The Committee will meet at 9.30 am in the Chamber, Assembly Hall, the Mound, Edinburgh.

1. **Timescales and Stages of Bills:** The Committee will take evidence from—
   
   Patricia Ferguson, Minister for Parliamentary Business, Michael Lugton, Head of Constitution and Parliamentary Secretariat, and Andrew McNaughton, Head of Parliamentary Liaison Unit, Scottish Executive.

2. **Oral Questions Review:** The Committee will consider data and evidence on the recent changes to First Minister’s Question Time and Question Time and decide how to complete its review of the success of those changes.

3. **Work Programme:** The Committee will consider options for future inquiries and other procedural issues raised.

4. **A New Procedure for Members’ Bills (in private):** The Committee will consider a draft report and draft standing order changes.

5. **Minor Standing Order Changes (in private):** The Committee will consider a draft report and draft standing order changes.

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

**Agenda item 1**
Submission from Convener of the Subordinate Legislation Committee  
Submission from Chartered Institute of Housing in Scotland  
List of issues raised in the inquiry (note by the Clerk)

**Note:** A letter from the Minister for Parliamentary Business is also anticipated and will be circulated as a late paper or handed round at the beginning of the meeting (depending on when it arrives).

**Agenda item 2**
Statistics on attendance in the Chamber and gallery during Question Time  
Statistics on questions taken, other members called etc. during Question Time  
Note by Head of Broadcasting (including data on TV viewing figures, etc.) – **to follow**  
Letter from BBC Scotland  
Letter from Scottish Television  
Correspondence with the Presiding Officer about the temporary re-scheduling of Question Time  
Correspondence with Bill Aitken about changes to Question Time  
Draft questionnaire for MSPs  
Draft questionnaire for the public gallery

**Agenda item 3**
Note by the Clerk  
Extract from Justice 1 Report on Sewel motions

**Agenda item 4**
Draft Report *(private paper – members only)*  
PR/S2/04/10/13

Draft standing order changes *(private paper – members only)*  
PR/S2/04/10/14

Agenda item 5
Draft Report and standing order changes *(private paper – members only)*  
PR/S2/04/10/15

The following papers are attached for information:

Minutes of the last meeting  
PR/S2/04/9/M
PROCEDURES COMMITTEE

Timescales and Stage of Bills

Submission from Subordinate Legislation Committee

LETTER FROM CONVENER OF SUBORDINATE LEGISLATION COMMITTEE

I understand that your Committee will be considering its recommendations on its inquiry next week. I am therefore writing to let you know of the Subordinate Legislation Committee conclusions following further discussion of the points in my letter to you of 27 April and the letter to you from the Minister for Parliamentary Business of 19 May.

Stage 1: Subordinate Legislation Memorandum

After further consideration, the Committee has concluded that it would be in the best interests of the scrutiny process if the subordinate legislation memorandum provided to the Committee by the Executive were included in the Accompanying Documents laid with a Bill on introduction and Standing Orders were amended to that effect.

The advantages of this change would be that planning of the Committee’s work programme on Bills can be done with greater confidence, particularly when the Committee is very busy with Bills at various Stages. There would also be no doubt in the Executive that the memorandum is both a required and valued document. Further, once provision of the memorandum is a requirement, it becomes easier to set standards about the memorandum’s content (though all the details need not be incorporated in Standing Orders).

Bills as amended at Stage 2: Supplementary Memorandum

As you will recall from my letter of 27 April, it has most often been at this Stage of a Bill’s passage that the Subordinate Legislation Committee has had timetabling difficulties. This seemed certainly to be the case towards the end of the first session of the Parliament. Difficulties seemed to arise not primarily because the amount if time between completion of Stage 2 and the Stage 3 debate, although in some cases a little longer would have been better, but because of the late arrival of the supplementary memorandum.

The Committee therefore takes the view that a requirement should be inserted into Standing Orders, which is at present an informal understanding between the Committee and the Executive, that the Bureau will in setting a date for Stage 3, take into account whether a Bill is to be referred to this Committee and, if so, the time that the Committee is likely to need to be able to report to the Parliament ahead of Stage 3. This could be informed by the Executive’s estimate of how promptly a supplementary memorandum can be provided.

Stage 3

The Committee was pleased to note in the letter you received from the Minister for Parliamentary Business dated 19th May the Executive’s view “that it is right in principle and beneficial in practice to engage with the SLC” on occasions where
substantial insertions or amendments of subordinate legislation powers are envisaged at Stage 3. The Committee also noted that the Executive does not envisage that substantial subordinate legislation provisions will be proposed very often at Stage 3 and that it would continue the present informal arrangements where such provisions were proposed.

Again, after further consideration, the Committee has decided that arrangements for its scrutiny at this Stage of a Bill should be robust enough to operate effectively well into the longer term. Also, this Committee, like its predecessor, is aware of the extent to which Stage 3 provides an opportunity for its recommendations earlier in the Bill’s passage to be overturned. The Committee has therefore decided to recommend that it should have a formal role after the conclusion of Stage 3. This would take the form of provision for an interval between completion of Stage 3 amendments and the motion to pass the Bill. This would probably need to be at least a week long to allow the Committee to meet.

The Committee would then consider and report on any substantial changes to or insertions of subordinate legislation provisions and recommend legal or technical amendments as seemed necessary. It seems to the Committee that such a provision need not be invoked very often. Indeed, the fact of its existence would be likely to encourage the earlier and fuller development of subordinate legislation provisions in Bills generally.

A copy of this letter goes to Andrew Mylne, Clerk to the Procedures Committee and to Donnie Jack, PS/Minister for Parliamentary Business.

Sylvia Jackson
Convener, Subordinate Legislation Committee
3 June 2004
Introduction

1. Before going on to detail our specific concerns, the Institute would like to make clear that we are in general satisfied with the legislative process. The opportunities for contact with the Scottish Parliament is markedly superior to that at Westminster and devolution has allowed organisations and interest groups to have a greater degree of engagement with politicians than was previously possible.

Timing of Stage 1 Reports and Stage 1 Debates

2. However, the Institute is concerned by the lack of time between the publication of the Stage 1 Report and the Stage 1 debate. For example the Communities Committee’s Stage 1 Report on the Antisocial Behaviour Bill was published on Friday 5 March with the Stage 1 debate on Wednesday 10 March. This left insufficient time to consult Institute members on the Committee’s recommendations before briefing MSPs for the Stage 1 debate on what was a controversial and wide-ranging Bill. The same short time period is also the case for the other Bills on which the Institute has worked on.

Speed of Bills

3. In general the speed of a Bill’s progress is of great concern, particularly at Stage 2. This problem is made worse when unrealistic initial deadlines are set for amendments.

4. An example of this is the current progress of the Antisocial Behaviour Bill where early deadlines were set for later sections of the Bill. The table below shows the date of each Committee meeting, the sections for which a deadline was given and the sections actually discussed at the meeting.

<table>
<thead>
<tr>
<th>Committee</th>
<th>Sections on which amendments to be lodged</th>
<th>Sections discussed</th>
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</thead>
<tbody>
<tr>
<td>21 April</td>
<td>1 – 15</td>
<td>1 - 3</td>
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<tr>
<td>28 April</td>
<td>4 – 52</td>
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<td>5 May</td>
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<td>88 – End</td>
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<tr>
<td>27 May</td>
<td>88 – End</td>
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6. Although the deadline was then extended if the section was not reached by the Committee, the initial deadlines lead organisations to rush out briefings to
MSPs before any detailed discussions could take place. An example of this was the submission of two amendments supported by the Institute and Shelter concerning section 25 of the Antisocial Behaviour Bill which were lodged on 26 April in time for 28 April Committee deadline but which were finally discussed on 12 May.

Deadline for amendments

7. Problems also arise due to the lack of time between the deadline for lodging amendments, at both Stages 2 and 3, and the date on which they are to be debated. This leaves insufficient time to consult members and brief MSPs before the amendments are discussed. There can be no doubt that in some cases this has left MSPs unable to assess the impact and implications of the amendments before them due to a lack of detailed briefings from outside organisations.

Stage 3 amendments

8. Stage 3 causes particular problems for outside organisations given the fact that a great number of amendments are debated at Stage 3.

9. This appears to be another symptom of the speed at which Bills are dealt with at Stage 2, as many of the Stage 3 amendments could have been dealt with at Stage 2 had there been more time for detailed debate and consultation between the Executive, the lead Committee and outside organisations.

10. Stage 3 amendments which introduce new sections to Bills and are tabled on the last day are a particular problem as they cannot be amended. An example of this was the amendment to the Criminal Justice (Scotland) Act 2003 which introduced Anti-Social Behaviour Strategies, a move supported by the Institute but which had not been a matter on which the sector was consulted.

11. The amendments was published in the Business Bulletin on Monday 17 February and debated on Wednesday 19. The debate consisted of the proposer, front bench spokespeople and two backbenchers who spoke for a minute each. For information, this section of the Act was never commenced and has been superseded by the Antisocial Behaviour Bill which was subject to detailed consultation.

Summary

12. In summary, the Institute believes that the difficulties in the legislative process stem from the speed at which Bills are passed. This is apparent from the haste at which Stage 1 debates are held, the short-time between amendment deadlines and debates at Stages 2 and 3 and the number of amendments being tabled at Stage 3.

Shirley-Anne Somerville
Policy and Public Affairs Officer
Chartered Institute of Housing in Scotland
Introduction

1. As requested at the Committee’s meeting on 25 May, this paper provides a summary of the issues raised during the course of the inquiry on the timescales and stages of Bills. The issues have been grouped by Stage, with miscellaneous issues dealt with at the end.

2. Committee members are invited to consider whether this list covers all the relevant areas or whether there are additional issues which need to be added. Once the list is agreed, it is intended to use these headings and questions as the structure for the summary of evidence paper. The summary of all the evidence received will be prepared for the meeting on 22 June. There will also be an opportunity at that meeting for the Committee to discuss, and take a preliminary view on, these issues. This discussion will inform the drafting of the Committee report.

Pre-Legislative Stage

3. The following issues have been raised in relation to the pre-legislative stage.

   • Should committees do more preparatory work at the pre-legislative stage to inform themselves about the factual background to a Bill, e.g. through briefings from officials?

   • Should Parliamentary committees undertake “pre-legislative scrutiny” (i.e. formal evidence-based scrutiny of legislative proposals) – either during general consultation or in relation to a draft Bill? Does this compromise committees’ ability to undertake their scrutiny role at later Stages?

   • Would committee involvement at the pre-legislative stage reduce the time needed for the Stage 1 inquiry?

   • How helpful is it for the Executive to publish a draft bill at the pre-legislative stage?

Stage 1

4. The following issues have been raised in relation to Stage 1.

   • Should there be a mandatory or advisory minimum duration for Stage 1 – either in a Rule or in guidance? If so, what might that minimum be, and should it be different for different types/sizes of Bill?
• Do prospective witnesses have sufficient time to submit written evidence at Stage 1? Should there be a prescribed minimum consultation period at Stage 1? If so, what should it be?

• Is there sufficient time for secondary committees to submit their reports to the lead committee and for the lead committee to consider them?

• Should there be a prescribed minimum period between the publication of the Stage 1 report and the Stage 1 debate? If so, what should that minimum period be?

• Should the minimum interval between Stage 1 and 2 – currently 7 sitting days – be extended? If so, what might it be extended to?

Stage 2

5. The following issues have been raised in relation to Stage 2.

• Does the overall pace of Stage 2 put unreasonable pressure on some or all of those directly involved (members and officials)?

• How important is it for committees to have enough time at Stage 2 to take evidence (in appropriate circumstances) on amendments?

• Should there be a presumption against committees meeting more than once per week to consider amendments at Stage 2? Where this does happen, would it help if there was only a single lodging deadline (and a single Marshalled List and groupings)?

• Should the Stage 2 committee have more control over the timescale for that Stage (rather than having to meet a deadline set by the Bureau)?

• Should the minimum notice period for Stage 2 amendments – currently 2 sitting days – be extended? If so, by how much?

• How useful is the Executive’s informal 5-day deadline for lodging its amendments? If the formal deadline was altered, would this also need to change?

• Should the minimum interval between Stages 2 and 3 – currently 9 sitting days if the Bill was amended at Stage 2 and 4 sitting days if not – be extended? If so, by how much?

• Should there be a formal requirement on, or at least an opportunity for, each relevant committee to review the Bill after Stage 2 to consider any new or amended provisions which might be of interest to that committee? In particular, should there be an opportunity for the
Finance Committee to consider the financial implications of any new or amended provisions?

Stage 3

6. The following issues have been raised in relation to Stage 3.

- Should the minimum notice period for Stage 3 amendments – currently 2 sitting days – be extended? If so, by how much?

- Does having Stage 3 over 2 days lead to any particular complications and/or benefits? Where a Stage 3 does take place over 2 days should there be a single lodging deadline (and a single Marshalled List and groupings)?

- Is enough time overall allowed for the Stage 3 proceedings on amendments?

- Would there be merit in changing the way in which Stage 3 amendment proceedings are timetabled – for example, to give the PO some flexibility to depart from the agreed deadlines for debating specific groups of amendments?

- Should there be a gap, at least in some circumstances, between the consideration of Stage 3 amendments and the debate that the Bill be passed (with an opportunity for minor or technical amendments to be lodged in the interim)? If so, how long a gap would be needed?

Miscellaneous issues

7. The following miscellaneous issues have been raised.

- Should the Executive memorandum on delegated powers provided to the Subordinate Legislation Committee be one of the accompanying documents required on introduction? And should the Executive be required to provide a revised memorandum within a prescribed period after publication of the “As Amended” Bill?

- What further information could be made available to assist members preparing for amending stages?

- Should it be a requirement to provide updated Explanatory Notes that correspond to the Bill “As Amended at Stage 2”? If so, should there be a minimum period in advance of the Stage 3 debate when these should be made available?
PROCEDURES COMMITTEE

Review of FMQT and Question Time

Statistical data on attendance during Question Time

This table shows the level of attendance by MSPs in the Chamber and by the public in the gallery during the last two weeks of Question Time before the new format was introduced, and for the first 8 weeks afterwards.

The data on MSP attendance was collected by clerks in the Chamber using the electronic card-based speaking/voting system – so strictly speaking it is a record of the number of MSPs whose cards were in console slots at a particular moment. Numbers were recorded approximately 5 minutes after the start of Question Time (or each part of it).

The data on public attendance was collected by security staff and show the number of people gaining access to the Chamber before and during Question Time (i.e. from 1.45 to 3.00 pm).

The main conclusion that may be drawn is that attendance by both MSPs and the public has risen since the new format was introduced (at least compared with attendance in the immediately preceding period).

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<th>MSP attendance</th>
<th>Public attendance</th>
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<td>107</td>
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<tr>
<td>4 Mar</td>
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<td>71</td>
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<td>83</td>
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<td>18 Mar</td>
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<tr>
<td>25 Mar</td>
<td>Env &amp; Rural Dev Health &amp; Community Care General</td>
<td>57</td>
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<td>Date</td>
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<td>Figures</td>
<td>Overall Avg.</td>
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<td>29 Apr</td>
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<td>59 75 77</td>
<td>124</td>
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<tr>
<td>6 May</td>
<td>Enterprise, Transport &amp; LL Justice &amp; Law Officers General</td>
<td>47 59 70</td>
<td>75</td>
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<td>20 May</td>
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<td>46 67 67</td>
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<td><strong>AVERAGE (11 Mar – 20 May)</strong></td>
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<td>2.05 pm = 55 2.25 pm = 71 2.45 pm = 72</td>
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Overall avg. = 66
The changes introduced to Question Time on 11 March, increased its maximum duration by 50% (i.e. from 40 to 60 minutes). The actual duration figures recorded below take into account the Presiding Officer’s discretion to allow a slight over-run to allow answers to be completed, plus some degree of “rounding” of times.

The totals show that the number of questions asked has increased by 46% and the number of supplementaries called has increased by 27%. The number of members not called to ask supplementaries has remained largely unchanged.

<table>
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<tr>
<th>Date</th>
<th>Subjects</th>
<th>Duration (mins)</th>
<th>Qs taken</th>
<th>Other MSPs called</th>
<th>MSPs not called</th>
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<td>8 6 4 18</td>
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**AVERAGES (8 Jan – 4 Mar)**

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**AVERAGES (11 Mar – 20 May)**

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LETTER FROM BILL AITKEN TO CONVENER

As the Scottish Conservative Business Manager I am writing to the committee on behalf of the Scottish Conservative group with regards to the operations of question time.

We have 2 specific concerns. Firstly we feel that opposition lead spokesmen should be guaranteed a question slot during subject questions, similar to the guaranteed opportunity that John Swinney and David McLetchie have to question the First Minister. At Westminster at Home Office questions for example, there is the opportunity for David Davis, the shadow Home Secretary and Mark Oaten, the Liberal Democrats home affairs spokesmen to question the Home secretary, as well as back bench MPs.

We feel that the selection of questions should be amended to follow the practice of FMQs, namely; the SNP and Conservative lead spokesman should get at least 1 guaranteed question selected. The SSP and the Greens should get at least 1 guaranteed question in every 2 sessions. Thereafter all questions should be selected at random.

We also believe that it would be of benefit in terms of evaluating the success of question time for the Parliament to produce a weekly record of how many questions were submitted for each topic from each party, and how many were selected for each topic from each party.

Our second issue of concern is the Presiding Officer’s powers over Ministers. While the PO can rebuke members for irrelevant or overly long questions, he has no such control over ministers.

As a result it can be the case that a minister can “waffle” on at length, using up a great deal of the time allocated, and the PO can do nothing about this. We therefore believe that the PO’s powers should be reviewed with a view to giving him the power to constrain ministers.

We hope that the committee will be able to give some thoughts to these proposals.

Bill Aitken MSP
20 May 2004
Thank you for your letter of 20 May, in which you express two concerns about the operation of Question Time on behalf of the Conservative Group.

Your first suggestion is that the initial questions in each thematic section of Question Time should be allocated to opposition party spokespersons, with the remaining questions selected randomly (as all are at present). Since you refer to following the practice at First Minister’s Question Time (FMQT), I take it you envisage this being achieved by giving the Presiding Officer the right to select at least the first 3 questions lodged for each of the week’s themes – although it is worth pointing out that this would not give the opposition parties “guaranteed” questions, since it is always a matter for the Presiding Officer how he exercises his discretion to select questions.

The above suggestion is, of course, essentially the same as the one you put forward in oral evidence to the Procedures Committee inquiry on this subject (4 November 2003, col 105), when it was rejected by other witnesses and by the Committee (2nd Report, 2003, para 80). It is not clear to me what has changed that should make the idea more attractive to the Committee now than it was then.

You mention in passing the idea of a weekly record of the numbers of questions lodged by each party and the numbers of questions selected. However, since the selection (for each of the week’s two themes, and for general questions) is done randomly, I find it difficult to see how any comparison between those two sets of figures would help to evaluate the success of Question Time, as you suggest.

Your second suggestion is that the Presiding Officer should have a formal power to enforce the brevity and relevance of oral answers. Again, this was an issue considered in detail by the Procedures Committee during its inquiry. It is worth pointing out that the Presiding Officer himself, in evidence to the Committee, said that in practice he was able to deal with the issue without the need for a specific Rule (7 October 2003, col 68). I also note that your own evidence to the Committee at the time was that a new Rule was not needed (4 November 2003, col 112). Again, it is not clear to me what has changed since the Committee last considered this point that would justify re-opening it.

As you may know, the Procedures Committee considered how to review the success of Question Time at its meeting on 11 May and provisionally agreed to extend the current trial until the summer, with a possible variation of timing from then until the October recess and with a final review completed by the end of the year. That provisional timetable will be considered again at the Committee’s next meeting on 8 June, when a range of relevant data (member and gallery attendance figures, TV viewing figures and so on) will be considered. I shall circulate your letter, together with this reply, for that meeting to ensure that the Committee is aware of your views.

Iain Smith MSP
Convener
26 May 2004
LETTER FROM CONVENER TO PRESIDING OFFICER

I am writing to you in your capacity as chair of the Parliamentary Bureau, in relation to the above.

As you know, when the Procedures Committee recommended changes to the timing and duration of First Minister’s Question Time and Question Time, and also recommended the introduction of a thematic element into Question Time, it proposed that these should be implemented initially on a trial basis, subject to review by the Committee. The original intention was to complete the review before the summer recess.

However, when the Committee considered at its meeting on Tuesday how to conduct this review, it became clear some members had major doubts about whether the new thematic format of Question Time was working as intended (though opinions differ on the extent and cause of the problem). Relevant data is already being collected, and evidence from broadcasters has been invited, which the Committee expects to consider at its meeting on 8 June. Recognising that it cannot take a final view until it sees that material, the Committee nevertheless provisionally agreed to a suggestion to extend the trial period until the summer recess and then experiment with a Wednesday afternoon Question Time up to the October recess – with a view to completing the review by the end of the year.

Because of the flexibility built into the revised Rules, there would be no procedural obstacle to the Parliament, on the recommendation of the Parliamentary Bureau, temporarily moving Question Time in this way. The Committee’s current view – which, as I have said, remains provisional until it has seen the evidence – is that such an experiment could help to identify the extent and the nature of the perceived problem with Question Time. The Committee recognises, however, that the Bureau will have its own views on the desirability and practicability of any such temporary rearrangement of the Parliamentary week – and that there is little point in it recommending the experiment if the Bureau is not in turn prepared to recommend the changes to the Parliament.

In these circumstances, it would be useful to know what the Bureau’s attitude would be to the above suggestion, so that I can ensure this is taken into account by the Committee when it returns to this matter on 8 June. To meet this timescale, it would be most helpful if any response to this letter could reach me (via the clerk to the Committee, at the above address) by the end of May.

Iain Smith MSP
13 May 2004
REPLY FROM PRESIDING OFFICER TO CONVENER

At its meeting on 1 June 2004, the Bureau considered your letter of 13 May in relation to the pilot scheme in operation for First Minister’s Question Time and Question Time. The Procedures Committee sought the Bureau’s view on a suggestion that the trial period be extended until the summer recess with an additional experiment of QT on a Wednesday afternoon up to the October recess.

The Bureau agreed that I should ask you to provide further information on the rationale for the proposal to move Question Time to Wednesdays and the evidence on which the proposal was based.

George Reid
3 June 2004
To: All MSPs

As you will be aware, the recommendations proposed by the Procedures Committee (in its 2nd Report 2003 and 1st Report 2004), concerning the timing and format of Question Time and First Minister’s Question Time, were implemented on 11 March for a trial period. The Committee is now conducting a final review of that trial and would like your views on how successful you think the changes have been.

Please complete the questionnaire by ticking the appropriate box for each question and – if you wish - by completing the comment boxes. Please return completed questionnaires by internal mail (using the envelope attached) to: Procedures Clerks, Room 5.19 PHQ, by [date].

It is envisaged that the Committee will arrive at a final decision as to the timing and format of First Minister’s Question Time and Question Time in the autumn and will report to the Parliament before the end of 2004.

Thank you for your co-operation.

IAIN SMITH MSP
Convener, Procedures Committee

Name (optional*)

Party  □Lab  □LibDem  □SNP  □Con  □Green  □SSP  □Ind/SSCUP

*Please note that any comments offered in the completion of this questionnaire may be published in papers for the Procedures Committee and/or in a Procedures Committee report. If you do not wish any comment to be attributable to you by name, please leave this line blank.
FIRST MINISTER’S QUESTION TIME

First Minister’s Question Time was moved in September 2003 from immediately after Question Time to 12 noon on Thursdays.

Q1. Do you think First Minister’s Question Time should remain at its current time (i.e. from 12.00 to 12.30 pm on Thursday)?

☐ Yes    ☐ 1 R    ☐ Don’t mind

Please state your reasons or comments:

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Q2. If not, would you support First Minister’s Question Time returning to a time immediately after Question Time (e.g. 3 pm on a Thursday)?

☐ Yes    ☐ 1 R    ☐ Don’t mind

Please state your reasons or comments:

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FORMAT AND TIMING OF QUESTION TIME

In March 2004 Question Time was extended from 40 minutes to 60 minutes. The format was also changed to include questions on two departmental-based themes followed by general questions.

Q3. Do you think the introduction of a thematic element into Question Time has been an improvement?

☐ Yes    ☐ 1 R    ☐ Don’t mind

Please state your reasons or comments:

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Q4. Do you think Question Time should continue in its current format (i.e. with two departmental-based themes each week, together with the general questions)?

☐ Yes ☐ 1 R ☐ Don’t mind

Q5. If the thematic elements of Question Time are to remain based on the portfolios of Executive Ministers, would you prefer:

☐ the current rota of 6 broad themes, with 2 covered each week (i.e. a 3-week rotation)
☐ narrower themes (one Minister per theme), with 2 covered each week (i.e. a 6-week rotation)
☐ an alternative rota, please specify below

__________________________________________________________________________________________________

__________________________________________________________________________________________________

Q6. Do you think Question Time should remain at 60 minutes rather than 40 minutes each week?

☐ Yes ☐ 1 R ☐ Don’t mind

Please state your reasons or comments:

__________________________________________________________________________________________________

__________________________________________________________________________________________________

Q7. Should Question Time continue to start at 2pm?

☐ Yes ☐ 1 R ☐ Don’t mind

Please state your reasons or comments:

__________________________________________________________________________________________________

__________________________________________________________________________________________________

Q8. Would you support moving Question Time to Wednesday afternoon rather than Thursday afternoon?

☐ Yes ☐ 1 R ☐ Don’t mind
Please state your reasons or comments:

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Q9. Have the changes to the timing and format of Question Time made you:

☐ more likely to attend Question Time
☐ less likely to attend Question Time
☐ no difference to your attendance

Please state your reasons or comments:

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Q10. What further changes, if any, would you like to see made to the timing, duration or format of Question Time?

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ADDITIONAL COMMENTS

Q11. Do you have any additional comments to make in relation to the timing of First Minister’s Question Time or the timing, duration and format of Question Time?

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PROCEDURES COMMITTEE

QUESTIONNAIRE ON QUESTION TIME

Question Time is the period each Thursday afternoon when oral questions to Ministers are taken in the Parliament’s debating chamber. It is distinct from First Minister’s Question Time, which currently takes place at noon on Thursdays. At Question Time, questions are selected randomly each week from those submitted by MSPs.

The Procedures Committee recommended (in its 2nd Report 2003 and 1st Report 2004) that Question Time should

- be extended from 40 minutes to 60 minutes each week
- start at 2 pm
- be divided into three parts, the first two involving questions on departmental-based “themes” (with different themes each week, so that each theme arises once every three weeks) and the third involving general questions.

These recommended changes were implemented on 11 March 2004 for a trial period.

The Committee is now conducting a final review of that trial and would like your views on how successful you think Question Time is in its new format. It would be very helpful to the Committee’s review if you could complete the attached questionnaire by ticking the appropriate box for each question and – if you wish – completing the comment boxes.

It is envisaged that the Committee will complete its review in the autumn and will report to the Parliament accordingly, before the end of 2004. Please note that any comments offered in the completion of this questionnaire may be published in papers for the Procedures Committee and/or in a Procedures Committee report.

Please return your completed questionnaire to the Security Guards in the public gallery. Alternatively, you may post it (in the envelope provided) to the Procedures Committee clerks, Scottish Parliament, Edinburgh, EH99 1SP, by close on [date].

Thank you for your co-operation, and I look forward to seeing your views.

IAIN SMITH MSP
Convener, Procedures Committee
FORMAT AND TIMING OF QUESTION TIME

Today’s date: [supplied]

Q1. Did you visit the Parliament today particularly to see Question Time?

☐ Yes ☐ 1 R

If you answered no, please indicate which item of business, if any, you particularly came to see:

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Q2. Today’s Question Time is made up of 3 parts: questions on ______; questions on ______; and general questions. Which of these did you watch (please tick all those which you saw all of most of):

☐ Questions on ______
☐ Questions on ______
☐ General Questions
☐ None of the above

Q3. Were you aware before visiting the Parliament that Question Time would be made up of these 3 parts?

☐ Yes ☐ 1 R

Q4. If you answered yes to Q3, which parts of Question Time were you particularly interested in seeing? Please tick all the relevant boxes.

☐ Questions on ______
☐ Questions on ______
☐ General Questions
☐ None in particular

Q5. Do you think Question Time should continue in its current format (i.e. with two departmental-based themes each week, together with the general questions)?

☐ Yes ☐ 1 R ☐ Don’t mind
Q6. Do you think Question Time should remain at 60 minutes rather than 40 minutes each week?

☐ Yes  ☐ 1 R  ☐ Don’t mind

Q7. Do you think Question Time should remain in its current slot of 2 – 3 pm on a Thursday?

☐ Yes  ☐ 1 R  ☐ Don’t mind

Q8. Would you support moving Question Time to Wednesday afternoon rather than Thursday afternoon?

☐ Yes  ☐ 1 R  ☐ Don’t mind

Q9. Question Time used to be followed immediately by First Minister’s Question Time (FMQT). Now the two are separated by a break for lunch. Which of the following best expresses your view?

☐ I would prefer Question Time and First Minister’s Questions to be consecutive items, so I could watch both on the one visit to the gallery.

☐ I prefer Question Time and First Minister’s Questions to be at separate times so I have more choice of when to visit the gallery to watch questions.

☐ I don’t mind.

Q10. Have the changes to the timing and format of Question Time made you:

☐ more likely to attend Question Time

☐ less likely to attend Question Time

☐ no difference to your attendance

Q11. What further changes, if any, would you like to see made to Question Time?

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I understand that the Procedures Committee has identified the procedure in relation to Sewel motions as a potential area for investigation. As you may be aware, the Justice 1 Committee recently considered a Sewel motion in relation to the Civil Partnership Bill that is currently being considered in the UK Parliament. The Committee took oral evidence on the Scottish aspects of the Bill and received a number of written representations.

The Committee produced a thorough report on the Bill, which identified a number of areas of concern in relation to the Bill. The Committee also identified a number of difficulties in relation to the Sewel motion process. I enclose a copy of the report for your information. Paragraphs 61 to 65 of the report highlight the concerns of the Committee in relation to the Sewel motion procedure.

The Committee identified concerns in relation to the procedure to be followed if a Bill is amended during its passage through the Houses of Parliament. The Committee welcomed the Deputy Minister for Justice’s commitment to return to it with any significant amendments to the Scottish sections of the Bill and, should there be such changes to those sections, to seek the Parliament’s approval by means of a further Sewel motion. However, the Committee noted with concern that there is no formal procedure in place in respect of such an eventuality (Official Report, Justice 1 Committee, 12 May 2004; c 799-800).

The Committee also noted that there is no formal procedure to allow Committees of the Scottish Parliament to feed into the scrutiny process at Westminster. The Committee is aware that the Procedures Committee intends to carry out an inquiry into the Sewel motion procedure and believes that such a review should result in clear procedures to ensure that Committees of the Scottish Parliament can contribute to the scrutiny process at Westminster.

Pauline McNeill MSP
Convener, Justice 2 Committee
3 June 2004
61. Notwithstanding the minister’s response, some members would have preferred not to proceed with a Sewel motion and concerns were expressed in respect of the potential for significant amendment of the Bill during its passage through the Houses of Parliament.

62. The Committee noted with concern that, at the time of writing, there appeared to have been very little scrutiny in the House of Lords of the clauses relating to Scotland.

63. In the limited time available, the Committee agreed to take oral evidence on the technical aspects of the Bill. However, the Committee notes that there is no formal procedure to allow Committees of the Scottish Parliament to feed into the scrutiny process at Westminster. The Committee is aware that the Procedures Committee intends to carry out an inquiry into the Sewel motion procedure and believes that such a review should result in clear procedures to ensure that Committees of the Scottish Parliament can contribute to the scrutiny process at Westminster.

64. The Committee recognises the role of the Executive in relation to the scrutiny of the Scottish aspects of the Bill at Westminster and seeks an assurance from the Minister that the views expressed in this report will be fed into the process. In addition, the Committee would welcome a response from the Executive to the points raised in this report.

65. The Committee welcomes the Deputy Minister for Justice’s commitment to return to it with any significant amendments to the Scottish sections of the Bill and, should there be such changes to those sections, to seek the Parliament's approval by means of a further Sewel motion. However, the Committee notes with concern that there is no formal procedure in place in respect of such an eventuality.58

58 Official Report, Justice 1 Committee, 12 May 2004; c 799-800.
PROCEDURES COMMITTEE

Committee Forward Work Plan

Note by the Clerk

Purpose

1. This paper invites the Committee to consider its forward work plan for the remainder of the calendar year. In particular, members' views are sought on what further inquiries the Committee should undertake this year. The paper also sets out suggested dates for committee meetings between September and December 2004.

Timing

2. Prior experience would suggest that the Committee is able to handle two major inquiries at any given time, perhaps with smaller scale inquiries or consideration of minor procedural issues fitted in.

3. The Committee is likely to conclude its inquiry on non-Executive bills by the summer recess. There should therefore be scope for the Committee to undertake a further major inquiry from September onwards. This new inquiry would run alongside the current inquiry on the timescales and stages of Bills, which is expected to be completed by the October recess.

4. On present plans, the Committee will wish to return to the review of FMQT and Question Time after the October recess. This work would then run alongside any new inquiry initiated in September, and should be concluded by the end of this calendar year.

Major Inquiries

5. There are three main candidates for the Committee’s next major inquiry, which the Committee could begin after the summer recess. Details of the possible scope and remit of each are set out below. Committee members are invited to indicate which of these inquiries they would wish to undertake first.

Option 1: Sewel Motions

6. The Committee last considered its forward work plan on 2 December 2003. At that meeting the Committee agreed that its next major inquiry after the inquiry on the timescales and stages of Bills would be an inquiry on Sewel motions. Since this decision has been public knowledge for some months, there is an expectation that the Committee will begin this inquiry before the end of this year.

7. There are two ways in which the Committee could approach an inquiry on Sewel motions. The Committee could choose to focus on the major
political issues surrounding Sewel motions. Under this option, the inquiry might consider the following issues:

- the general process by which it is decided that a particular devolved matter should be dealt with by Westminster legislation rather than by Scottish Parliament legislation, and why such decisions are made more frequently than was originally envisaged;

- whether general changes are needed to the mechanism used to seek the Parliament’s consent to Westminster legislating on a devolved matter (currently by the Executive lodging a motion, accompanied by a written memorandum, with the motion usually debated in the Chamber);

- whether adequate mechanisms are in place to ensure that Westminster stays within the bounds of any consent given and how, if an amendment is tabled or agreed to in Westminster that would take the legislation beyond the scope of that consent, the Parliament’s further consent should be sought.

8. Alternatively, the Committee could limit its inquiry to the internal procedural issues surrounding the Parliament’s handling of Sewel motions. Under this option, the terms of reference for the inquiry could be along the following lines:

- whether there should be a specific Rule governing the lodging and consideration of Sewel motions – in particular
  
  - should standing orders require the Executive to lodge a memorandum to accompany the motion for publication by the Parliament (and specify what the memorandum should cover);

  - should there be an agreed mechanism for the referral of Sewel motions to committees for consideration;

  - should there be a timeframe for committee consideration of Sewel motions; and

  - should standing orders specify what committees are expected do in consideration of a Sewel motion?

9. The previous Procedures Committee did undertake some work on this. It received evidence from the Executive and the Scotland Office, and recommended that the new Committee continue this work.

10. Partly in response, the Executive agreed towards the end of last session to make some changes to their procedures for handling Sewel motions. Sewel motions are now tabled after the Westminster Bill has been introduced but before the last amending Stage in the first House at Westminster (rather than between introduction and Second Reading). This new arrangement allows more time for the Parliament to consider the
Executive’s proposals for a Sewel motion. The Executive memorandum which accompanies the Sewel motion is also now published on the Executive website, to provide a more permanent record of the purpose and effect of a particular motion.

11. More recently we have been sent a copy of a dissertation on the Sewel procedure by a final-year politics student at Edinburgh University prepared during his placement at the Scottish Executive. The dissertation involves a detailed analysis of the process along with a number of recommendations for how the procedure might be improved. The author has indicated his willingness to give evidence to the Committee if invited to do so. This, together with the evidence taken by the previous Committee, would provide a good starting point for an inquiry on this topic.

12. The Convener of the Enterprise and Culture Committee recently suggested that the Procedures Committee consider aspects of the Sewel process – specifically a time-period for committee consideration and an “early warning” system for alerting committees to motions in good time. This letter was circulated to the Committee as PR/S2/04/7/10.

13. The Justice 1 Committee has also now invited the Committee to consider changes to the Sewel procedures – see separate paper PR/S2/04/10/10.

Option 2: Private Bill Procedures

14. The proposal to hold an inquiry on private bill procedures has featured as a possible option on the committee’s forward work plan for some time. However, the recent increase in the number of “works”-type private bills introduced, together with the fact that further such bills are expected later in the session, has raised the profile of this issue. In particular, concerns have been expressed about the amount of work placed on Members involved in private bill committees, particularly on “works” bills.

15. As with Sewel motions, there are two general approaches the Committee could take to such an inquiry. One option would be to focus on the major issue of what options there might be to remove some, or all, of the responsibility for “works” bills from the Parliament – including the possibility of some Scottish equivalent to the Transport and Works Act 1992 (which removed most of the work involved in such Bills from Westminster).

16. Alternatively, the Committee could focus on what scope there is to streamline the process set out in Chapter 9A. Such an inquiry might then cover the following areas:

- reviewing the Rules governing the “scope” of objections and the admissibility of amendments so as to deal more effectively with the possibility of a Private Bill being amended in ways that could adversely affect the interests of persons not given an opportunity to object at the time the Bill was introduced; and
• building more flexibility into Rules assigning specific roles to the Convener of the Private Bill Committee (e.g. in moving the motion to pass the Bill), to allow for circumstances where the relevant person has ceased to be an MSP.

Option 3: Review of the Parliamentary Week

17. Another option for a major inquiry would be a broad review of the Parliamentary week. The previous Procedures Committee looked at this issue and produced a “Time in the Chamber” legacy paper (circulated as PR/S2/03/1/5) which outlined the background to this suggested inquiry and set out possible options for an alternative model of the working week for consideration by the new Procedures Committee. Such an inquiry could look specifically at:

• the proportion of the normal sitting week allocated to Chamber business, and whether to relax the rule preventing committees and the Chamber meeting at the same time;

• how Chamber time is divided according to the various categories of business (motion-and-amendment debates, other debates, questions, etc.) and between categories of members (Executive time, opposition parties' time, backbenchers' time); and

• how the available speaking time is divided up within each debate or item.

18. It seems clear from the paper produced by the previous committee that there is an appetite among members for this issue to be looked at (82% of responses to the questionnaire issued in autumn 2002 agreed that it would be helpful for the Procedures Committee to investigate in detail whether the overall time allocated to chamber business was appropriate). During the debate on the previous Procedures Committee’s Founding Principles Report, a number of Members also raised concerns about issues such as the balance of time available for backbench speakers and the time limits on speeches.

19. The Committee’s current review of FMQT and Question Time will also have a bearing on this issue, so it may be sensible to await the outcome of that inquiry before re-opening the wider issue of time in the chamber. Given this, the committee might wish to defer an inquiry into time in the chamber until later in the Parliamentary session.

20. However it could also be argued that there is a less immediate need for procedural change in this area, compared to the other two options outlined above.

Small Scale Inquiries

21. There are a number of smaller scale inquiries which the Committee will be expected to undertake or has been asked to undertake. It may be possible
to deal with one or two of these alongside the larger inquiries. A list of these is set out in Annexe A. Committee members are asked to note the attached list and to give an indication of the priority attached to these.

22. It is also possible that further minor procedural issues (similar to current issues on the location of the Chamber and the Budget scrutiny process) may arise and will need to be considered by the Committee.

Possible Awayday

23. A further issue for the committee to consider is whether they wish to hold an awayday between now and the end of this year. The Committee last held an awayday on 25 August 2003. At that event the committee heard from Ken Macintosh MSP, the former Deputy Convener of the Procedures Committee, about the previous Committee’s CSG inquiry. Barry Winetrobe, Lecturer in Public Law, Glasgow University then gave an external perspective on the main findings of the CSG inquiry report and Ken Hughes, Head of the Chamber Office, spoke about the role of the Bureau, SPCB, Conveners’ Group and the Presiding Officer.

24. Given the additional work for staff involved with the pending move to Holyrood, it may be difficult to hold an awayday during the coming summer recess. It would however certainly be possible to organise such an event for the autumn or even towards the end of the calendar year. The nature of the event would, of course, also have a bearing on the timing. If the committee wished to use the awayday to discuss a forthcoming inquiry then it would probably have to be held relatively soon. However if the focus of the day was to look at the work plan for 2005 say then it would make more sense to hold off until later in the year.

25. It is also worth bearing in mind that a Committee awayday is, in many respects, similar to a private committee meeting, i.e. there is no Official Report of proceedings or a minute of the issues discussed and decisions taken. In choosing the topic or theme for such an awayday then, Committee members’ must consider what issues it is appropriate to discuss in such a forum.

26. Committee members’ views on the various issues raised above are invited.

Date of Future Meetings

27. Parliament will resume on Wednesday 8 September although it is unlikely that Committees will meet until the week commencing Monday 13 September. On the assumption that the Procedures Committee meets for the first time after recess on Tuesday 14 September then the pattern of meetings for the remainder of this year would be as follows:

14 September
28 September
26 October
9 November
23 November
7 December
21 December

Recommendation

28. Committee members are invited to:

(a) choose which of the major inquiries set out above they wish to undertake following the completion of the current inquiry on non-Executive bills;

(b) note the smaller scale inquiries set out in Annex A and give an indication of the priority attached to these;

(d) decide whether they wish to hold an awayday before the end of this year and, if so, when such an event might take place and what its focus might be.

Procedures Committee, June 2004
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<td>Public Appointments and Public Bodies (Scotland) Act 2003</td>
<td>Need for procedure to facilitate Parliamentary consideration of referrals by the Commissioner for Public Appointments under s.2(8) of Act (and for the CPA to consult the Parliament on a draft code under s.2(4)).</td>
</tr>
<tr>
<td>Petitions – whether there should be prohibitions on (a) their being lodged by MSPs; (b) petitions that have been closed being re-submitted within a year.</td>
<td>Convener of PPC</td>
<td>Letter inviting the Committee to consider these issues was sent to the Committee on 29 April (circulated as PR/S2/04/8/15)</td>
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<tr>
<td>Share of Member’s Business for independent MSPs</td>
<td>Dennis Canavan</td>
<td>Dennis Canavan (backed by Jean Turner and Margo Macdonald) has written to the Presiding Officer (copied to the Convener) questioning the Bureau’s role in selecting topics for Members’ Business and has suggested in particular that this should be done by a combination of selection by the Presiding Officer and by ballot.</td>
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<tr>
<td>Allocation of non-Executive Business in Chamber</td>
<td>Dennis Canavan 2/10/03</td>
<td>Question whether Rule 5.6.1(b) should be altered to give share of allocation of non-Executive time in the Chamber to the independent members.</td>
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<td>Policy Memorandums</td>
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PROCEDURES COMMITTEE

FMQT Review: Analysis of TV viewing figures

Note by Alan Smart, Head of Broadcasting

Introduction

1. Viewing figures supplied by BBC Scotland to the Procedures Committee last January indicated a significant drop in TV viewing figures for “Holyrood Live” on Thursday, following the Parliament’s decision to endorse an earlier Procedures Committee recommendation to move First Minister’s Question Time from a 3.10 pm slot to 12 noon. The headline figures showed average audiences had fallen from 46,000 to 18,000.

2. Whilst this fall is dramatic, indeed predicted by both BBC Scotland and the Parliament’s own Broadcasting Office, on receiving the BBC viewing figures, I advised the Clerk to the Procedures committee to treat these early figures with some caution, not least because they related to the September-October period in which, due to party conferences and general schedule disruption, like-with-like comparisons between years was difficult. Furthermore, one might have expected some sort of viewing figures drop whilst the audiences adjusted to, and indeed found out about, the new time.

3. With FMQT now having been in its 12 noon slot since September 2003, we are now in a position to make a more reasonable like-for-like comparison between viewing figures before and after FMQT’s switch to a noon slot.

4. In the following analysis, as requested by the Procedures Committee, I have made a direct like-for-like comparison between the viewing figures for “Holyrood Live” on Thursdays in January and February 2003 with the same time period in 2004. Analysis after this date has consciously been avoided, as by March 2003 we were in a countdown to the Scottish Election period, in April 2003 Parliament was dissolved, and in May 2003 Parliament hardly sat at all as the new Scottish Executive was in the process of being established.

5. Whilst two months – 8 programme weeks to be precise – still remains something of a snapshot, it is quite a large one, and comparison between these same eight weeks in 2003 and 2004 is a fair one.

Analysis

6. In terms of “Holyrood Live” viewing figures, the January and February statistics are as follows:

2003 (3.10 start) – average audience 54,000 (share 7.3%)
2004 (noon start) – average audience 27,000 (share 4.4%)
So the loss of viewers is an average of 27,000 per week, i.e. a drop of exactly half.

Explaining this

7. 150,000 fewer people watch TV at noon than at 3.10 pm. Source: the Broadcasters Audience Research Board (BARB), which provides very reliable statistics because advertisers insist on accurate information to inform their commercial buying decisions.

8. In addition to this, the available audience appears less prone to watch political programming at noon than in mid-afternoon.

9. The importance of time-slot over content is highlighted by the average viewing figures for the Wednesday afternoon “Holyrood Live” (on air at 2.30 pm) where on most occasions the business at the Parliament is less high-profile than First Ministers Questions. Here, though, average viewing figures in January and February 2004 were 53,000.

News Viewing Figures

10. There is of course another important part of the equation which indeed was one of the main rationales for the switch to noon, namely the increased general news coverage of FMQT this was expected to bring.

11. Here analysis can be less precise, since it is difficult to define specifically what is and what is not an FMQT-related news item on “Reporting Scotland” on BBC or “Scotland Today” on STV.

12. However the starting point is that the audiences for these general news programmes are altogether greater than “Holyrood Live” would ever get, irrespective of its time slot. For example the average daily audience of lunchtime Scotland Today is 200,000 and the average daily audience of lunchtime Reporting Scotland 270,000. The early evening viewing figures of both programmes are even higher, approximately twice as high in both cases. Figures for Grampian’s “North Tonight” and Border’s “Lookaround” would show the same broad pattern. Indeed, in per head of population terms, their audiences are higher than either Reporting Scotland or Scotland Today.

13. But overall it is beyond doubt that, if one talks purely in terms of gross figures, news programmes will always significantly outperform current affairs and parliamentary programming, and by a quite significant margin.

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coverage is. Even on good days, it rarely runs to 2 minutes, in which there would normally be less than 60 seconds of actual parliamentary footage within the item. But on many Thursdays, due to other competing news stories, there has simply been no coverage of FMQT at all.

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Alan Smart
Head of Broadcasting
3rd June, 2004
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NHS waiting lists, Swinney, McLetchie, McConnell (1 m 50 s).
I now attach the following additional papers for Tuesday's meeting:

**Agenda item 1**
Letter and memorandum by the Executive  
PR/S2/04/10/18

**Agenda item 2**
Note by Head of Broadcasting (including data on TV viewing figures etc.)  
PR/S2/04/10/17

Note by the Clerk  
PR/S2/04/10/19

Members should also note a minor correction to paper PR/S2/04/10/4 (Question time statistics on attendance). This states near the top: “The data on MSP attendance was collected by clerks in the Chamber using the electronic card-based speaking/voting system – so strictly speaking it is a record of the number of MSPs whose cards were in console slots at a particular moment.” The Chamber Desk has asked me to point out that in fact it did not prove possible to use the electronic speaking/voting system in this way and that the figures were therefore arrived at manually (by clerks “counting heads”).

Andrew Mylne  
Clerk to the Committee
PROCEDURES COMMITTEE

Review of FMQT and Question Time

Note by the Clerk

Provisional decision

1. The Committee made a provisional decision at its meeting on 11 May to:
   - continue the trial period beyond the summer recess;
   - experiment between the summer and October recesses with Question Time on Wednesday rather than Thursday afternoons; and
   - complete the review by the end of 2004.

2. This decision was provisional pending consideration of the evidence being collected for the 8 June.

Options for completing the review

3. The Bureau, however, appears reluctant to consider moving Question Time to Wednesdays on a temporary basis without a better explanation from the Committee of why this would be of benefit, based on evidence (see correspondence circulated as PR/S2/04/10/7). On this point, the Committee’s options would appear to be:
   - to endorse the provisional decision it made on 11 May – and make a more formal request to the Bureau inviting it to recommend such a temporary move of Question Time, setting out the Committee’s reasons why this is expected to be of benefit to the conduct of the review;
   - to endorse the provisional timetable for the review agreed on 11 May – but accept that Question Time will remain on Thursdays during Sept/Oct; or
   - to extend the trial only until the summer recess and use the Sept/Oct period (when Question Time will remain on Thursdays) to conduct the review – with the aim of reporting to the Parliament before the October recess.

Preliminary conclusions from the evidence

4. It is not expected that the data and evidence collected for this meeting will be used by the Committee to make any final decisions in relation to FMQT and Question Time. However, this preliminary data may help inform members about how they wish to complete the review – i.e. which of the above options is preferable.
5. In considering the data and evidence received, the Committee may wish to note in particular:

- that attendance by MSPs and the public during Question Time does not appear to have declined (if anything, has slightly increased);
- that the level of members’ interest in participating during Question Time (measured by the number of supplementaries asked or requested) appears to have slightly increased;
- that the audience for “Holyrood Live” has fallen to around half of what it was before the move of FMQT to 12 noon;
- that direct coverage of FMQT-based items on news bulletins has shown little overall change; and
- that the BBC is disappointed by the move of FMQT to 12 noon, while Scottish TV has welcomed it.

6. The Committee is also invited to decide whether it wishes to commission surveys of members’ and public opinion, using questionnaires. If so, it may wish to comment on whether the draft questionnaires circulated separately ask the appropriate questions.
PROCEDURES COMMITTEE

FMQT Review: Analysis of TV viewing figures

Note by Alan Smart, Head of Broadcasting

Introduction

1. Viewing figures supplied by BBC Scotland to the Procedures Committee last January indicated a significant drop in TV viewing figures for “Holyrood Live” on Thursday, following the Parliament’s decision to endorse an earlier Procedures Committee recommendation to move First Minister’s Question Time from a 3.10 pm slot to 12 noon. The headline figures showed average audiences had fallen from 46,000 to 18,000.

2. Whilst this fall is dramatic, indeed predicted by both BBC Scotland and the Parliament’s own Broadcasting Office, on receiving the BBC viewing figures, I advised the Clerk to the Procedures committee to treat these early figures with some caution, not least because they related to the September-October period in which, due to party conferences and general schedule disruption, like-with-like comparisons between years was difficult. Furthermore, one might have expected some sort of viewing figures drop whilst the audiences adjusted to, and indeed found out about, the new time.

3. With FMQT now having been in its 12 noon slot since September 2003, we are now in a position to make a more reasonable like-for-like comparison between viewing figures before and after FMQT’s switch to a noon slot.

4. In the following analysis, as requested by the Procedures Committee, I have made a direct like-for-like comparison between the viewing figures for “Holyrood Live” on Thursdays in January and February 2003 with the same time period in 2004. Analysis after this date has consciously been avoided, as by March 2003 we were in a countdown to the Scottish Election period, in April 2003 Parliament was dissolved, and in May 2003 Parliament hardly sat at all as the new Scottish Executive was in the process of being established.

5. Whilst two months – 8 programme weeks to be precise – still remains something of a snapshot, it is quite a large one, and comparison between these same eight weeks in 2003 and 2004 is a fair one.

Analysis

6. In terms of “Holyrood Live” viewing figures, the January and February statistics are as follows:

   2003 (3.10 start) – average audience 54,000 (share 7.3%)
   2004 (noon start) – average audience 27,000 (share 4.4%)
So the loss of viewers is an average of 27,000 per week, i.e. a drop of exactly half.

Explaining this

7. 150,000 fewer people watch TV at noon than at 3.10 pm. Source: the Broadcasters Audience Research Board (BARB), which provides very reliable statistics because advertisers insist on accurate information to inform their commercial buying decisions.

8. In addition to this, the available audience appears less prone to watch political programming at noon than in mid-afternoon.

9. The importance of time-slot over content is highlighted by the average viewing figures for the Wednesday afternoon “Holyrood Live” (on air at 2.30 pm) where on most occasions the business at the Parliament is less high-profile than First Ministers Questions. Here, though, average viewing figures in January and February 2004 were 53,000.

News Viewing Figures

10. There is of course another important part of the equation which indeed was one of the main rationales for the switch to noon, namely the increased general news coverage of FMQT this was expected to bring.

11. Here analysis can be less precise, since it is difficult to define specifically what is and what is not an FMQT-related news item on “Reporting Scotland” on BBC or “Scotland Today” on STV.

12. However the starting point is that the audiences for these general news programmes are altogether greater than “Holyrood Live” would ever get, irrespective of its time slot. For example the average daily audience of lunchtime Scotland Today is 200,000 and the average daily audience of lunchtime Reporting Scotland 270,000. The early evening viewing figures of both programmes are even higher, approximately twice as high in both cases. Figures for Grampian’s “North Tonight” and Border’s “Lookaround” would show the same broad pattern. Indeed, in per head of population terms, their audiences are higher than either Reporting Scotland or Scotland Today.

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coverage is. Even on good days, it rarely runs to 2 minutes, in which there would normally be less than 60 seconds of actual parliamentary footage within the item. But on many Thursdays, due to other competing news stories, there has simply been no coverage of FMQT at all.

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LETTER FROM THE MINISTER FOR PARLIAMENTARY BUSINESS

I enclose an Executive memorandum on the Procedures Committee’s Inquiry into Timescales and Stages of Bills.

The Executive welcomes the opportunity to contribute to the Committee’s inquiry. I hope that you will find the memorandum helpful in advance of the Committee meeting on Tuesday when I will be happy to discuss any of the points covered in more detail.

Patricia Ferguson
4 June 2004

MEMORANDUM BY THE SCOTTISH EXECUTIVE

1. The Executive welcomes the Committee’s Inquiry and is grateful for the opportunity to contribute to its deliberations.

2. The detailed scrutiny of legislative proposals plays a significant part in the work of the Parliament. This process should run smoothly and efficiently, allowing due consideration not by Parliament alone but also civic Scotland. In the first session of the Parliament, 62 Bills were considered and passed. That is a significant achievement and has provided us with a substantial body of evidence and experience to draw upon.

3. The Executive is the primary source of the legislation which Parliament scrutinises. It goes without saying therefore that we have a real interest in ensuring that the procedures in place for legislative scrutiny operate efficiently. That is why we have reviewed our own internal processes for managing our legislative programme. That programme is overseen and regularly monitored by Ministers. Procedures are in place to ensure that Bills, having been duly consulted upon, are ready on time and in good shape for introduction to the Parliament.

4. Whilst we recognise that the Parliamentary process is essentially a matter for Parliament to determine, the Executive has a clear interest in supporting procedures which operate as smoothly and efficiently as possible. In the light of experience over the last 5 years – and taking account of the Committee’s deliberations thus far – we have identified some elements of the process that we consider would benefit from change. These are set out below for the Committee’s consideration. The Executive
is, of course, willing to consider any other suggestions for change which the Committee proposes.

Pre-Parliamentary Process

- We consider that the prospective lead Committee could benefit from early awareness of legislative proposals before a Bill is formally introduced to Parliament. To facilitate this, the Executive would be willing to provide early briefings to Committee members. This would not replace the formal Committee scrutiny but should assist members in that process. It can, we believe, be particularly effective where very complex legislation is proposed. It would also be very helpful to the Executive to hear the Committee’s preliminary views at that early stage, without prejudice to the Committee’s formal consideration of the Bill as introduced. Some Committees have already taken advantage of the opportunity to engage at an early stage and we understand that has been a positive experience.

Stage 1

- Our view is that the current arrangements for the timetabling of Stage 1 should remain unchanged. The Parliamentary Bureau, having responsibility for planning Parliamentary business, (taking account of any views expressed by the Committee Convener), remains best placed to propose the timetable for Stage 1 consideration of the Bill. Where a Convener considers that more time is required, the Bureau would readily consider any request.

- We consider that committees may be able to avoid some duplication of work by having fuller regard to the Executive’s consideration of the responses received to consultation exercises. Responses are publicly accessible. This could help the lead Committee focus on particular aspects, particularly where the Bill provisions as introduced are markedly different from the original proposals on which the Executive consulted. This would help the Committee determine whether it could usefully consult more widely than the Executive, and to seek additional information to supplement the Executive's responses to the consultation, or to seek clarification of the policy underpinning the legislation.

Stage 2

- We consider that there should be no change to the current specified minimum period of 7 sitting days between Stages 1 and 2. In a large majority of cases the time between Stages has been well in excess of the minimum. The important issue is to retain a good degree of flexibility, as the present arrangement provides.

- As with Stage 1, we consider that the Bureau is best placed to propose the timetable for consideration at Stage 2, having regard to the ability of the Convener to request an extension as necessary.

- We would support an extension of the deadline for lodging amendments from 2 to 3 sitting days ahead of the Committee meeting. The extra day would benefit
Members and officials in both the Parliament and the Executive. It would allow more time to consider amendments lodged and to prepare final groupings. Members should, of course, continue to be encouraged to lodge their amendments as early as possible. The Executive would continue to lodge amendments 5 days in advance wherever possible.

- We would support the proposal that where a Committee meets more than once in a week, the meetings should be considered as one sitting for the purposes of lodging amendments.

**Stage 3**

- We consider that there should be no change to the specified minimum of 9 sitting days between Stages 2 and 3. The important issue is to maintain the degree of flexibility which the current arrangement provides.

- We consider that the Bureau should continue to propose the timetable, having regard to the complexity and controversiality of the Bill and the number of Members expected to wish to speak, although the latter is ultimately a matter for the Presiding Officer.

- We do not propose that the deadline for amendments (currently 3 sitting days) should be extended but it would be helpful if there were more time between publication of the marshalled list of selected amendments and the start of Stage 3. Bringing forward the lodging time on the third day to at least 2 pm could assist that objective. Extending the deadline to 4 days would not necessarily be helpful. For our part, the Executive will continue to aim to voluntarily lodge amendments 5 days in advance.

- We are not persuaded of the need to introduce a delay between the conclusion of Stage 3 and the motion to pass the Bill. This would in effect create a new Stage 4 which we consider to be unnecessary. There is already adequate provision for a Bill to be reconsidered should such a move be deemed necessary. Parliament should continue to confirm its view on the day concerned at Decision Time at 5 pm.

**Conclusion**

5. The Executive hopes that these observations are helpful to the Committee’s deliberations, together with the comments which the Minister for Parliamentary Business has already made about delegated powers in her letter of 19 May to the Convener of the Procedures Committee (paper PR/S2/04/9/4). We look forward to participating further in discussions. We remain keen to work constructively with the Parliament and its committees.

Scottish Executive
June 2004
PROCEDURES COMMITTEE

Review of FMQT and Question Time

Statistical data on questions lodged for answer at Question Time

Figures show the total number of questions lodged for each theme and for general questions, for each Question Time since the new format was introduced. Twelve questions are selected randomly for each departmental theme and 15 for the general section.

<table>
<thead>
<tr>
<th>Date of QT</th>
<th>Subject (Theme 1 / Theme 2 / General)</th>
<th>Questions lodged</th>
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<tbody>
<tr>
<td>11.03.04</td>
<td>Ent., Transport &amp; Lifelong Learning</td>
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<td></td>
<td>Justice &amp; Law Officers</td>
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Average number of questions lodged per Question Time

<table>
<thead>
<tr>
<th>Subject (Theme 1 / Theme 2 / General)</th>
<th>Questions lodged</th>
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</thead>
<tbody>
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<td>Health &amp; Community Care</td>
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<tr>
<td>Ent., Transport &amp; Lifelong Learning</td>
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<td>General</td>
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<td>Educ., Culture, Tourism &amp; Sport</td>
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<td>Justice &amp; Law Officers</td>
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<td>Environ. &amp; Rural Development</td>
<td>39</td>
</tr>
<tr>
<td>Finance &amp; Communities</td>
<td>36</td>
</tr>
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Inquiry on Timescales and Stages of Bills: Bills as amended at Stage 2

I am writing in response to Karen Gillon’s request, at the meeting of the Procedures Committee on 11 May, for examples of good and bad practice in relation to the provision of subordinate legislation memoranda to this Committee for Bills as amended at Stage 2.

Table 1 of the Annexe indicates that, towards the end of the first session the time between completion of Stage 2 of a Bill and arrival of the memorandum from the Executive averaged less than 4 weeks. Table 2 shows that, while the average is lower in the second session so far, the intervals vary more widely.

Although, as the tables also show, there is often an interval of 3-4 weeks between receipt of the memorandum and the Stage 3 debate, it needs to be borne in mind that the Committee considers the great majority of Executive, Members’ and Committee Bills at Stage 1 and considers most of them again after Stage 2 as well as considering and reporting on all statutory instruments coming before the Parliament. In these circumstances, therefore, having to wait for the arrival of memoranda imposes restrictions on the flexibility and orderly scheduling of the Committee’s business and on the time available to consider and report to the Parliament.

A consequence of the time constraints which arise can be seen in the closeness of the dates, shown in the tables, between publication of the Committee’s report and the Stage 3 debate. This can allow little or no time for Ministers and others to consider the Committee’s recommendations before the debate.

In the case of the last two Bills on Table 2, the Committee has decided that it is now practical to consider the Bill at one meeting only and with Executive witnesses present to respond to questions as there is too little time for written questions, a second consideration and production of the report before Stage 3. In each case, the table shows a substantial interval between completion of Stage 2 and receipt of the Executive’s memorandum.

I would be glad to respond to any questions arising.

Alasdair Rankin
Clerk to Committee
7 June 2004
Subordinate Legislation Committee

Consideration of Bills as amended at Stage 2

Table 1 gives figures for the last seven Executive Bills considered by the Committee in Session 1. Table 2 shows equivalent figures for the first seven Executive Bills of Session 2.

Table 1

<table>
<thead>
<tr>
<th>Bill</th>
<th>Stage 2 Completion</th>
<th>SL Memo received</th>
<th>Publication of SLC Report</th>
<th>Stage 3 Debate</th>
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<tr>
<td>Criminal Justice</td>
<td>10 Dec</td>
<td>13 Jan</td>
<td>7 Feb</td>
<td>20 Feb</td>
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<tr>
<td>Water Environment</td>
<td>11 Dec</td>
<td>8 Jan</td>
<td>27 Jan</td>
<td>29 Jan</td>
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<tr>
<td>Public Appointments</td>
<td>18 Dec</td>
<td>14 Jan</td>
<td>28 Jan</td>
<td>5 Feb</td>
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<td>Building</td>
<td>8 Jan</td>
<td>24 Jan</td>
<td>7 Feb</td>
<td>19 Feb</td>
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<td>Title Conditions</td>
<td>14 Jan</td>
<td>27 Jan</td>
<td>18 Feb</td>
<td>26 Feb</td>
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<tr>
<td>Homelessness</td>
<td>15 Jan</td>
<td>6 Feb</td>
<td>3 Mar</td>
<td>5 Mar</td>
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<tr>
<td>Mental Health</td>
<td>19 Feb</td>
<td>27 Feb</td>
<td>19 Mar</td>
<td>19 &amp; 20 Mar</td>
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Table 2

<table>
<thead>
<tr>
<th>Bill</th>
<th>Stage 2 Completion</th>
<th>SL Memo received</th>
<th>Publication of SLC Report</th>
<th>Stage 3 Debate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary Medical Services</td>
<td>02 Dec</td>
<td>03 Dec</td>
<td>12 Dec</td>
<td>18 Dec</td>
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<tr>
<td>Nature Conservation</td>
<td>03 Mar</td>
<td>23 Mar</td>
<td>22 Apr</td>
<td>5 May</td>
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<td>Education (ASL)</td>
<td>10 Mar</td>
<td>24 Mar</td>
<td>30 Mar</td>
<td>1 Apr</td>
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<td>NHS Reform</td>
<td>23 Mar</td>
<td>20 Apr</td>
<td>6 May</td>
<td>6 May</td>
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<tr>
<td>Criminal Procedure</td>
<td>24 Mar</td>
<td>19 Apr</td>
<td>22 Apr</td>
<td>28 Apr</td>
</tr>
<tr>
<td>Antisocial Behaviour</td>
<td>26 Mar</td>
<td>2 Jun</td>
<td>11 Jun (est)</td>
<td>17 Jun</td>
</tr>
<tr>
<td>Local Governance</td>
<td>11 May</td>
<td>7 Jun</td>
<td>18 Jun (est)</td>
<td>23 Jun</td>
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</table>
When Ross Finnie gave oral evidence to the Committee on 27 April, in relation to the Land Reform (Scotland) Bill, he commented on a paper circulated to the Committee showing when the various Stage 2 amendments to the Bill had been lodged (PR/S2/04/7/3). In particular, he said:

“Looking at the tables that contain the evidence of the number of Executive amendments that were lodged can, at first glance, give a false impression. Some amendments were policy related, but the majority were technical, to ensure consistency, or consequential—for example, to address matters that were introduced elsewhere, such as sustainable development and charitable status issues in parts 2 and 3.” (OR, cols 446-7)

Later, Jamie McGrigor asked:

“Of the 203 amendments that were lodged for the first day of Stage 2 of the Land Reform (Scotland) Bill, only 10 were lodged in the first eight weeks between Stage 1 and Stage 2; the rest were lodged five days in advance of the meeting at which they were being considered. That gave people very little time to understand and deal with those amendments. Would it be possible for amendments to be lodged earlier than that, rather than all in a lump at the end?” (col 455)

Mr Finnie replied:

“We would be happy to consider that suggestion if required. We discussed the matter the other day. Members have in front of them tables with details of Executive and non-Executive amendments, so it might be helpful for your deliberations if we could arrive at a view about our amendments, noting those that are of a purely technical nature, those that relate to policy and those that respond to specific requests by a committee.

“Somebody could take a bundle of amendments and say, "Gosh—this is pretty difficult stuff." We could discuss with your clerks some additions to the tables—that might be helpful, because in considering Jamie McGrigor’s question, we also need to consider the nature of amendments. We discussed that point the other day and we thought that that information would be a constructive addition to the tables.” (cols 455-6)

Executive officials have now provided a breakdown of the Stage 2 Land Reform amendments as follows:
Part 1 (Access Rights)

Stage 2
33 substantive; 0 technical; 10 consequential.

Stage 3
70 substantive of which 4 were lodged in response to non-Executive amendments; 3 technical; 32 consequential.

Part 2 (Community right to buy)

Stage 2
48 substantive of which 2 were lodged in response to non-Executive amendments; 14 technical; 3 consequential.

Stage 3
9 substantive of which 3 were lodged in response to non-Executive amendments; 14 technical; 1 consequential.

Part 3 (Crofting community right to buy)

Stage 2
46 substantive of which 5 were lodged in response to non-Executive amendments/queries; 12 technical; 5 consequential.

Stage 3
5 substantive; 4 technical; 0 consequential.

Total
211 substantive of which 14 were lodged in response to non-Executive amendments; 47 technical; 51 consequential.

Executive officials have explained that “it is always a matter of judgement into which category each amendment falls but we believe we have been consistent throughout” – and provided the following definitions and examples:

Substantive: policy related, for example changing or developing the policy;

Technical: to ensure consistency with the policy or other minor factual change; and

Consequential: for example, to address matters introduced elsewhere, such as sustainable development and charitable status.

Executive amendment 104 was a substantive amendment in that it inserted a new provision in the Bill. It amended the Bill at Stage 2 by inserting a new section after section 18. It requires local authorities to review the core path plan adopted by them under section 18, at such times as they consider appropriate and on Ministers requiring them to do so. Where a core path is closed or diverted then they are required to make appropriate
amendments to the plan. In doing so, however, they must have regard to the extent to which it appears to them that persons would, but for the amendment, be likely to exercise access rights using the core path and the effect which the amendment of the Plan would have as respects land served by the core path. Where a core path is stopped up/diverted, by order under section 208 of the Town and Country Planning (Scotland) Act 1997 then they must amend their plan accordingly. Where the local authority propose to add a new path to the Plan then they must have regard to the provisions detailed in section 17(3) and (4) of the Bill and carry out the consultation procedures set out in section 18 in respect of the amended Plan.

**Executive amendment 101** is consequential on Executive amendment 104 in that it removed the existing provision relating to review of the core paths plan that was in section 18 of the Bill when it was introduced as it was no longer needed in light of amendment 104.

**Executive amendment 120** tabled at Stage 3 was a technical amendment. It confirmed that when calculating the 40 days for the purposes of section 24(a) (i.e. the laying of ministerial guidance before Parliament) no account is to be taken of any time during which the Parliament is dissolved or is in recess for more than 5 days.

**Conclusion**

The Executive’s conclusions are as follows:

“What the data shows is that out of a total of 171 Executive amendments at Stage 2, 127 were substantive amendments and at Stage 3 out of a total of 138, 84 were substantive amendments that might have required detailed consideration by the Committee and others. The vast majority of Executive amendments were lodged at least 5 days in advance of the Committee meetings although most of these were lodged at the one time on the 5-day deadline appropriate to the relevant meeting. We recognise that lodging a large number of amendments at one time can present difficulties although the 5-days advance notice (rather than 2 days) will be helpful to Members.”