



OFFICIAL REPORT
AITHISG OIFIGEIL

Standards, Procedures and Public Appointments Committee

Thursday 3 April 2025

Session 6



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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
5th Meeting 2025, Session 6

CONVENER

*Martin Whitfield (South Scotland) (Lab)

DEPUTY CONVENER

Ruth Maguire (Cunninghame South) (SNP)

COMMITTEE MEMBERS

*Joe FitzPatrick (Dundee City West) (SNP)

*Sue Webber (Lothian) (Con)

Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Professor Paul Cairney (University of Stirling)

Dr Tom Caygill (Nottingham Trent University)

Ken Hughes

Professor Cristina Leston-Bandeira (University of Leeds)

Rona Mackay (Strathkelvin and Bearsden) (SNP)

CLERK TO THE COMMITTEE

Catherine Fergusson

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 3 April 2025

[The Convener opened the meeting at 09:15]

Decision on Taking Business in Private

The Convener (Martin Whitfield): Good morning, and welcome to the fifth meeting in 2025 of the Standards, Procedures and Public Appointments Committee. I have received apologies from Ruth Maguire. I welcome Rona Mackay as her substitute. I understand that Annie Wells is running slightly late. We will see whether she makes it. If not, she extends her apologies as well.

Before we turn to our main agenda item, I note for the *Official Report* that, further to our meeting on 20 February, the committee has agreed to re-accord recognition to the cross-party group on Taiwan following further examination of records regarding the group's compliance with the code of conduct.

Our first item is a decision on whether to take in private item 3, which is a discussion on the evidence that—I hope—we are about to hear. Does the committee agree to do so?

Members indicated agreement.

Committee Effectiveness Inquiry

09:16

The Convener: Our second item is the second in a series of four oral evidence sessions in our committee effectiveness inquiry. The inquiry is seeking to answer the question of whether changes to the Parliament's procedures and practices would help committees to work more effectively. Our call for written views from political parties, committees and individual members of the Scottish Parliament closes on Friday 4 April. The call for views from the public runs until Tuesday 22 April. Today, we are seeking to explore committee effectiveness in the context of the culture of the Scottish Parliament, as well as to gather broader perspectives on issues that were raised in our previous session, on 20 March, which focused on how committees are viewed externally and how their impact is evaluated.

We are joined online by our committee inquiry adviser, Dr Danielle Beswick. I welcome the members of the panel: Professor Paul Cairney, professor of politics and public policy at the University of Stirling; Dr Tom Caygill, senior lecturer in politics at Nottingham Trent University; Ken Hughes, former assistant chief executive at the Scottish Parliament; and Professor Cristina Leston-Bandeira, professor of politics at the University of Leeds.

This is a round-table evidence session. Although there will be the usual approach of questions from members to witnesses, it is intended that there will be opportunity for discussion between the witnesses in order to encourage a more open and free-flowing session. There is no expectation that all witnesses will answer all questions. Anyone who wishes to come in on a question or on a response made by another witness should indicate that and I will bring you in at the appropriate moment.

We move to questions, and it falls to me, as convener, to kick things off. My opening gambit is to Professor Cairney. I know that you have done a huge amount of work on Government legislation and on thevaluability of achievement of the scrutiny of that legislation. In the past, you have been critical of the effectiveness of that scrutiny. Does that view still stand, or have you seen changes that have improved things? Perhaps you have seen changes the other way.

Professor Paul Cairney (University of Stirling): I did not realise that I had been critical.

The Convener: It was constructive.

Professor Cairney: Mark Shephard, who is a colleague, and I used to study the legislative

process and the amendments that people would make to legislation. If I am critical of something, it is the imbalance between the Government and the Parliament, and how the Parliament does not have sufficient resources to perform that role effectively.

With complex legislation, a well-resourced team in Government puts it together and provides a bill, and MSPs, who have to be generalists, are expected to suddenly become experts in anything that they process. That is one of the issues. Towards the end of a four-year session, when there was quite a lot of legislation to process, suddenly there were additional concerns. I remember that a previous Presiding Officer used the word “bounced”. They would say, for example, “I’m worried that we’re being bounced with this legislation”—that is, that it had been introduced too late. That was the feeling then, and it was significant, because that was when we were still talking about the new politics and how everything was going to be great. I seem critical probably because we are comparing that aspiration with the more humdrum, disappointing reality. By that I mean that that is the case in general, not just in Scottish politics.

I supervised the PhD of Steven MacGregor, who I think is known to the committee. He works in the Scottish Government, where he oversees bill teams, and he is much more positive about the process than I am—which will come as no shock to you. He is more complimentary of the Parliament. I am always a bit suspicious when someone in Government is complimentary of how the Parliament is doing, because I wonder whether it is buttering people up in order to draw attention away from any problems. That is not what Steven MacGregor did; it was about rigorous research and that sort of thing.

However, there is an interpretive side, which is about working out what good and effective scrutiny would look like. I think that, for Steven MacGregor, it would be about the Government being respectful of Parliament when it presents legislation, about how it responds to suggestions and about lodging most amendments in line with committees’ concerns. You do not see that in the figures—all that you see is lots of Government processing, but, actually, that is in response to parliamentary concerns. That is the more positive account that I can give you.

The Convener: That is very helpful. Interestingly, you talked about the resource imbalance. If there were unlimited resources, we could say, “Great, let’s have a massive Parliament and a massive Government.” However, is there something in the procedures about the timing of things? Could resource be created by lengthening the time between things?

We are looking at committee effectiveness. Part of that is to do with when committees get bills to scrutinise. Is there something to be said for looking at that wider issue? You mentioned the four-year session. We are now in the fourth year and approaching the fifth year of our session of Parliament. That latter stage is when a bulk of legislation always comes through, which is understandable. Is it worth looking at those timeframes and making them more explicit in order to balance out things? Would it be reasonable for a Government to have to operate under that constraint?

Professor Cairney: Yes, I would say so. I am no big expert, but my impression is that there are informal understandings between the Government and the Parliament about giving committees as much time as possible. There is a useful vague language along the lines of, “We will give you this as soon as we can, as far as is practical.” I think that there is already that expectation. It is then simply a case of how they would negotiate what is reasonable from each perspective. From the Government’s perspective, the later the better, because that gives it more time to work on the legislation. However, from the Parliament’s perspective, that is no good. It is therefore a negotiation.

I have thoughts on other things, but I will save them for now. I will give you less bland thoughts on other issues.

The Convener: I am sure that we will come to that in the range of issues that we want to talk about.

In our previous evidence session for our inquiry, there was an interesting discussion about whom committees have a responsibility to. There was also a fascinating discussion about the perspective of the public being made front and centre in the work of committees, particularly with regard to scrutiny.

I have a broader question for all the panel members. Is there a view that the Scottish Parliament is achieving the prioritisation of public issues over party-political issues and the subjective issues of MSPs? Are we giving enough weight to what is worrying the public?

Ken Hughes, do you want to chip in?

Ken Hughes: What immediately springs to mind is the work that we, or rather the Parliament—I am sorry; I will have to stop saying “we”—did via the commission on parliamentary reform. The Parliament was doing a lot of public engagement work, but certainly not to the extent that it has done after the commission, having set up a dedicated engagement unit. It did all of that because it recognised the need to improve scrutiny.

What is scrutiny? Like all parliamentary activity, it is about improving public policy for the good of all. That suggests that we have to broaden the net as wide as we can, so that people can have a say on proposed policies and how they are helped or affected by existing policies. Creating a lot of resource in order to bring in voices is a huge deal, but it is probably still a struggle to get beyond the usual suspects, which is a huge problem.

The Convener: We have an outward-looking vehicle that reaches out to the public: the Citizen Participation and Public Petitions Committee. By many accounts, it is well received and effective. Do we need to take the next step, which is to use the skills that we have to be outward-looking in involving the public—including in the Parliament building—and mine that resource for the purpose of bill scrutiny at a much more specific individual committee level? Would that assist?

Ken Hughes: It would assist greatly. At least some committees are crying out for that and see it as the missing link to get beyond the usual suspects. Those people are good at what they do and are usually there to represent a broad range of views, but there is nothing more powerful for a committee to do than speak with people who are really affected by an issue. In such cases, the committee is not talking to a representative; it is talking to people who are really affected by the issue.

In evidence sessions, whether they are for legislation or for broader matters, the most powerful testimony always seems to be from people who are affected, when you move beyond the representative groups. The representative groups have a role in identifying who those people could be, but hearing that testimony is really important.

The Convener: Thank you, Ken. That helps, because it means that I can again remind people that the public call for views in our inquiry is open until Tuesday 22 April.

I put the same question to Cristina Leston-Bandeira.

Professor Cristina Leston-Bandeira (University of Leeds): You will not be surprised to hear me say that involving the public is crucial. The Scottish Parliament is well known internationally for how well it involves the public, which it does through the participation and communities team and all the work that they do, the deliberative democracy exercise and the lived experience panels. The Parliament is strongly concerned about involving seldom-heard groups. Doing so is difficult, but at least such a perception of the Scottish Parliament exists, which might not be the case for lots of other Parliaments.

Perhaps there should be more thinking about bringing in the public earlier in the process. Rather than going out to the public and looking for the audiences and groups that are affected by a bill, an inquiry or whatever it might be, that would involve taking a step back and thinking, “What does the public want to hear about? What are the issues that affect the public?”

That would be part of a wider piece of work that would show the relevance of the Parliament and its committees to the people. Committees have an excellent opportunity to do that, because they deal with the detail of the specific issues that affect us every day, but do the public know that and realise how relevant committees are to their lives? There are innovations to consider, such as asking the public, “What inquiry should we do?” or “Where is legislation needed?” instead of calling for the public’s views as part of an inquiry.

You mentioned the Citizen Participation and Public Petitions Committee, which has a long tradition and an important role in this Parliament. More work could be done to link petitions to what other committees are doing. The Parliament has existing mechanisms that are perhaps not being used, such as petitions and MSPs’ postbags. As MSPs, you are the ones who deal with constituents every day. You cannot refer all issues to committees, but you develop a sense of areas in which there are concerns, so you have to think about the mechanisms that the public can use to shape its own agenda.

The Convener: If such work was done earlier in whatever process we are talking about, from that early sharing of postbags to the role of petitions, we would have the advantage of being able to say, “This Parliament is prioritising you, the public, and your issues.” However, that interesting idea of a committee reaching out much earlier to ask what the public would like us to do would be helpful for doing that, too. Would that be a fair conclusion to draw? I hope so—no pressure.

09:30

Professor Leston-Bandeira: Absolutely. Obviously, it is not necessarily something that a committee would do all the time, but it could decide when to do that and which areas it should prioritise. For example, the Education, Children and Young People Committee could choose to consider support for special needs, primary schools or whatever it might be and then try to understand which issues really concern people.

Little things can be done. In Chile, committees have thematic days when they try to find out what the issues are around a theme, and the House of Commons Science, Innovation and Technology Committee has undertaken calls for views for

inquiries. Things like that could be experimented with. This Parliament has so much innovation and so many ideas that I am sure you would come up with something even better than that.

Joe FitzPatrick (Dundee City West) (SNP): I will ask you guys to put a bit of context to where we are now and how people look at the Parliament. I will ask my first set of questions and you can answer whichever bit you want to. What is unique about the Scottish Parliament's system, and what mechanisms affect its effectiveness? How might judgments on committees' effectiveness be influenced by the history and political culture of Scotland?

Professor Cairney mentioned expectations of Scottish Parliament committees. How have those expectations developed? What do we expect from committees, and has that influenced how the Parliament has evolved? Dr Caygill, do you want to go first?

Dr Tom Caygill (Nottingham Trent University): I will make a couple of points about what I think is unique about Scottish Parliament committees. It links back to the establishment of the Parliament and to the Nordic model of legislatures and having small specialist committees. Size of membership matters when it comes to effectiveness. If we are trying to achieve consensus, the fewer members that there are, the easier it is to achieve that. In general, we argue that somewhere between seven and 11 members tends to be the sweet spot for reaching consensus across a wide range of political views and ideologies.

The support services that committees receive also matter. The work that colleagues in the Scottish Parliament information centre do in supporting committees stands out. That is from my perspective as someone who has done research at Westminster, where you do not see the link quite as clearly between the committee system and, say, the House of Commons and House of Lords libraries. Although the link is there, it is not quite as personalised as you can see in the committee system here.

On the question about what is unique in the Scottish Parliament's committee system, there are pros and cons to the approach of combining the functions of legislative scrutiny and holding the Government to account. There is specialisation in legislative scrutiny plus the ability to hold the Government to account in the same area, unlike in the system at Westminster, where the structure is split and there is less specialism in the legislative committee system.

However, challenges come with that. In the research that I have been doing in SPICE on post-legislative scrutiny, one of the bigger challenges

that comes up for committee members and officials to whom I have spoken is the amount of referred work that committees receive, which limits their ability to undertake work that they initiate themselves. That comes from the uniqueness of the system.

As I said, there are benefits to that uniqueness in combining the functions, but there is a challenge in relation to how much a committee is being led by Government initiative rather than its own initiative. That links back to the question of whether committees are covering topics that matter to the public. Particularly for more legislation-intensive committees, if the Government's legislative programme dominates the committee's work programme, that understandably means that other priorities on the work programme might be lower down the list.

Professor Cairney: I remember people gnashing their teeth about committee size and the trade-offs in relation to each committee's size. However, the problem that people faced was that the size of each committee determined how many committees people had to be on. Some people were juggling membership of two or three committees. There are only 129 MSPs—minus those who are members of the Government—so we are talking about a tiny number of members, and it is the cumulative effect of the size that matters.

That undermines the idea that the combination of the two functions of the committees was supposed to make each MSP an expert in their subject. I do not know how you would have the time to become an expert if you were sitting on three committees and doing constituency work and so on. That is the issue—it is about trade-offs. If the priority was more specialisation among MSPs in order for them to become subject experts, there would be clear recommendations—bigger committees, with less attendance at other committees, or something like that—but the problem is that you have a bunch of things that you want to do, so there is always going to be a tension in that regard.

Ken Hughes: There are so many related issues. I designed the clerking structure for the committee office and the chamber office with my own fair hand, and, come reality, I could see that I had woefully underestimated what we needed. The expectation was, first, that we would not have as many committees as we do and, secondly, that they would not be as busy as they are.

I go back to the comment that was made earlier about there being too much legislation in the first parliamentary session—that was what was said at the time. I remember the Government saying, at a Parliamentary Bureau meeting in the first parliamentary session, "We've got too many

parliamentary questions—we can't cope with them." I understood completely what it meant, because I was once a civil servant and I had worked in a few policy areas. It was a red-letter day if you got an oral PQ—that was quite unusual, certainly in the areas that I had worked in—and you did not get many written PQs either. I looked at the *Business Bulletin* the other day, and I think that we now get an average of about 9,000 PQs a year—that is just written PQs. We just did not expect all that, to be frank.

The resource for committees is now baked in, and it stems from the number of members. As was said, once you take out Government ministers and those on the front benches, there is not a lot left to juggle with at all, so there is a built-in constraint.

With regard to the public perception—historical and otherwise—of committees, our committees get unfairly compared with Westminster committees. I have thought for a number of years that what the public tend to see most in Westminster committees is, for example, the heads of banks, utility companies and public bodies—not ministers; everybody apart from ministers—going in front of, say, the Public Accounts Committee, with every member having a good question session. The reason for that is that there are no wagons to be circled to protect party positions, because everybody has a single focus. We have that here, too—it has happened recently in relation to universities and ferries. That is when the public perception of the effectiveness of committees is at its best. Therefore, the comparison with Westminster is unfair, because people do not realise that the Scottish Parliament does the same thing.

Broadly speaking, probably 90 per cent of the work of committees is not that alluring. The Parliament will probably never get the credit for that work, but it is hugely necessary and hugely important.

Joe FitzPatrick: What you have said begs the question of whether we should do an inquiry into the number of MSPs that are needed for a committee to be effective. That might be a question for a different inquiry.

Before I bring in Professor Leston-Bandeira on those points, I will chuck in a couple of other points that she might want to comment on. It would be good to hear whether there are other areas in which the Scottish Parliament's system is working well that we should highlight. Could we learn lessons from other legislatures that are doing things well?

Professor Leston-Bandeira: As I mentioned, one of the things that the Scottish Parliament does well relates to PACT—I want to say that that is the participation and communities team, but I might be

getting that wrong. You know what I mean. I am talking about the support that you get. As Tom Caygill said, the fact that you have a team approach to committees is important. There is engagement with the clerks, SPICe and the media, with everyone working together, which is not the case in all Parliaments. That might be taken for granted sometimes, but that approach provides really important support, as it enables you to look at the issue that you are addressing from different perspectives, to communicate outside the Parliament, to have support from SPICe and so on. That is really valuable and should not be taken for granted.

You mentioned history and how the Parliament was set up. With its core principles of openness, participation and being community based, this has always been a Parliament that has—at least in theory—wished to be more community based. That aspect could be strengthened. There are committee visits, but committee meetings could be held elsewhere. That goes back to the idea that was mentioned earlier about the public setting shaping the agenda—perhaps that could be reinforced.

I will stretch that idea beyond committee work and committee support to other areas of the Parliament, such as education and outreach. There is sometimes a tendency in Parliaments to think of education and outreach as doing one job, which is educating the public about what the Parliament does, while the committees and parliamentary business do other jobs. You should not disregard how much the area of education and outreach can support the work of committees by making it more visible. It is about showing the relevance of what committees do to the public.

Earlier, I was looking at your exhibition downstairs in the main hall. I do not know whether everyone has had a chance to look at it, but the little videos are really good. There is a great story by a person called Kevin about growing up in care and the related committee work. Those sorts of stories are really powerful, but I cannot see them on the Parliament website. I am not saying that the ordinary citizen often goes to the Parliament website, but it is about communicating those stories. You should work more closely with other outer services, which might not seem relevant but are actually important if you want to communicate the relevance of committee work to the public. I hope that that made sense.

Joe FitzPatrick: It did. Thank you.

The Convener: Can the specialism, expertise and brilliant support given to committees offset the lack of expertise among MSPs who sit on committees? Is that a safe counterbalance, or should MSPs have a level of expertise in relation to committee work?

I do not know who wants to have a go at that question.

Professor Leston-Bandeira: Having taught about Parliaments for more than 30 years, I always make the point that members cannot be experts on everything. Members need to have support when they require it, to enable them to develop expertise. It is a balance, as the issue of turnover can be a problem. It is also about what members are interested in. If they are interested and passionate, they will go for it.

Ultimately, there needs to be a wider network of support and expertise. That might be from SPICe or it might be from outside organisations—the Scottish Parliament is well known for working with partners outside the Parliament. There are always issues of bias and imbalance, but the staff are well trained to deal with those. The public can also bring expertise and lived experience. I do not think that members should be absolute experts on things. It is important, but the network and the support that they get are more important.

09:45

Dr Caygill: I broadly agree with what Cristina Leston-Bandeira has said. Evidence sessions are for drawing in expertise. We cannot expect members to be experts on everything.

Turnover is also an issue. Sometimes, there is nothing that you can do about it. It is just a fact of the way in which things operate, and it happens in other Parliaments, too. It would be good if there was a way to reduce turnover, but I have no idea how we would go about doing that. It goes back to what Ken Hughes said about the number of MSPs in the Parliament, which is outside the inquiry's remit. However, if you could stabilise turnover, it would enable members to build expertise over a five-year session and, should a member be reappointed to a committee in the following session, further expertise would be built.

There is an example from one of the post-legislative scrutiny inquiries that I have been looking into, as case studies, in which a member sat on the committee that scrutinised the legislation as it went through the Parliament and then, in the following session, conducted post-legislative scrutiny on it, too. They developed expertise on that legislation because they were aware of the issues that had been debated during its passage, which came up again during the post-legislative scrutiny.

When members are able to sit on a committee for a full session, if not longer, they develop expertise. I appreciate that that is rare rather than common among members.

Ken Hughes: In my humble opinion, it would not necessarily be a good thing to have a committee full of experts. If you are an expert on a subject, you will have your own opinions, and it is good for a committee member to have an open mind that receives new information.

The Convener: That is very helpful. There have been a number of questions and discussions about the balance between the expertise of MSPs and the specialism that sits around them. As Tom Caygill pointed out, there is a value in the institutional memory that MSPs sometimes have of the journey that a piece of legislation has taken. However, as Cristina Leston-Bandeira pointed out, there are experts from the public who can, all the way through, offset the need for specialism. As Ken Hughes said, perhaps we want specialists not to make the decisions but to give the evidence.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Good morning, witnesses. All of your comments have been really valuable, and I agree with them all. I will go back to something that Professor Cairney raised and blow our own trumpet in the Parliament.

We have a huge legislative workload for a small number of MSPs. I am the chief whip for my party, which is the party of government, so I have to get people on committees. All members of my group are on two or three committees in a Parliament that meets three days a week. That puts into context the time that we have. We would all love to do more scrutiny. It is essential, but it is a case of time versus people. It is really difficult to do more scrutiny.

With regard to specialists, I always try to match somebody up to a committee that they had an interest in or a background in before being elected. It is not always possible, but you do your best. We also have a huge turnover because people come off the back benches to go into Government, which requires a reshuffle of committee membership. It is pretty much constant.

I am pointing out the challenges in our system. We try to minimise turnover. I believe in trying not to disrupt committees if I can and in keeping people on a committee so that they can get comfortable and get to know the subject better. I have been on the justice committee since I was first elected, in 2016. I am by no means an expert, but I feel confident on that committee, because I have been there so long and can reflect on previous legislation.

I will point out something and see whether you have any ideas on it. At this time of year, we face perhaps not a rush but a number of stages 2 and 3 that have to be done by the end of the session. Could we organise things better so that we do not have to face quite so much? It happens every

year—Joe FitzPatrick has been here longer than I have, so he can attest to that. Do you have any suggestions for how things could be managed better, so that we do not suddenly have stages 2 and 3 every week from now until the summer?

Ken Hughes: We have discussed the question previously. The Scottish Parliament is not like Westminster. We rush to get things done by the summer, but there is nothing to say that they cannot take longer. That would affect the flow of the Government's legislative programme, but there is no constraint on us to have things finished by the summer, before we go off and get a new set of legislation. At times, if it is necessary to do more scrutiny—particularly at stage 2—that period of scrutiny should perhaps be longer.

Rona Mackay: Does the issue go back to our programme for government? In our programme for government, there is a commitment to get legislation through. Is that where the change should start?

Ken Hughes: The issue does start there. The problem is that, if the Government does not have a tight timetable for the sequencing of legislation, a logjam might be created at the very end of the session. However, yes, the issue starts with the Government's programme for legislation.

Professor Leston-Bandeira: I do not have a lot to add. Committees should try to be more strategic, if they can be, from the start. They need to think about what will be coming down the pipeline in a parliamentary session and how to organise themselves to deal with it. Obviously, that is more easily said than done, because the timing of legislation is still dependent on the Government. However, time spent thinking about the programme and what to prioritise at the beginning of the parliamentary session might be quite valuable.

We can think about practices in continental legislatures, although I realise that the numbers here might not enable them to be used in the Scottish Parliament. One practice that exists is the rapporteur system, in which a member becomes responsible for collecting views and for reporting—which is what the word "rapporteur" refers to—on specific bills. Another practice involves sub-groups. In some Parliaments, committees have sub-groups that focus on a bill or a piece of legislation and then report back to the larger committee. I realise that it would be difficult to have sub-groups here, and I do not know whether either of those practices would be suitable, but, together with strategic thinking beforehand, they might provide a way forward.

Rona Mackay: You talk about sub-groups. In the previous session, I was on the Justice Committee and we had a Justice Sub-Committee

on Policing, which I was also on. It is not possible to have that in this session, because we do not have enough people to populate a sub-committee, so we are dealing with everything in the one committee. It comes down to the legislative workload and the number of people who are available to be on the committees. All that being said, I think that we do a really good job at it.

I agree that we have fantastic support from the clerking teams and from SPICe. When I was first elected, in 2016, I had never sat on a committee before; I was something else in a previous life. One thing that amazed me right from the start was how good the support was that members got. We could go to any of the clerks at any time and ask them anything, and they would get right back to us. Honestly, I think that we have a great system for that here. It is really good across all the portfolios.

My last question is about the balance between referred work and proactive inquiry work. We would all love to do more proactive inquiry work and we should be doing it; it is just that we do not always have the time to do it. Some committees do some of that work and it is really useful, but there is more that could be done. However, the logistics often do not allow for that. Would the best plan be to build that into our work programme regardless? Do you have any thoughts on that, Professor Cairney?

Professor Cairney: I do, although I gave up on some of the thoughts many years ago, because no one was interested. [Laughter.] I will give them one last go. I think strongly that there should be far more resources for the clerks and committee teams, regardless of how well they do their job. If you are talking about the need for more capacity to deal with more agenda-setting work, people need to be working on those things continuously rather than in an ad hoc way. I have my order of least feasible suggestions, and the least feasible suggestion that I like the best is connected to the fact that people naturally work to deadlines with legislation. If the deadline is every four or five years, they will work to that, so one obvious solution is to set different deadlines for legislation, saying that, if a bill does not appear by a certain point, it will not happen in that five-year term—but you can imagine the party dynamic. It is a sensible suggestion, but it will not happen.

The other suggestion would be to do more pre-legislative work, so that, by the time that a bill came to a committee, members would know much more about it than they would if they were just bounced into it. The problem that we have faced in the past is that there is a sense, particularly among Opposition MSPs—I am paraphrasing—that they do not really want to help the Government to make its legislation. They want to

scrutinise it independently. In essence, pre-legislative work is about trying to work with the Government to shape the legislation. I do not think that it is agreed in the Parliament that that is the role of the committees. There is a language of being businesslike and all that sort of thing, but it is layered with a partisan lens, which is, “We’re here to criticise this stuff, not to help you make it better so that you’re more electable next time.”

Rona Mackay: I think that you have completely nailed it there. The idea of members having more of an up-front look at legislation and doing a bit more scrutiny beforehand might alleviate the situation, because we would not be coming to it new.

Dr Caygill: I have previously researched pre-legislative scrutiny and I am in the middle of a project—aside from this post-legislative one—on pre-legislative scrutiny in Westminster. To build on what Paul Cairney said, there would be an issue in that you would be reliant on the Government producing a draft bill. At Westminster, the Government brings forward draft bills that might be quite technical but are not particularly party political and on which there will not be a partisan battle. That might be a reason for doing more pre-legislative scrutiny—to avoid committees struggling with the details of very technical legislation.

However, the sort of legislation that committees might spend more time debating with regard to the principles will not necessarily be the sort of bills that Governments bring forward in draft form, because they want to keep them quite close to their chest. That might be because the bill is a key part of the Government’s policy programme or it might be because there has been an outside incident that requires an immediate response and the Government decides, “This is our response. Let’s get it through in the shape that we want it, as quickly as we possibly can.”

Yes, there is scope to do more pre-legislative scrutiny, but it comes back to whether committees have the time to do that. At Westminster, pre-legislative scrutiny normally reduces the amount of time that bills spend in a committee, because the committee has looked at it already. There are certainly fewer amendments from the House of Lords when that is done. However, if you spent, say, two months on pre-legislative scrutiny and the bill then went through the normal pre-legislative process, you might end up in the exact same position, in terms of the amount of time that has been spent on legislative scrutiny, so that is something to bear in mind.

The legislative workload is incredibly difficult to manage. Often, when I am teaching my students about Parliaments, I ask them to look to this Parliament to see how well it manages the five-

year period and the work that the bureau does. However, I appreciate that there are still challenges with the sequencing of legislation, as well as in relation to balancing the Government’s right, given its mandate, to put forward its legislative agenda, with the right of the Parliament to take its time to scrutinise the legislation.

Rona Mackay: It is about getting the balance right. Currently, the Criminal Justice Committee is working on two very big and important bills in tandem. Many committees are working on more than one bill at a time—that is the intensity of our workload.

10:00

Ken Hughes: From the start, there has been a purist view of pre-legislative scrutiny, which is, “How can you scrutinise a bill if you’re complicit in the drafting of it?” That has also formed the approach.

Joe FitzPatrick: I was going to talk about something else, but, as we are discussing pre-legislative scrutiny, I will give a couple of examples of where I think that we, as a Parliament, have managed to get the balance right. The Lobbying (Scotland) Bill—I was the minister responsible at the time—was very much shaped by the committee’s work. It almost felt as though it might have been better for it to be a committee bill, but those are difficult. The Parliament managed to find a way to deal with that.

Another example of pre-legislative scrutiny that I hope will develop into a bill is the work on conversion practices. Right at the start of the parliamentary session, the Equalities, Human Rights and Civil Justice Committee did the work and decided that it was too complex to be a committee bill, so it asked the Government to do it. We have not got there yet, but, clearly, the challenge is in ensuring that, when that happens, all the pre-legislative scrutiny work that the committee did will not have to be redone by the Government and then redone by the committee.

That is the big challenge, which brings me to the point that I was originally going to come in on—namely, the timelines. I joined the Parliament in the third session, in 2007, and it feels to me as though, as every parliamentary session goes on, bills are taking longer. I am certain that Steven MacGregor will be able to confirm whether that is just my feeling or a fact. I think that it is a fact that, as a Parliament, we are taking longer to deal with all the bills—probably mainly at stage 1—but it would be good to hear the witnesses’ thoughts on whether that is the case.

Ken Hughes: During my time in the Parliament, the clerking body—we discussed it among the clerks—had a perception that the Government’s

timetable was almost done by rote, so there would be six weeks for stage 1, nine weeks for stage 2 and so on. We thought that one size did not fit all and that, as a Parliament, we should at least push back a wee bit on that, discuss it with the Government and say, “No, this one needs to take longer.” Perhaps what you are describing is, at least in part, a result of the Parliament pushing back a wee bit and saying, “Actually, we need longer than this.” There should be a constructive conversation between the two sides to agree on that. If bills are taking longer, I assume that the Government has had an equal part in determining that that should be the case, for reasons of good scrutiny.

Rona Mackay: I agree with you, Ken. More members are lodging far more amendments than they used to. I am not saying that that is a bad thing, but that has definitely increased a lot. We have just completed week four of stage 2 of a bill in the Criminal Justice Committee. It is a big bill, but there are other committees that are in the same boat, and I do not remember that happening in the previous parliamentary session—Joe FitzPatrick will remember way back. The number of amendments has increased, which prolongs the time that it takes for a bill to get through the legislative process.

Ken Hughes: I admit that I am a great believer in Parkinson’s law that, whatever capacity you create, the demand will always rise to fill it.

The Convener: I want to go back to rapporteurs and their role, because they were mentioned earlier. In other parliaments around the world, that role is far more developed than it is here. As was said, a rapporteur is, in essence, an individual who takes responsibility for looking at something in depth, beyond the time that the committee has to do such work, and then—surprise, surprise—reports back to the committee. Is the rapporteur role better suited to committees’ own inquiries or should it form part of scrutiny—or is it something that fits depending on the question that is being asked?

Cristina Leston-Bandeira, may I put that to you first? You have an awareness of the role of rapporteurs in other places.

Professor Leston-Bandeira: The role of rapporteurs tends to relate more to pre-legislative scrutiny. That is partly why they are very useful: their work lays out the key priorities and the key points. It is almost a mechanism to prioritise what we should focus on. Obviously, there are lots of different systems, but, from that perspective, a rapporteur can work really well to help a committee to prioritise the focus of its scrutiny on specific sections of a bill or whatever it might be. They are really useful from that perspective. Does

that answer your question? I was not sure whether I understood you correctly.

The Convener: Yes, it does, and it prompts another question. In fulfilling that role, does a rapporteur square the circle of the tension that you talked about, Ken, in that a committee that is scrutinising a bill cannot be seen to have assisted in drafting it? I am putting committee bills aside for the moment. Would that help to keep the dynamic workable and justifiable to the Scottish public?

Ken Hughes: I do not know. We tried using rapporteurs in session 2, to a very limited and very specific extent. What probably did not come out from that is the amount of resource that that needed, because you cannot send a member out and expect them to do a big body of work on their own. They need clerking and research support, and, all the time, that is almost double running with the committee doing its own thing. I will try to answer your question in the best way that I can: I think that using rapporteurs could work in a very limited and specific way. It might well take a load off.

The Convener: Would that be more limited than only pre-legislative scrutiny? Or, as Cristina Leston-Bandeira pointed out, could it be used elsewhere, provided that the committee is separated from the reporter, who is always identified as such and takes a different stance in decision making?

Ken Hughes: I think that that would be wholly determined by how big and complex a bill was.

Professor Cairney: First off, I would change the name, because I always have to remind myself—“What’s a rapporteur?” It sounds really pretentious. I do not know what you would call the role, but I reckon that you could use it for two things. In both cases, the committee would have to agree what the person was doing on behalf of the committee, and it would have to be not boring but innocuous. A lot of the legislation that we are talking about is quite boring in the sense that you do not anticipate much contestation between parties on the principles, although there might be some details to work out. A phenomenal amount of the work is just updating legislation or doing stuff that is fairly innocuous, although there might be a few flash points.

There is also agreed work on inquiries. The committee might say, quite routinely, that it is interested in a broad topic but that it needs a lot more information before it can do it justice. That is particularly the case in relation to public administration and so on—you just need someone to look at that for a long time, so I could see that working with a team of people if the committee had trust in the MSP who was leading the work and if there were sufficient resource so that it did

not take away too much from the committee's routine business. In that way, the committee would be much better prepared and it would not matter as much that MSPs were on three committees, because someone would have done a lot of the work for them.

With regard to the practicalities, I guess that, every week, members have a bundle of papers that they have to get through. I know that, in advance of meetings, if I see a big paper, I am groaning, but if a colleague has turned that into a one-pager to help us all to get through it, they are heroic. There is probably good value in one person doing a lot of the work on behalf of the committee so that, in essence, not everyone has to read all the detail to work out what is not relevant.

Professor Leston-Bandeira: I have a quick comment to make. I advise you to look at the Parliament of Denmark, the Folketing, which has some interesting practices that you could work with. That Parliament has similar issues, such as members being on lots of committees, so the literature on that might be interesting to look at.

The Convener: Thank you very much.

The other thing that I want to touch on—I will raise the issue and then pass over to Sue Webber—is how we define the remits of committees and whether doing so helps and assists. Not to curtail answers in the next bit, but Joe FitzPatrick has rightly mentioned the wonderment of the Lobbying (Scotland) Bill in its pre-legislative form. We will look next at post-legislative scrutiny and the Lobbying (Scotland) Bill is perhaps an example of when that should have happened but has not.

Sue Webber (Lothian) (Con): You touched earlier on some of the questions that I want to ask. How do we, in here, seem to be relevant to what is going on out there? That is my big thing, because the disconnect between people and politicians is vast. We have talked about workload and time management, and we have heard a lot of evidence about the shortcomings of the legislation that comes to committees, which can lead to 400 or 500 amendments being lodged, as we have just seen with the Education (Scotland) Bill.

If a draft bill does not really appear to achieve its aims, might it be better to reject it at the outset? Do you get a sense that the Government is introducing bills for the sake of legislating? Sometimes it is better to be lean. How can we address some of those challenges through the process of amendment, if that makes sense?

Dr Caygill: The question of the Government and the Parliament justifying why a bill is being brought forward is interesting, and it has come up a couple of times during the course of the

research that I have been doing over the past 18 months. I wonder whether part of the answer goes back to the comments that we made earlier about the scheduling of legislation and whether the Parliament and Government need to have more of a discussion in the first place. Yes, a policy might be in the Government's legislative programme, but is the bill necessary, given legislation that has come before? Does the policy that the Government is trying to implement require legislation in the first place?

In this session's evidence, an example was given of post-legislative scrutiny being drawn into stage 1 scrutiny of a new bill. In that case, the bill was necessary, and the committee's view was that incorporating that post-legislative scrutiny into stage 1 helped it to understand why the new bill was needed rather than just accepting that the Government wanted to introduce a bill, scrutinising the bill and going through stages 1 and 2 and so on.

There is certainly a case there for justifying a bill, which might help the committees' overall workload. The practical question is, how does the Parliament say no to legislation that has been introduced? As in most parliamentary systems, the Government is the main initiator of legislation, apart from a few members' bills here and there. What processes are in place to allow the Parliament to say no? Rejecting outright a piece of legislation at the beginning would be seen as a nuclear option against the Executive and, of course, to be in office, Governments need some kind of working majority or minority.

Any such objections would need to be raised in a very formal, first-stage discussion about what bills should or should not be formally introduced. The question is whether that discussion with the Government should take place right at the start of a parliamentary session, in the Parliamentary Bureau. That is probably more likely than a formal rejection.

Sue Webber: The committees are "loaded"—in inverted commas—with members of the Parliament who support the Government. There is no mechanism in place for Opposition members to challenge a bill that we feel should not be introduced and do the very thing that you are talking about.

Dr Caygill: Yes, you are right. The main challenge is that, if a sizeable chunk of the committee is made up of governing party members, as would be the case in any parliamentary session, they will be whipped to support the legislation and get it through the process. It has to come back to the behind-the-scenes discussions and negotiations about what will be introduced in the first place. I am not sure,

as you say, that mechanisms are in place to stop a bill.

Sue Webber: Does anyone else want to come in on that?

10:15

Professor Cairney: There was a bill that was rejected in a high-profile way on the basis that the Government had not consulted with enough groups in advance. That is a power that has been remarkably little used. The committee has the power to say, "When you bring a bill to us, it has to be built on sufficient consultation and meet our threshold," or something like that, but such a rejection is quite rare. From memory, I think that it was rejected because a particular group felt that it had been excluded from the process. It was an unusual event.

If the relationship is working well, such an action is the last resort. You would expect the Government to delay or withdraw its legislation if a committee has signalled informally that it is not yet happy. The knock-on effect is the other stuff that you were asking about before, which is that the Government will withdraw it and then bring it in at the end of the session, when the committee is too busy to process it. Those are all trade-offs when it comes to what to do.

Ken Hughes: When the Government comes in with a legislative programme and wants a date on which to bring it forward to the Parliament, it is a really big political decision to say, "Well, actually, no." My memory is that perhaps two bills did not see the light of day before they even hit the Parliament. I recall the bill that Paul Cairney was talking about. It is also a political decision for the Government to introduce a bill, which is why I will not say any more.

Sue Webber: I suppose that, if the committees truly were in a position of power and influence, they would perhaps do that more.

You will notice that some committees focus their recommendations on policy and practice, rather than on legislative changes. Is the suggestion that, if committees have that focus, changes are more likely to occur, or might there be perceived barriers to making legislative changes? You are nodding away, Tom.

Dr Caygill: I have looked at that quite extensively in relation to both the Scottish Parliament and Westminster. In the research that I did on session 5, I found that 43 per cent of recommendations that came from post-legislative scrutiny-based inquiries were for policy and practice changes. Recommendations for legislative changes amounted to about 7 per cent of the overall total. I appreciate that the figures are

only for post-legislative scrutiny. I am sure that Meg Russell has also done work on a wide range of committee scrutiny.

What has come out of the research—the picture here and at Westminster is similar—is that it is better to achieve something than nothing, and a committee has to be realistic about what it can achieve. Therefore, you might have more impact if you suggest a change to policy and practice as opposed trying to change legislation, on the basis that the Government could have a majority on the issue and reject any amendments to new bills that are lodged. Even if the committee uses its powers to introduce a committee bill, the Government can utilise its powers in that area.

It has been put bluntly to me, here and at Westminster, that it is better to achieve something than nothing. It is about being realistic, because you cannot necessarily force the Government to do something. You have to use soft power to convince the Government that a change is needed. Sometimes, soft power involves making a compelling case and argument, but sometimes it involves embarrassment and shame.

Sue Webber: It is better to achieve something than nothing—that is quite brutal language. Cristina, do you want to come in?

Professor Leston-Bandeira: It is not really my area.

Sue Webber: That is fine.

Professor Leston-Bandeira: With a lot of the issues that we are discussing, it comes down to the committees being proactive where they can be and thinking more strategically about where they can have an impact and where it is worth spending time. In part, that comes back to the point that has been made: it is not always politically possible.

Sue Webber: My viewpoint is based on my experience when I was the convener of the Education, Children and Young People Committee. With regard to creating a connection with what is going on outside, the committee did an inquiry into additional support for learning—we took a lot of evidence and produced a really good report. The Government delayed its update on its action plan on additional support for learning until after our report was published, so there seemed to be a little bit of joined-up thinking. With regard to committees' recommendations, there is always a mismatch between what the Government perceives is going on and the reality on the ground. Some of Audit Scotland's discussions have been quite useful in relation to making the effectiveness or acceptance of committee recommendations more trackable. Do you have any thoughts about how the quality of committees' recommendations could be adapted or reviewed to allow that to happen?

Dr Caygill: One of the issues that has come up a couple of times is the need for committees to come to a consensus. A recommendation might start off being very clear and direct, but, in the process of achieving consensus, it will be reworded and restructured, and it will become less clear. As a result, it can be quite difficult to track. If the recommendation is more woolly, the Government might also not feel as much pressure to directly respond to it.

That brings us back to the question of what we mean by “effectiveness”. Effectiveness is not just about the percentage of recommendations that were accepted in the two or three-month period after a committee has reported. Recommendations could be rejected initially but then accepted two or three years down the line, as the policy discussion develops, which is where the point about tracking becomes important. There is a discussion for the committees and the clerking teams to have about which priority recommendations have not been accepted or even which accepted recommendations the committee wants to monitor the implementation of.

That is linked to a point that I was going to come back to about institutional knowledge. I appreciate that, sometimes, recommendations might be tracked over five years, which could overlap two parliamentary sessions. If the committee staff or members have rotated, or if there has been a change in membership following an election, institutional knowledge can be lost. One of the things that we are working on in relation to post-legislative scrutiny, in particular, is the creation of some kind of repository where information can be kept for reasons of dexterity in the future, should the issues arise again. I appreciate that committees produce legacy papers at the end of each parliamentary session, but there is also a question about how much interest the subsequent new committees pay to those.

Professor Leston-Bandeira: On tracing and tracking recommendations, I emphasise the importance of raising awareness. Even if the Government does not do something immediately, just raising awareness of an issue might actually be a really good output.

The other point to make is, again, about the possibility of working with outside organisations, because I imagine that, in some cases, organisations will be tracking the recommendations, so collaboration might be possible in order to follow through on their implementation.

Sue Webber: That is helpful.

The Convener: On the concept of building partnerships, you have already given us a lot of examples of how successfully the Scottish

Parliament reaches out to different groups, which is one of the things that we can be very proud of in the Parliament. There will always be more to do to give the public confidence about where they fit in, but do you have any comments about the cultural precursors that are needed for effective scrutiny? It goes back to my earlier point about committee remits. What makes a committee really work well with regard to scrutiny? In simple terms, is it the written-down procedures and the set of questions that are going to be asked or, actually, is it a cultural connection within a committee that brings it together? I know that it is not one or the other; it is a balance, but it is about where the balance lies.

Who wants to come in first? I am looking across the room—this takes me back to being a primary school teacher. *[Laughter.]* Excellent, Ken—I will come to you.

Ken Hughes: I would say that it is 90 per cent culture. As you will know from your committee’s purview, the procedures are written down to allow the Parliament to do things. Apart from the procedure for the elections of, for example, the First Minister, the Presiding Officer, members of the Scottish Parliamentary Corporate Body and so on, which is quite prescriptive, most of the standing orders are not prescriptive. Most are set out in a bare bones way—it is a “Here’s something that will allow you to do something” style. In my experience, the committees that work best are the ones that gel. There is a personal level to it—members getting on with one another—and, invariably, they do. I say invariably—

Sue Webber: That is why we are sitting so far away from one another. *[Laughter.]*

Ken Hughes: It sounds a bit soft, but it really is an important factor in how committees perform.

Dr Caygill: I agree with much of what Ken says. The personalities in the room really matter. That goes back to the point about turnover. Some academics think that turnover does not matter that much, but, if you are changing the dynamics of the committee by changing the membership, you will have an impact on scrutiny and, certainly, an impact on the work plan. You might have two members who put something on the work plan that they really want to do, but then they suddenly leave, so the work plan, understandably, changes again.

The relationship between the clerking team and the committee—particularly the relationship between the convener and the clerking team—and the convening style of the convener matter, too, so I agree with Ken that a lot of how things work is cultural. Someone said to me that every committee is different in that regard.

When I have tried to explain it to students, I have said that I can walk into two different seminar

groups for the exact same module and I know that the seminars will be different, because the students in the room are different and they will bring up different questions, different ideas and different viewpoints. The seminar can be on the exact same topic and I can give out the exact same questions for discussion, but the dynamic will be completely different. I think that that is true of committees, too.

The Convener: You are the bellwether in the seminar, Tom.

Cristina, you have already mentioned the Danish Parliament, which is not dissimilar to the Scottish Parliament. Are there any other examples of places that we can look at to see the importance of the cultural connection in committees as one piece of evidence that a committee is successful?

Professor Leston-Bandeira: I would say that that will be important in any Parliament that you might look at, because the culture, who the members are and how they get on really matter. I agree with everything that Ken Hughes and Tom Caygill have said. It is interesting to refer to the Danish Folketing or the Swedish Parliament, because a lot of their structures are similar to the structures here. However, they do not necessarily have the same culture, because they are different countries and there are other dynamics, such as the wider party-political structure. The Danish Parliament is a good example to look at, but I would say that, in any Parliament, the committees would be affected by the culture as well as the structures.

I want to link back to the point about the public, the issue of culture and how much members value the public's input. Different committees might value that input differently because of the culture and who the members are. There might be work to be done to promote the value of the input of the public and outside organisations and to build those partnerships, because the culture matters. Ultimately, I have lots of examples in my research of excellent public engagement being undertaken, with lots of input from the public and a beautiful summary being written, but it is taken to the committee and then nothing happens to it, because the members do not necessarily value it. Therefore, that is also affected by the culture.

The Convener: Also, sometimes, no feedback is given to the public about why nothing happened.

Professor Leston-Bandeira: I also want to touch on that, if I may. We refer to that as closing the feedback loop, which we have not really approached yet, but it is so important. Parliaments find that difficult to do—and it is difficult. However, it is possible to do it, and it is very important for the public to have the sense that someone has

listened to them and that something has happened with the work. Even if they do not get what they asked for, it is important for the public to know that someone considered it. Closing the feedback loop is as important as the culture in maintaining the relationship between committees and the public.

Rona Mackay: On that general point, do the public—I do not mean stakeholders with an interest in the committee's work, but the public generally—know about committees and their importance? If I am talking to friends or family who are not political and I say something about a committee, they look at me as if to say, "Oh, a committee—what's that about?" Are we communicating how important committee work is—that it is the absolutely fundamental work of the Parliament? All that the public see is what goes on in the chamber. Could we do a better job of that?

10:30

Professor Leston-Bandeira: I am sure that you could. The Scottish Parliament does an excellent job, but I am sure that it can do more. A general problem throughout the world—it is not specific to Scotland—is that people confuse the Parliament with the Government, so that is the first barrier to overcome. It is even more difficult if we expect people to understand what committees are, but it is absolutely worth addressing that, because the work of the committees is what is closest to people's daily lives. I spoke before about the wider structures of education outreach, which are exactly about that. It is about increasing the committees' visibility—their brand—to explain why they are important and why they are relevant to people's lives.

The Convener: I will go back—I am sorry, Paul, do you want to come in?

Professor Cairney: Yes. I have found a positive way to say this. [*Laughter.*] The way that it has just been framed would be useful. The word "culture" annoys me because it is fantastically vague—I do not know what anyone means when they say it. It is the same with the word "effective". I do not think that anyone knows how effective you are until you write down what it means, and it will mean different things to different people. On the device of being a committee member, explaining to someone what you do and saying, "Here's how I know that it's going well," one of the stories could be, "As soon as we come in the door, we get rid of our party hats, we work together, we're collegiate and we come up with something that goes beyond elections." That is one story. The other story, which I think came up in 2007 and appears periodically, is, "We stuck it to the Government. We really exposed its failings and we made it do something differently in response to our scrutiny."

Good luck to you if you can do both, because, in essence, you go down different paths in those cases. One is about focusing on what you can agree on and how you can co-operate, and the other is about thinking, “How can we use the committee to accentuate the competition that we’ve got going?” Therefore, on what you tell people when you say that you are a committee member and they ask you what makes you successful, I am interested in which of those aspects you would go for.

The Convener: I will not put that to the committee at the moment, if that is all right. I am conscious of the time, so we will move on to the questions on conveners.

Sue Webber: My question leads on from what we have just spoken about in relation to the culture in the Scottish Parliament and how that has perhaps shaped our convener role a bit differently from how the role is shaped in other legislatures. What are the strengths and weaknesses of the Scottish Parliament’s conveners?

Professor Cairney: The context is the perennial question about whether conveners should be elected—

Sue Webber: I think that someone else might have a question on that, but you can pick that up now if you want.

Professor Cairney: I can save that aspect until later.

Sue Webber: No, carry on—it is fine.

Professor Cairney: If we look back to the envisaged advantage of the role of the conveners, we see that the committees were to be the most important part of the Parliament—much more so than the plenary—and the conveners were, in essence, the keepers of the keys or responsible for keeping things going. The culture was described as getting away from needless adversarialism, and there was all this romantic language about how we were going to do better than Westminster, which was seen as being too adversarial. That was the envisaged role of the convener. I do not know how that has worked out, because, at least when I used to pay more attention and the Government had a proper majority, the role of the convener, if they were in the party of government, was to act as a connection to the Government, smoothing relationships between the Government and the committee. If they were an Opposition member, the dynamic would be different, so there was no single role for conveners. I do not know whether that has changed.

The romantic vision of the convener is that it is a non-partisan role. It is about facilitation. That is

what I would like the role to be. It is difficult, though—how do you do that?

Ken Hughes: I will pick up on something that Paul Cairney said. I do not know whether his romantic vision of a convener included the fact that the committees are the most important part of the Parliament. They are—the fact that they do not get the most publicity does not mean that they are not. The committees do the bulk of the Parliament’s scrutiny work, and by that measure they are the most important part. They do not get highlighted in news bulletins or on social media, but that does not detract from the point that they are the most important part.

Other than that, and without talking about the election of conveners—I am conscious that there are two party whips or business managers, former or otherwise, sitting in the room—it would be hard to deny that, in terms of party leaders’ management of their parties, convenerships are at least partly a form of recognition or reward for members of the party. That could well be a strength in the sense of the parties themselves highlighting who they think are, or are not, the best people for certain convenerships.

Sue Webber: My next question is about the balance between having career conveners and the opportunity for a convenership to be a career stepping stone. In some of the churn that we have referred to, when conveners from the governing party are moved into ministerial roles, one might perhaps challenge that they have been rewarded with that ministerial role because they have defended the position of Government very well in their role as convener. How does that connect with the esteem associated with holding the role of convener? I am interested in your thoughts on that.

Maybe Tom Caygill can answer that question first, and then Ken Hughes can come in.

Dr Caygill: I know that we are shortly going to come to the question of electing conveners. Reflecting on the Westminster experience, the whole point of convener elections at Westminster was to create an alternative career route for members who were not serving in Government. However, it is worth pointing out that committee chairpersons at Westminster are still lifted out of their roles and into Government departments and that we have seen ministers leave office and go on to become chairs in the House of Commons.

It might not always be possible to delineate the different potential career routes in the legislature, because it is up to the First Minister to decide whom they want to serve in their Government, and that may mean calling on a convener to serve in Government, which they are free to do. However, it is important to try to delineate them. An example

at Westminster is Jeremy Hunt, who had been the Secretary of State for Health and Social Care and then led the Health and Social Care Committee in the House of Commons, in which he was scrutinising the work of the Government department that he had just left. Situations like that have an impact on the quality of the scrutiny that can be provided. It is difficult but important to try to delineate a different career route, taking into account the political forces involved.

Ken Hughes: I do not think that that is possible. It goes back to what Cristina Leston-Bandeira said earlier about the numbers. The numbers are so baked in that, if we accept that conveners have been chosen in the first place because their parties think that they are best suited to that role, when there are reshuffles, the people near the top of the list to replace outgoing ministers will be conveners from the party of Government. There is no wiggle room for parties to do otherwise.

We have talked about the convener structure at Westminster, but I do not think that that would be possible here—I said so in the paper that I submitted to the committee. At Westminster, it is a prize to be on a committee. Here, there are the problems that Rona Mackay talked about.

Sue Webber: We are on three committees sometimes.

Ken Hughes: Is it a prize? I feel so valued.

Sue Webber: I hear you.

Ken Hughes: I do not think that it is possible.

Professor Leston-Bandeira: The comparisons with Westminster are not always very helpful, because the context is so different. However, there would be a value in recognising the convener's role more, whether through election, remuneration or their having more of a committee spokesperson role, which is sometimes important, as it raises visibility.

One issue that makes it very difficult for the public to connect with the Parliament is that it is a collective institution that does not really have a face. If you give a committee and a collective of people a face, which might be the convener, it is more relatable. That is one way to increase the visibility of the convener's role. It might not be a career for the convener—they might be going into Government or coming back or whatever—but, if you value the role, members will want to do it and in a way that is independent and provides for scrutiny.

Joe FitzPatrick: I want to make a point on the Jeremy Hunt situation. A huge effort has always been made in Scotland, particularly by Governments, to make sure that, if a minister leaves the Government, space is left between them and the policy area that they handled in

Government. In spite of the tight numbers, we have managed to do that in Scotland. It is perhaps a lesson that we could pass on to Westminster—the lessons go two ways.

You touched on remuneration. It might be easier for me, as someone who is leaving the Parliament, to say this, but there is a disconnect in that we have conveners who do a huge amount of extra work in the role that is not appreciated—they get no remuneration for it. It is not about the money; that is not why you become a politician. Most folk in our Parliament would earn more doing whatever they were doing before they were elected, so it is not about the money. However, if you are a committee convener, you have to do extra work but are not remunerated, whereas, if you take another path—as a junior minister, a minister or a cabinet secretary, for example—you are remunerated. Would remuneration make our committee structures more effective and give the conveners the esteem that they deserve?

Professor Leston-Bandeira: I will preface my answer by saying that I have not done any research in that area—this is just my overall view. However, I do think that there is value in remuneration, because it would recognise the convener's role. If nothing is particularly different about a convener's role and position compared to that of other members, why should it be special, if you see what I mean? In order to build committees' visibility, image, role and—I do not like the term—brand, remuneration would really help to recognise the convener's role, which involves a specific person doing a lot of hard work.

Joe FitzPatrick: I am sorry just to throw this in, but would convener elections help with that as well?

Professor Leston-Bandeira: Elections are more complicated, because they involve all sorts of other things. I do not particularly like to make comparisons with Westminster, but it provides the clearest example that we have of such a process. We have seen a lot of grandstanding from particular chairs—the whole committee becomes a chair—which is dangerous, because it means that the agenda and work plan are what the chair wants to do. That is the case at Westminster. There are also party dynamics to that.

Overall, the literature says that elections at Westminster have worked in that they have made the chairs more legitimate and proactive in managing committees' work plans. I do not know enough about the party dynamics to say whether elections would work here, but they are one mechanism.

Joe FitzPatrick: Tom, you have been nodding away.

Dr Caygill: I agree with Cristina Leston-Bandeira that elections have pros and cons. The general consensus is that they have worked at Westminster, which has a very specific context in and of itself. Westminster can learn plenty of things from this Parliament as well.

Going back to the point about rebalancing the legislative workload, a convener who is elected and has a mandate from the chamber itself might do a better job of representing the committee to the Government, as they might be more able to push back on some issues and the referred work programme. We see some evidence of that at Westminster, but the dynamics probably do not translate to this Parliament very well.

10:45

On the points about the media that Ken Hughes and Cristina Leston-Bandeira made a little bit earlier, very high-profile chairs at Westminster understandably court the media because it gets the committee on the news agenda and makes people more familiar with the work that it is doing. It goes back to the question: what impact does that approach have on the type of scrutiny that the committee undertakes beyond the legislative workload? What is the impact of doing self-initiated work to chase headlines as opposed to selecting other types of work that are very important, as Ken Hughes said, but that might not be quite as showy and jazzy for the purposes of media coverage? From my own perspective, research on post-legislative scrutiny is one such area that does not sound particularly energising to members of the public until you break it down and show how it involves reviewing laws that affect you.

However, elections might also deter committees from self-initiating a variety of different types of scrutiny to undertake, so they have pros and cons.

Professor Cairney: You will always get the sense that people in places such as Westminster are quite cagey because they have competing ideas about what it means to be successful. I am always a fan of writing stuff down in order to say what you mean. You could write down what you think an elected convener should do and thereby measure their success against clearer criteria.

I was looking back at the commission on parliamentary reform from the olden days. It was quite keen on having elected conveners and pushed a little bit for there to be higher pay to reflect their greater workload, but academics are the only people I see who are pushing for more pay for MSPs and their roles. MSPs cannot really feel confident in going for that sort of thing, so it is tricky. I do not know whether you appreciate

someone saying on the record, "You should pay conveners more."

The only other thing to say is that you know about the importance of convenership when it goes wrong. A lot of the time, conveners are not appreciated because things tick along nicely and you see their importance only when there is a problem. To be very vague, I experienced that most closely with an inquiry that was going really well and building up a head of steam. The committee was ready to speak to the minister about it, but the committee's respected convener was then replaced temporarily by someone from a different party and the dynamic totally shifted away from all the stuff that everyone had talked about and towards the day's issues. You could see the convenership role going badly, essentially because one person was not following the same rules as the other person.

A good reason to use elections is that they would be a vehicle for establishing clear expectations, so you would know when someone was using the role for party political purposes rather than acting in the same spirit as the previous convener.

The Convener: It is fair to say that there is evidence of that happening—certainly at Westminster—but procedures are in place that result in conveners changing. A loop of protection is in place in other Parliaments, which works, and there is confidence that there are ways of preventing the issue getting out of control. However, no one describes what the issue is—it is a bit like sausage making and laws, is it not?

Ken Hughes: I read in some of your background papers—I was probably aware of this but needed to be reminded—that almost nobody who is now in the Conveners Group was in place at the start of the parliamentary session. The turnover has been huge. So, when you talk about remuneration, for example, it is probably more about reward.

As I have said, probably ad nauseum, it is certainly not possible to create a permanence in the role. Cristina Leston-Bandeira made a good argument that remuneration would be a sign that the Parliament values the role as being something other than just that of a committee member. I will not say what the remuneration level should be, but I have a fair idea of what it could be.

Going back to the idea of elections—this is more about the bureaucratic, administrative side—if the Parliament had an election for every convenership, we would be doing it at least twice a year across every committee. That is why, when I was looking at the literature, I thought that the Welsh model was a good one. In that model, there is an election if the nomination is contested,

instead of there being across-the-board elections for all convenerships every time. That is something to consider.

Joe FitzPatrick: That is helpful.

The Parliament's gender-sensitive audit looked at the standing orders in relation to conveners and recommended that 40 per cent of conveners should be women and that there should be no single-sex committees. We are looking at how those recommendations could be taken forward. Do you have any thoughts on how that could impact on diversity? Could it work? Could it have unintended consequences? Could it help committees to be more effective?

Ken, you are nodding at me the most.

Sue Webber: He is not going to want to look at you now, Joe.

Joe FitzPatrick: I know.

Ken Hughes: My first reaction when I saw the recommendations that there should not be any single-sex committees and that, therefore, there should be at least one member of an opposite sex or gender was that, externally, it might look a wee bit like tokenism. It should be stronger than tokenism. Some standing orders say that the Parliament "shall have regard to" something. That wording would not be strong enough, but, in a sense, it would be stronger to have regard to the gender balance of the whole Parliament and to replicate that in committees—as we should—than it would be just to say that one person should be of an opposite sex.

I think that where and how it is codified is important. I am not a great fan of codifying everything under the sun. If you codify everything, that ties your hands and reduces the flexibility to act. However, that probably should be codified in some way, and in a stronger sense than that.

Joe FitzPatrick: Cristina, do you have any thoughts on that?

Professor Leston-Bandeira: It is a difficult question, because the composition of committees comes from the composition of the Parliament, so it will be related to that. From the public perspective, it makes a difference to see diversity in a committee, because people are more likely to relate to it themselves.

I might be wrong, but I think that the current Citizen Participation and Public Petitions Committee has only male members. From a public perspective, the signals of that are not very positive and welcoming. That might be unfair, and there are lots of other ways in which the members can bring in different lived experiences. However, it matters in terms of signalling to the public and of symbolic and descriptive representation—that is,

how they see themselves and how they relate themselves to the institution. That is not only about gender; it is also about ethnic minorities and all sorts of other things. I realise that the practicalities of it are not easy to implement when the number of committee members is small and there is turnover. That is a difficulty.

Joe FitzPatrick: Do you think that, if we codify it, we need to codify it specifically for certain committees? You have mentioned one that is quite public facing.

Professor Leston-Bandeira: I had not thought about that. I do not want to say yes, because it would seem as though other committees were not important. All committees are important for the public, so it would be difficult to do that. I want to recognise the importance of the signals.

Professor Cairney: I am conscious that we witnesses can say what we like but it is your problem.

You asked about unintended consequences. The main problem was when there was an expectation that 40 per cent of committee conveners would be women in an organisation that was dominated by men. There were far too many men and too few women; therefore, meeting the 40 per cent target put a huge burden on the small number of women doing it.

The way to deal with that is by having a Parliament that is 50:50. Probably the most continuous commitment of the Scottish Parliament since devolution has been to reach some level of equal representation. If there is equal representation, the 40 per cent target for women conveners should follow. It should not be difficult to achieve, given the wider commitment.

The issue came up in the commission on parliamentary reform. The main driver of the 50:50 split is outside the power of the Parliament as a body, because it is to do with recruitment by the parties. The commission deliberated about how strongly it wanted to say to the Parliament that it should find a way to tell the parties that, if they were not recruiting close to 50:50, they were failing the Parliament. The narrative would probably be that, if the 40 per cent target is not reached in the Parliamentary Bureau, someone is failing somewhere, and it is probably the party recruitment. Therefore, it becomes an impetus. If there are unintended consequences, it is not the fault of the rule; it is the fault of the parties not following the rule.

Dr Caygill: The challenge is the composition of the Parliament after each election. As Paul Cairney said, a lot of that is down to the candidates that parties are selecting and their ability to get those candidates over the line to win the election.

Building on the point that Cristina Leston-Bandeira made about symbolic representation, diversity in committees is important from the perspective of substantive representation, too. Different issues matter to different groups in society. If those groups are not represented on committees, are those issues being placed on the work programme? If they are, how high on the work programme are they? If you are scrutinising legislation, are amendments being lodged to deal with the concerns of those groups if members do not have a connection to those groups other than having been elected as the representative of a particular area of the country? Is there a wider knock-on effect on policy and agenda setting as well?

The Convener: I thank the witnesses very much for their contributions today. I reiterate my comment that, if thoughts come to you afterwards, even while you are on the way out today, you should please feed them back to the clerks.

That brings the public part of the meeting to a close.

10:57

Meeting continued in private until 11:16.

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