. An invitation to Executive officials to give oral evidence at the next meeting would be extended to the Minister for Parliamentary Business.

The meeting closed at 12.20 pm.

Andrew Mylne
Clerk to the Committee