

Committee on Standing Orders

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Date: 3 July 2006

Venue: National Assembly for Wales, Cardiff Bay

Title: Control of Business

1. Purpose

1.1 At its informal meeting on 23 May 2006, the Committee received a paper that identified questions that the Committee would need to consider when addressing how business should be controlled in the Assembly post 2007. This paper provides background information to help Members consider those questions. The key sections are:

Managing Plenary business (including periodic and weekly statements) –

section 4

Determining business in Plenary meetings – section 5

Timings of Plenary meetings and scheduling Committee time – section 6

Simultaneous Plenary and Committee meetings, decision time and voting – section 7

2. Background

Current Standing Orders

2.1 Business in the Assembly is currently controlled through Standing Orders 5 and 6. In addition, Standing Order 13 sets out the role of the Business Committee, which includes advising the Business Minister on the management of the Assembly's Business.

Committee on the Better Governance for Wales White Paper

2.2 In relation to the control of business, the report of the Committee on the Better Governance of Wales White Paper only commented on working hours:

Working Hours

141. A new Assembly with new powers can be expected to meet for longer hours, both in plenary and

committee. The present Assembly has been accused by the Secretary of State of not working hard enough. Certainly up until now, plenary sitting hours have been modest and committee meetings infrequent in comparison with other parliamentary bodies in the United Kingdom. We heard various estimates of what would be required in the future. The Chair of the Business Committee thought that the Assembly would in future be engaged in formal business for three whole days rather than the present two.²⁷⁵ The Leader of the Welsh Liberal Democrats thought committees would meet "on most days of the week".²⁷⁶ The Leader of Plaid Cymru also thought the Assembly would need to meet for "three full days", which might call into question some current practices, such as the timing of party meetings.²⁷⁷ One other change of practice advocated by the Panel of Chairs would be the freedom to hold committee meetings during Plenary.²⁷⁸

142 Speculation about sitting times is premature at this stage. But it is safe to say that proper legislative scrutiny will take time. Assuming that only three Orders in Council are made each year (this was the First Minister's lower estimate), and that each is followed by only one Measure, this means that six substantive pieces of legislative process will occur each year from about 2008 onwards. At the very minimum, we could expect ten hours in committee, and three hours in Plenary, on each of these Orders in Council or Measures, especially when prelegislative scrutiny is included. Complex or controversial legislation will take longer. Taking into account the non- legislative scrutiny agenda as well, there will clearly be a major effect on current sitting patterns.

²⁷⁵ Q368

²⁷⁶ Q6

²⁷⁷ QQ476, 482

²⁷⁸ Q324

Government of Wales Bill

2.3 Save for a few routine requirements (see clause 31- Standing Orders, clause 32 – Participation by UK Government Ministers and clause 34 – Participation by Counsel General) the Government of Wales Bill does not make provision for how business should be organised in the Assembly.

Approach

2.4 There is a general expectation that there will need to be longer sitting times for Plenary and more Committee time to accommodate an expected increase in legislative business. However, the additional workload may not materialise straight away because it will take time for Orders in Council to be agreed and for Measures to then be brought forward. The workload of the final years of the Third Assembly may well be considerably higher than the first year as a result.

2.5 It may be, therefore, that certain aspects of programming business could be left more open than would otherwise be the case. These aspects could be reviewed (by the Business Committee / Bureau /

Procedures Committee) at an appropriate time within the Third Assembly. Members have already agreed to a principle that Standing Orders be drafted with "white space between the lines" where appropriate and this seems to be particularly relevant to Standing Orders about the control of business.

3. Sitting Weeks

3.1 The number of sitting weeks in the Assembly is driven by its family-friendly policy, so that the Assembly does not sit during school holidays. Under Standing Order 5.1, the Business Minister proposes outline periodic timetables for business which includes recesses.

3.2 In Scotland, the Parliament decides, on a motion of the Bureau, the dates of any parliamentary recess and the Bureau is obliged to consider school holiday dates in its consideration (rules 2.3.1 and 2.3.2).

3.3 The Committee has already indicated informally that the number of weeks the Assembly sits should not be controlled through Standing Orders.

4. Managing Plenary business (including periodic and weekly statements)

4.1 In considering these issues, paragraphs 4.2 – 4.9 consider the role of the Parliamentary Bureau and the Procedures Committee in the Scottish Parliament and provide some comparison with the Assembly's Business Committee. Procedure at Westminster is also considered.

Scottish Parliament – Parliamentary Bureau

4.2 In the Scottish Parliament, the functions and role of the Parliamentary Bureau are considered within the same Standing Order (Chapter 5) as the management of business. The Bureau consists of the Presiding Officer (who chairs meetings) and MSPs nominated by each of the political parties with five members or more in the Parliament. Individual MSPs or small parties can also join together to form a group of five or more and can nominate a representative to sit on the Bureau. It currently has a membership of 8 MSPs.

4.3 The Parliamentary Bureau meets regularly, in private, to agree proposals for the Parliament's programme of business for a specified period (usually two weeks). Its functions also include proposing the establishment, remit, membership and duration of committees and sub-committees, and the deadlines for completing the stages of bills. Where it is necessary to vote on matters considered by the Bureau, the vote is weighted according to party representation in the Parliament.

4.4 The Parliamentary Bureau's proposals, in the form of motions, are considered and decided at meetings of the Parliament.

4.5 The main difference between the Bureau and the Assembly's Business Committee is that the latter is advisory in nature, in that business is programmed on a motion tabled by the Business Minister. In the Scottish Parliament, business is programmed on a motion of the Parliamentary

Bureau and weighted voting is used to resolve disagreements within the Bureau. In addition, the Bureau does not deal with procedural issues, which come within the remit of a separate Procedures Committee.

Scottish Parliament – Procedures Committee

4.6 As indicated above, procedural matters are considered by a separate Committee in the Scottish Parliament. The Procedures Committee's role is to consider and report on the practice and procedures of the Scottish Parliament in relation to its business. The Committee also recommends changes to Standing Orders and such changes can only be agreed by the Parliament via Procedures Committee reports.

4.7 Benefits of having a separate Procedures Committee might be that:

it could represent a voice for the Assembly as a whole;

it would be seen as a forum for backbenchers, if, as in Scotland it is not dominated by party machinery / business managers;

it could meet in public, helping to increase openness and transparency

it would not be constrained by a need to meet weekly;

there would be greater scope and more time for in-depth reviews of procedural issues.

4.8 Potential disadvantages of having a Procedures Committee might be that:

such a committee might start to generate unnecessary work, although this has not been the experience in the Scottish Parliament;

if the membership of the Procedures Committee in Scotland is followed, the Presiding Officer, who is responsible for interpreting Standing Orders, would not be a member of it;

there may not be the capacity to have a separate Committee in Wales

the current benefits of having the same Members dealing with procedural issues and programming business would be lost.

House of Commons

4.9 in the House of Commons, the business is controlled by the Government. The Leader of the House of Commons announces on Thursdays the business for the following week and provisional business for the week after that. Government business takes precedence, save for specific days allocated for opposition business and Private Members Bills (Standing Order 14). The timings of

these are agreed through the "usual channels", the informal discussions of business managers, predominantly the Government and official opposition.

Questions

Q1. How will plenary business be agreed periodically / weekly and what role will a Business Committee / Bureau have?

Q2. If Members decide that the Assembly should adopt the Scottish Parliamentary Bureau model, should there be a separate Procedures Committee?

Members may wish to consider Rules 5.1 – 5.9 and 8.11 of the Scottish Standing Orders in detail.

It is worth noting that under Scottish Standing Order Rules 5.4 and 8.11, the Scottish Executive's proposed business programme can be voted down. In addition, amendments to a business motion can be voted on provided there is the support of 10 Members.

Q3. If Members decide that they would prefer to retain the existing Business Committee model:

do Members wish to retain the existing system as it currently operates? (i.e. with a periodic timetable, a business statement and an advisory Business Committee)

do Members wish to retain the existing system with modifications, perhaps reflecting some of the practices in the Scottish Parliament? e.g. a business statement that prepares business on a fortnightly basis.

Q4. Would Members prefer to adopt a Westminster model with the usual channels?

5. Determining business in Plenary meetings

National Assembly

5.1 In the Assembly, business in Plenary is allocated by the Business Manager of the Assembly Government through the weekly business statement (which programs business three weeks in advance). In so doing, advice is taken from the Business Committee and the statement is subject to agreement in the full Assembly on a motion of the Business Manager.

5.2 In determining business, specific requirements in Standing Orders are that:

at least eight plenary meetings in the 12 month period are made available for minority party debates, distributed, as far as possible in accordance with each group's representation (Standing Order 6.6).

at least 6 plenary meetings in the 12 month period shall include time for debates on subject Committee reports (Standing Order 6.6).

30 minutes are available each week that the Assembly meets in Plenary for short debates chosen by means of a ballot (Standing Order 6.42).

time is made available, from time to time, for a Member to bring forward proposals for subordinate legislation (Standing Order 31).

5.3 Figure 1 provides a breakdown of plenary business In the First Assembly.

Figure 1: Breakdown of plenary business In the First Assembly

| Business | Percentage of time |
|----------------------------------|--------------------|
| Government debates | 32 |
| Questions | 22 |
| Statements | 16 |
| Legislation | 9 |
| Minority party debates | 9 |
| Short debates | 7 |
| Subject Committee report debates | 3 |
| Debates under Standing Order 6.5 | 2 |

Source: Richard Commission report

5.4 At present, the Assembly agrees indicative times for each item of business as part of the weekly business resolution. However these times are not strictly adhered to, with the Presiding Officer allowing popular debates to continue beyond the indicative time. The only strictly informed times are the cut-off for the short debate (normally at 5pm on a Wednesday) and the end of business at 5.30pm (though this is not enforced as rigidly as the 5pm cut off). In some parliamentary bodies, individual items of business have specific times for completion, after which debate is interrupted (though they are allowed to finish earlier than the maximum time for completion). In other bodies, business takes as long as it takes: this means that there is no fixed time of finishing.

Scottish Parliament

5.5 In the Scottish Parliament, time in the Chamber is allocated by the Parliamentary Bureau, having regard to the Parliament’s Standing Orders.

5.6 The Scottish Executive gets most of the debating time but the Parliamentary Bureau has to ensure that:

on 12 half sitting days in each parliamentary year priority is given to committee business

on 16 half sitting days in each parliamentary year priority is given to business chosen by the non-Executive parties and groups. Debating time is allocated to the non-Executive parties and groups broadly in proportion to the number of seats they hold in Parliament.

at each meeting of the Parliament there is a period of up to 45 minutes for any Members' Business (Rule 5.6), which usually consists of constituency / regional issues or matters of wider interest that have cross party support.

5.7 The Scottish Executive has normally agreed that debates on Private Members Bills are usually taken during time that would otherwise be allocated for the Executive.

5.8 In addition, the Parliamentary Bureau ensures that time is set aside for Ministerial statements. Scottish Standing Orders make provision for the First Minister to make an annual statement on the Executive legislative programme and proposed policy objectives (Rule 5.7) and the Parliamentary Bureau also ensures that time is provided, as required, for other Ministerial statements that are followed by questions and / or debates.

House of Commons

5.9 As indicated in paragraph 3.11 above, in the House of Commons, time is set aside for opposition business and Private Members Bills; Standing Order 14 specifies 20 days for opposition business (17 for the official opposition, and three for the third largest party) and 13 Fridays for Private Members' Bills, which are agreed through the usual channels. Every day, the last half hour of the sitting is allocated for an adjournment debate (equivalent to our short debates), although more time may be available if business finishes early. Members are chosen by ballot, except for Thursdays when the Speaker chooses from among those unsuccessful in the ballot.

Consideration

5.10 Categories of plenary business that will need to be considered for inclusion during a week / individual day in Plenary post May 2007 are:

Government business: debate on Assembly Government's annual legislative proposals; debate on UK Government legislative programme; debate on UK Government Bills that amend Schedule 5 of the Bill; debates on various stages of proposed Assembly Government Orders in Council and Measures; subordinate legislation subject to the affirmative procedure; Ministerial statements; Budget debates; debates on motions proposed by the Assembly Government.

Questions: scrutiny of Assembly Government through questioning of Ministers and the Counsel General; scrutiny of the Assembly Commission.

Opposition business: minority party debates; motions to annul subordinate legislation; motions of

confidence.

Private Members' business: short debates; Private Members' Measures & Orders in Council; requests for Assembly Government to bring forward subordinate legislation;

Committee time: Debate of subject committee and standing committee reports; Committee Measures & Orders in Council.

Questions

Q5. Do Members wish to retain the flexible pattern of business used since 1999 and described in paragraph 5.4?

Q6. Should definitive times / slots be allocated for specific categories of plenary business or should this be left for the Business Minister (advised by the Business Committee) or a Bureau to determine?

Q7. How much time should be allocated to each category of business, periodically / daily?

Q8. How much additional time will the government need to get its legislative

business through and should there be a corresponding increase in the amount of time / frequency of short debates and minority debates as a consequence?

Q9. What should the proportion of government business to non- government business be?

Q10. How could non-government business be protected? For example,

could Government business be programmed to be the last business of the day?

Q11. How could Private Members' / Committee legislation be programmed into the timetable? Should it for example follow the existing practice as for the current Standing Order 31, suitably amended?

Q12. What classes of business can be added to programmed business and in what circumstances? (examples might include statements, motions to annul subordinate legislation).

5.11 It is likely that as decisions are made in other areas, for example, the legislative processes, the Committee will wish to re-consider some of these issues.

6. Timings of Plenary meetings and scheduling Committee time

National Assembly

6.1 In the Assembly, Standing Order 5.1 specifies that meetings of Plenary shall normally be held on

Tuesday and Wednesday afternoons. The Committee cycle is fitted around these times but is not the subject of control through Standing Orders. Committees currently meet on Wednesdays and Thursdays. Business Committee meets every Tuesday morning and Regional Committees, when meeting, on Friday mornings.

6.2 At present, there is no restriction on when Committees can meet, except for complying with family friendly requirements of Standing Order 5.2. However, a convention has developed that committee meetings are programmed, and that any departure from the programme must be approved by Business Committee.

6.3 Mondays and Fridays are constituency days, save for when Regional Committees meet on a Friday, although this is not specified in Standing Orders.

6.4 Under Standing Order 5.2 the aim is ensure that business is timetabled between 9.00am and 5.30pm, though there is provision to extend business beyond 5.30 (Standing Order 6.21).

Scottish Parliament

6.5 The Scottish Parliament can meet on any sitting day during the Parliamentary week which is specified in Standing Orders as being between the hours of 2.30 – 5.30 on Monday, 9.15 – 5.30 Tuesdays, Wednesdays and Thursdays and 9.30 – 12.30 Fridays (see Rule 2.2.3) . There is scope for the Parliament to extend these hours in line with specific requirements set out in Standing Orders (see Rules 2.2.4-2.2.7). There is nothing in Standing Orders to specify when Plenary meets – these are agreed on motion of the Bureau having regard to Standing Orders. The practice is that plenary meetings are held on Wednesday afternoon and all day Thursday.

6.6 Most committees meet weekly or fortnightly, on Tuesdays or on Wednesday mornings. The majority of committee meetings are arranged up to 6 months in advance. This is set and agreed by individual committees and co-ordinated by the Clerks to ensure that Members, whom usually sit on more than one committee, do not have conflicting meeting dates. Monday afternoons or Fridays can be used for ad hoc committee meetings but it is generally accepted that this time is used for travelling or constituency business.

House of Commons

6.7 The sitting times in the House of Commons, in the main chamber and Westminster Hall are shown in Figure 2. In addition, standing and subject committees typically meet on Tuesdays, Wednesdays and Thursdays, and also from 4.00pm on Mondays. Committees are free to choose their own sitting times.

Figure 2: House of Commons, Sitting times

| Day | Main Chamber | Westminster Hall |
|-----|--------------|------------------|
| | | |

| | | |
|-----------|----------------|--------------------------------|
| Monday | 2.30-10.30pm | |
| Tuesday | 2.30-10.30pm | 9.30am-2.30pm |
| Wednesday | 11.30am-7.30pm | 9.30am-11.30am / 2.30pm-5.00pm |
| Thursday | 10.30am-6.30pm | 2.30pm -5.30pm |
| Friday | 9.30am-3.00pm | |

Source: House of Commons

Questions

Q13. Is there a need to change Standing Order 5.1 to allow for all day sittings of Plenary, sittings on Thursdays or morning starts?

Q14. What time should business start and finish having regard to the existing family friendly arrangements set out in Standing Order 5.2?

Standing Orders could perhaps allow plenary business to continue to a set time (on certain days) but without an obligation to programme business up to this time in any day. This would allow flexibility in finishing time without the need for a procedural motion to extend business, though the option could still be retained to allow for very late sittings (for example, to ensure a piece of legislation gets through in time).

Q15. Should Committees be free to choose their own time of sitting?

Q16. Do Members wish to go further and formalise the sitting week as in the Scottish Parliament and if so what should the times be?

7. Simultaneous Plenary & Committee meetings, decision time and voting

7.1 As regards simultaneous Plenary and committee meetings, the key issue is whether or not it would be feasible to hold Plenary and Committees at the same time. In reality, with 60 Members, it may prove incredibly difficult to produce committee work programmes that could fit around plenary business, particularly where Measures are being scrutinised.

7.2 One way round this may be to opt for "decision time" as in the Scottish Parliament (although Committees do not meet at the same time as Plenary there).

7.3 Potential disadvantages of decision time are that:

i) voting will not be seen to be on the basis of arguments made

ii) it may create a negative perception about the Assembly amongst the public if only a few Members are in the Chamber at any one time.

iii) the public cannot see the outcome of any debate immediately afterwards

iv) not all decisions can be postponed, so Standing Orders would need to set out exceptions, which may over-complicate matters. For example, decisions on amendments to Measures could not be postponed because subsequent amendments might fall and therefore need not be debated (in the Scottish Parliament, Standing Orders provide for 15 exceptions - in these circumstances, votes are taken immediately after a motion is moved or a debate on a motion is closed).

7.4 Officials consider that Standing Orders 6.22 – 6.25 on voting have generally worked well. However, Members may wish to consider whether it would be possible to take uncontroversial votes through "on the nod", with the Presiding Officer asking for those in favour and those against, and either making the appropriate determination, or if there are voices on both sides, calling for a vote. Such an approach would have the advantage of speeding up decision making, avoiding the need to have votes of 57-0 etc. A similar procedure, which has worked well has allowed the Presiding Officer to ask if there are any objections to motions being debated together. If he hears one dissenting voice, he requires the motions to be debated separately.

Questions

Q17. Would simultaneous holding of Plenary and Committees be feasible?

Q18. Would it be desirable to introduce decision time as in Scotland?

Q19. Do all votes need to be taken electronically?

8. Consideration – Detailed Issues

8.1 Annexes 1 to 3 are working papers that highlight some of the more detailed issues that Clerks will be taking account of in re-drafting Standing Orders 5, 6 and 13.

8.2 Some of the issues are technical nature and the Clerks will take them into account when writing the Standing Orders for the Committee's agreement. The annexes also include specific questions for Members to consider.

8.3 Members are therefore invited to comment on these detailed issues to feed into the re-drafting of these Standing Orders.

9. Action

9.1 Members are invited to:

agree an approach to Questions 1-19 above

consider / agree on the detailed issues highlighted in Annexes 4 to 6.

Government of Wales Bill Procedures Unit

June 2006