Further to the letter from your Committee of 1 October 2013, and having consulted with our European Reporter, I’m happy to offer views on the role of European Reporters and the handling of legislative proposals that raise subsidiarity concerns.

Each of the questions is addressed in turn:

**Rule 10A.2 – Referral to lead committee**

1. How often has your committee considered an EU legislative proposal under this rule and what have the outcomes been?

   Once – regarding “A Proposal for a Regulation of the European Parliament and the Council on establishing a Health for Growth Programme, the third multi-annual programme of EU action in the field of health for the period 2014-2020” in January 2012. The outcome was correspondence with the Scottish Government to ascertain its position on the matter.

2. What the implications of the requirement to consider EU legislative proposals have been for your committee?

   Minimal – see above. There are a number of reasons for this. Firstly, it is important to understand that in the area of health policy the scope for EU legislation is limited. Health policy and the financing and management of health care remain primarily a national competence for EU Member States. The EU Treaty emphasises that where the EU does undertake health-related activities it is in terms of co-ordination and co-operation between the Member States in order to protect and promote public health and to enable the free movement of people across the EU. Secondly, with a very heavy domestic legislative agenda it has been important to try to identify any EU health related issues which relates to the Committee’s current legislative work and to be able to build that into the Committee’s consideration. And finally, both the European Commission Work Programme for 2013 and for 2014 have had few legislative and policy initiatives specifically relating to health. The Committee did identify four specific EU legislative and policy initiatives – the ehealth Action Plan 2012-2020; the European Innovation Partnership on Active and Healthy Ageing; the Revision of the tobacco products directive and the package of innovation in health – medical devices. Of particular importance to the Committee has been the ehealth action plan and the European Innovation Partnership.

   The Committee did, however, consider a piece of secondary legislation, the National Health Service (Cross-Border Health Care) (Scotland) Regulations 2013 where the Committee took evidence from the Cabinet Secretary for Health and Wellbeing, Alex Neil MSP. This concerned a Directive of the European Parliament and the Council on the application of patients’ rights in cross-border
healthcare, the purpose of which is to ensure that there is a clear framework for cross-border healthcare within the EU in order to enable the rights of the patients to be exercised whilst ensuring a high level of health protection.

3. How has your committee influenced outcomes at a UK and EU level as a result of this rule?

I think to claim as much would run the risk of hyperbole.

4. How practicable is Rule 10A.2.2 (designation of lead committee where the subject matter of an EU legislative proposal falls within the remit of more than one committee) given time constraints?

It’s difficult to offer comment as our Committee has not experienced this scenario.

Rule 10A.3 – Consideration of proposal for European Union legislation

5. Under Rule 10.A.3.1 committees are obliged to consider an EU legislative proposal where it has been referred to the Committee in terms of Rule 10A.2. Is this rule sufficiently flexible to allow a committee to decide which proposals it wishes to consider? Specifically, is it necessary for a lead committees to consider all proposals where the UK Government, UK Parliament or Scottish Government has brought to the attention of the Parliament a subsidiarity concern?

I would say it is (sufficiently flexible) in our very limited experience.

6. Under Rule 10A.3.2, where the lead committee considers that an EU legislative proposal does not comply with the principle of subsidiarity, the Convener shall by motion propose that the Parliament agrees that the proposal does not comply with the principle of subsidiarity, and the Parliamentary Bureau shall allocate time for debate. How often has your committee applied this rule? Are there any issues around timing, given the constraints of the 8-week period and competing demands on parliamentary time?

None.

7. Under Rule 10A.3.3 where an EU legislative proposal is referred to a lead committee and the lead committee decides that there is an insufficient period remaining for report and debate, the Presiding Officer shall notify the UK Parliament of any concerns that the lead committee has that the proposal does not comply with the principle of subsidiarity. How often has this rule been invoked in the context of your committee’s consideration of an EU legislative proposal? How effective is this process?

None.

8. How often Rule 10A.3.4 (making special arrangements for recess periods) has been used?

None.
Rule 12.6.2 – EU Reporters

9. On how many occasions has your EU Reporter brought to the committee’s attention any EU issue, proposal for EU legislation, or implementation of European Communities or EU legislation, as provided for in this rule?

As has been stated earlier, given that health policy remains the primary responsibility of national governments and the fact that the EU’s competence in this area of policy is limited to co-ordinating Member States’ activities and encouraging their co-operation, there is certainly not as much European related legislation compared to other subject committees such as the Rural Affairs, Climate Change and Environment Committee or the Infrastructure and Capital Investment Committee, both of which were served by our current EU Reporter before she joined the Health and Sport Committee.

Our committee is therefore in a better position of being able to identify what work we want to look at rather than having to react to a plethora of EU initiatives. So our EU Reporter works closely with the Clerks and SPICe to identify relevant EU issues and, in consultation with me as Convener. This consideration informs any action or issues brought to the wider Committee’s attention.

The Committee has already identified two EU-related priorities in the area of ehealth and specifically in the context of the e-Health Action Plan 2012-20 and the European Innovation Partnership on Active and Healthy Ageing (EIP AHA). The Committee has agreed to undertake some work around the ehealth Action Plan with a focus on telehealth developments in Scotland in terms of the opportunities and benefits from participating in related EU policy initiatives and funding programmes.

The Committee intends to take evidence in March 2014 from Scottish Government officials to look at how the Scottish Government engages in EU digital health policy initiatives and the contribution it is making in this area of policy. The Committee will then hold a roundtable of representatives from a number of relevant stakeholders to discuss the current role of EU policy initiatives and European funding programmes in the development of telehealth in Scotland and the economic and health benefits these can potentially bring.

How we proceed with this work beyond March 2014 will very much depend on the issues that emerge from the initial evidence and, realistically, also informed of course by our wider programme of work.

I hope this information may be helpful to your work.

DUNCAN MCNEIL MSP
CONVENER
HEALTH AND SPORT COMMITTEE
SCOTTISH PARLIAMENT
20 DECEMBER 2013