



The Scottish Parliament
Pàrlamaid na h-Alba

Published 24 March 2021
2021 (Session 5)
Web

Conveners' Group

Legacy Report



Published in Scotland by the Scottish Parliamentary Corporate Body.

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Chaired by



Christine Grahame

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Members are the conveners of all mandatory and subject committees



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Culture, Tourism, Europe and External Affairs Committee



Bill Bowman

Delegated Powers and Law Reform Committee



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Environment, Climate Change and Land Reform Committee



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Standards, Procedures and Public Appointments Committee

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- John Scott

Economy, Energy and Fair Work Committee

- Michelle Ballantyne
- Gordon Lindhurst

Education and Skills Committee

- James Dornan

Environment, Climate Change and Land Reform Committee

- Graeme Dey

Equalities and Human Rights Committee

- Christina McKelvie

Finance and Constitution Committee

- Mike Russell

Health and Sport Committee

- Neil Findlay

Justice Committee

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Local Government and Communities Committee

- Bob Doris

Public Audit and Post-legislative Scrutiny Committee

- Anas Sarwar
- Jackie Baillie

Standards, Procedures and Public Appointments Committee

- Clare Adamson
- Clare Haughey
- Bill Bowman

Purpose

1. Chapter 6A of Standing Orders provides for the Conveners' Group (CG) and its role in relation to the operation of committees. The CG consists of the Convener of each subject and mandatory committee and the Presiding Officer although, in practice over Session 5, CG meetings have been chaired by Christine Grahame, Deputy Presiding Officer.
2. The Group recognises that individual committees will publish legacy papers to their own successor committees in relation to their own remits. It is not the purpose of this legacy paper to summarise issues of detailed public policy, but instead to provide an overview of developments in how committees have worked and to point to how committee effectiveness can be maximised in Session 6.
3. This report is based on input from Conveners' individual comments and subsequent discussion.

CG activities over Session 5

4. The Group met regularly over the course of the Session and considered a number of issues which have affected the operation of committees. Further information can be found on the Conveners' Group web pages.¹
5. A sub-group, made up of Conveners from those committees primarily affected by preparations ahead of the UK's exit from the EU, met on a number of occasions. The sub-group considered the specific impact of EU exit on those committees' work programmes, as well as preliminary drafts of protocols between the Scottish Government and Scottish Parliament in relation to consideration of UK statutory instruments made in devolved competence and formerly within EU law.
6. The Group considered recommendations made by the Commission on Parliamentary Reform, which was established by the Presiding Officer in October 2016 and reported in June 2017.²
7. The report argued that "measures must be put in place to support the independence, identity and role of the committee system". The report went on to recommend "changes designed to empower committees to be more effective and active in undertaking scrutiny. Our recommendations should be seen as a package of measures which, taken together, would deliver more successful committee scrutiny".³ A number of the Commission's recommendations were implemented and the Presiding Officer's Advisory Group (established to oversee delivery of the report's recommendations) published its own report on how the Commission's recommendations had been implemented in March 2019.⁴ CG considered those recommendations relating to the operation of committees at a number of meetings in 2018; a summary of decisions taken and reforms implemented is set out in Annexe A.

¹ Conveners' Group web pages. Available at:

<https://www.parliament.scot/parliamentarybusiness/21516.aspx>

² Commission on Parliamentary Reform web pages. Available at: <https://parliamentaryreform.scot/>

³ Commission on Parliamentary Reform, *Report on the Scottish Parliament*, 20 June 2017, paragraph 19/page 8. Available at:

<https://test123582.files.wordpress.com/2016/10/commissiononparliamentaryreformreport-june20171.pdf>

⁴ Presiding Officer's Advisory Group, *Report on Parliamentary Reform*, March 2019. Available at: https://www.parliament.scot/POandUKandIRO/POAG_Report.pdf

Maximising impact

8. Below is a brief discussion of a number of issues which have been pursued in Session 5 and which Conveners feel have enhanced committee scrutiny.

Adoption of a strategic approach

9. A number of committees adopted strategies at the outset of Session 5 as a means to establish (and communicate) their public policy priorities and also to create a transparent framework to inform work-planning discussions. Conveners also highlighted the importance of following up recommendations and inquiries from Session 4 or, more latterly, earlier in Session 5 to maintain a focus and momentum on previous work.
10. **The Group considers that all committees should take steps to establish a strategic plan at the start of the next Session both for reasons of transparency and as a tool to inform future prioritisation decisions.**
11. **The Group also considers that each committee should go through a process to consider the impact it is seeking to achieve before embarking on any substantive piece of business**

Evolving nature of committee outputs

12. Conveners highlight some different approaches in taking forward the output of committee inquiries. While traditional long-form reports will still be appropriate in many cases, Conveners point to an increasing use of short reports or letters as vehicles to achieve more responsive scrutiny. Reference was also made to making committee output more visible and accessible to those outwith the Parliament, including different formats and building on the increased use of data visualisation. Data science is an area which SPICe has invested in recently, and there is considerable scope for further use both in terms of consultation analysis and impactful messaging of conclusions and recommendations.

Public participation and external engagement

13. Many committees identified the value of public engagement over the course of Session 5 and highlighted committees' role in providing a forum to represent views of stakeholders, service users and individuals from a range of experiences, backgrounds and ages. The value of using a 'witness-centred approach to evidence-taking' was emphasised. That is to say, garnering lived-experience from those groups most affected by public policy in ways that are most likely to produce the richest results and, importantly, to give greater parity with the views expressed by professional stakeholder groups.
14. The Group notes the establishment of the Committee Engagement Unit over the course of the Session following the recommendation by the Commission on Parliamentary Reform. The Unit was merged with the Community Outreach Team towards the end of the Session and renamed the Participation and Communities Team. Further information about how the Unit has supported

committees move towards a more participative and deliberative engagement model is provided at Annexe B.

15. There has been a significant advance in terms of innovation here, notably the use of focus groups (both in-person and digital) and, latterly, citizen juries. The use of digital engagement tools to facilitate evidence-taking was also highlighted, especially in the context of the current Covid-19 pandemic. CG notes the advances that have been made and the recommendations made about participative democracy by the Citizens' Assembly of Scotland.
16. Looking ahead to Session 6, a challenge for committees will be to consider not just how to hear from a more diverse cross-section of Scottish society but also to consider how best to use that evidence to inform the scrutiny process.
17. The Covid-19 pandemic was also highlighted as providing a greater opportunity – via the move to virtual committee meetings – to take evidence from beyond the central belt and outwith Scotland. Conveners noted that one advantage of this has been that it has allowed for a greater comparative element to committee scrutiny.
18. Many committees also identified the value of expert advice in supporting committee business, through the use of committee advisers, commissioning external academic research and the use of expert panels. Whilst engagement with the public and academic/expert community was felt to be successful, Conveners did, however, express frustration with the way that some parts of the public and private sectors engage with committees. Several Conveners also highlighted a wider reluctance of some local authorities, public sector organisations and businesses and other stakeholders to engage with committees.

Sustainable development

19. Sustainable development is perhaps the most prominent of cross-cutting issues, wide-reaching in its scope and interpretation, covering environmental, climate change policy areas but also of relevance to the equal opportunities and public participation agenda. In Session 5, some committees used the lens of sustainable development to inform this integrated approach to scrutiny. This will be an area of increased focus in Session 6 and work is underway to produce an impact assessment tool, along with guidance for Members and officials, to help them with their work. **In terms of public policy impact, the Group recommends that committees will want to look both at their own practices and also the obligations on the Government. For example, there is merit in considering what changes might be made to the Standing Orders in respect of pre-legislative sustainable development requirements to help achieve a step-change in public policy in this area.**

International engagement

20. Conveners considered the opportunities for developing the scope for engagement and evidence-taking outwith Scotland as part of official delegations of Members and led by the Presiding Officer or a deputy Presiding Officer. These

would allow a committee member as part of the delegation to undertake a series of separate meetings and engagements focused on an aspect of that committee's work programme. It is proposed that officials explore how opportunities to combine international engagement and evidence-taking on official delegations can be maximised.

Holding government to account

21. Many Conveners attributed the success of their committee's scrutiny to the collegiate and non-political approach adopted in committee by all Members, prioritising the focus on added value, holding the government to account and improving public services over political differences.
22. Some Conveners felt that engagement with the Scottish Government and UK Government could sometimes be improved. Committees have experienced difficulties in obtaining written information in relation to committee inquiries and, sometimes, securing UK or Scottish Ministers' availability to provide oral evidence. A Convener argued that the reluctance to engage with committee scrutiny, highlighted in paragraph 18, had hampered the scrutiny process and the legitimate role of committees to hold the Government to account and to explore and address issues of policy-making and service delivery. One Convener referred to their committee's use of the committee bill procedures to take forward one of its inquiry recommendations which the Scottish Government didn't accept.
23. The Group continued its regular meetings with the First Minister, when Conveners explore general issues affecting committees in relation to the Scottish Government's legislative programme. It also provided an opportunity to draw together policy issues which cross a number of committees' remits. These meetings were suspended over the last year of the Session due to the impact of the Covid-19 pandemic. **We recommend our successor Group continue to hold regular meetings with the First Minister to hold the Scottish Government to account on those public policy issues of interest to the work of committees.**

Impact of the UK's exit from the EU

24. One significant and unprecedented development which has impacted committee remits over the course of Session 5 is the UK's exit from the EU. Conveners identified the impact of EU exit as a considerable challenge to parliamentary scrutiny for Session 6.
25. Many policy areas within devolved competence – such as significant aspects of environmental, agricultural, fisheries, food standards, goods and services policy – were formerly within EU law. As the devolution settlement was based on the UK's membership of the EU, legal and policy governance frameworks with the UK Government and other devolved administrations were not required. Over the course of Session 5, therefore, those committees whose remit has been most impacted by EU exit considered primary and secondary legislation to ensure the legal framework was in place ahead of the end of the transition period on 31

December 2020. For some committees, this workload placed a significant additional burden on their work programmes.

26. In addition, many committees began the task of identifying how these legal and policy governance frameworks will impact on their remit areas. Committees also began to explore the broader constitutional implications of EU exit and the extent to which parliamentary scrutiny will need to adapt to consider trade deals, UK internal market, common frameworks and Scottish Ministers' use of the keeping pace power, the inter-governmental process and on-going connections with EU institutions.
27. Conveners agree that the Parliament needs a greater, shared understanding of the impact of EU exit on the devolution settlement and those policy areas formerly under EU law in order to take a more strategic approach and a stronger role in Session 6.

Inter-parliamentary working

28. The Group notes the benefits of inter-parliamentary working between Scottish Parliament committees and their counterparts in other UK legislatures over the course of the Session. In the 'post-EU UK', however, co-ordination with other UK legislatures may be particularly useful, especially in the first few years of Session 6 as our understanding of the impact of EU exit becomes clearer and as common frameworks and the UK Internal Market Act 2020 are implemented. The Group notes the European, subordinate legislation and constitution committees of the four UK legislatures worked together on the Inter-Parliamentary Forum on Brexit in the latter years of Session 5 and that this was a useful forum for debate.

Setting up for Session 6: workload and capacity

29. It is the Group's view that committees' ability to carry out their work as effectively as possible is hugely dependent on the overall committee structure and the value placed on committees within the wider parliamentary system. The comments in this section are directed primarily at Business Managers, in relation to their roles on the Bureau in establishing committees, and the SPCB in relation to issues of resourcing.
30. Conveners are concerned that the committee structure places an unmanageable workload on individual committees. Committee work programmes seek to balance the Government's legislative work programme, scrutiny of both bills and secondary legislation, with other work business such as inquiries and petitions. Conveners also recognised that the impact of EU exit and the Covid-19 pandemic compounds their committees' overburdened work programmes.
31. Conveners highlight their concerns that overburdened work programmes undermine committee effectiveness. Some committees feel they spend too much time scrutinising legislation and this leaves too little scope to hold the Scottish Government to account in other ways, particularly through inquiries. On a related theme, the Group recommends that a future CG keeps the budget scrutiny process under review to ensure it remains fit for purpose from all committees' perspectives.
32. The Group's view is that there is a real risk that there is not sufficient existing capacity to carry out additional work effectively. This is evident from the challenges which Members and committees faced even before the impact of Brexit. These challenges include the—
 - breadth of committee remits and busy work programmes;
 - high levels of legislation;
 - number of Members sitting on more than one committee; and
 - turnover in committee membership making it difficult to build up policy expertise.
33. Furthermore, Conveners believe the demands on workloads has been exacerbated over the course of the session as the long-term impact of EU exit has become clearer.
34. In addition to the practical difficulties involved in meeting these demands within the limited time available at committee meetings, Conveners have expressed concern (including in a parliamentary debate and subsequently articulated by the Finance and Constitution Committee) about there being insufficient resources to support scrutiny at official level.
35. It is unlikely committees' work programmes will be significantly lighter in Session 6. **The Group highlights its concerns about committee resources to the SPCB and recommends that consideration be given to how these can be**

addressed in the Session 6 committee structure, particularly if hybrid committee meetings continue beyond the pandemic.

Committee remits

36. The Group believes the scope of remits is fundamental to committees' ability to scrutinise effectively and respond to key policy issues. Even without the need for remits to adapt to the impact of EU exit and, even on a short-term basis, the Covid-19 pandemic, the Group recognises that decisions will need to be taken at the outset of Session 6 in relation to the number and remits of committees.
37. The Group discussed whether committee remits should mirror ministerial portfolios or be more standalone and/or holistic in nature. The Group agreed there were pros and cons to any approach. Some Conveners felt by following ministerial remits, there was a risk that a silo approach is taken, meaning opportunities may be missed when it comes to the scrutiny of complex and systemic issues. Several Conveners gave examples where collaboration between committees had proved highly effective (recently seen in relation to EU exit and on climate change).
38. Overall, most Conveners thought it was beneficial and logical for remits to mirror ministerial portfolios primarily because of the greater accountability that it generates. **On balance, therefore, the Group agrees that it makes sense for subject committee remits to mirror ministerial portfolios.**
39. **The Group does, however, agree that this approach risks a narrower interpretation of scrutiny at the expense of the wider policy context and cross-cutting issues. The Group recommends that its successor Group actively explores, and encourages, the use of techniques and working practices which promote a collaborative approach by committees to better enable systems-based scrutiny.**

Size of committees

40. The Group recognises that the size of committees is a political exercise, with the need for trade-offs between representation of all political parties and the number of committees. That said, a number of Conveners raised concerns in relation to the impact of larger committees (especially committees with 11 members), in relation to the ability of all Members to be able to play a full part in the work of these committees. There was a concern that larger committees require Members to sit on two or three committees and that this impacts on these Members' capacity to focus and develop expertise in that subject area. Conveners recognise that committee membership is only one aspect of a Member's duties and the Bureau should be made aware of these issues when establishing committees at the start of the new Session.
41. **In general, the Group would want the Bureau to seek to limit committees to seven or a maximum of nine Members in Session 6. This would enable committees to be more agile and would lessen the pressures on Members having to sit on more than two committees. Membership on fewer**

committees would ease Members' workload and allow them to develop their expertise within the remit area.

42. On a related point, Conveners stressed the importance of stability of committee membership as being invaluable to effective scrutiny. Concerns were raised around the perceived high levels of membership turnover over Session 5 as Members were moved around committees as a consequence of ministerial or front bench moves. Conveners felt that greater stability of membership would allow Members to develop their capacity and expertise in the subject area and establish effective working relationships, both of which are crucial for effective scrutiny.

Role of committees within the wider parliamentary system

43. The Group recognises that the relationship between committees and other aspects of parliamentary business significantly impact on committees' effectiveness. Conveners are keen to emphasise the importance of parity of committee business with Chamber business. It was felt that committee business could be seen to be undervalued within the Parliamentary Bureau, with decisions taken about Chamber business with little recognition of the impact on committee business. For example, Conveners of committees which meet on a Thursday morning expressed their frustration that the early start of Chamber business prevents these committees from meeting as long as those which meet on a Tuesday or Wednesday.
44. Picking up on concerns raised in relation to some of the scrutiny challenges faced by committees, the successor CG may wish to consider a more proactive role in championing committee scrutiny opportunities and addressing scrutiny challenges. These scrutiny challenges include cross-cutting issues such as how address poverty in our society through the social renewal agenda and budgetary choices and fiscal policy; the impact and challenges of EU exit, climate change and the impact of the ecological crisis.
45. Earlier paragraphs of this report stress the importance of parity of committee business with Chamber business and the successor CG may want to explore how it could seek to achieve this. **One option may be to seek representation at meetings of the Parliamentary Bureau to ensure a formal route for committee interests to be represented during discussions about parliamentary business.**
46. **The Group notes that, as part of the election planning programme, induction is provided to new Members to support them in their various roles. Conveners also note, however, that there is no specific support, training or guidance provided to those Members taking up a role as Convener; all Conveners agreed that such support would be useful and welcome. Thus, the Group recommends that, in advance of the establishment of committees in Session 6, guidance for incoming Conveners is provided to assist them in taking up their role.**
47. Also, on the issue of scrutiny and the importance of the parliamentary role, the Group discussed the option of providing remuneration for committee Conveners.

Conveners Group

Legacy Report, 2021 (Session 5)

The chairs of certain House of Commons' select committees have been paid an additional salary following a decision on 30 October 2003. This came on the back of a report by the Liaison Committee, the equivalent of the CG in the House, which expressed concern that members of select committees were "easily tempted" away from their committee role by government or opposition appointments. It recommended a supplement for committee chairs to balance out the attraction of a career in government with a career in the committee system.

48. The Group recognises the issue of remuneration for Conveners has been widely considered since the publication of the Commission on Parliamentary Reform's report in June 2017, particularly by the SPPA Committee. The Group notes the SPPA Committee's conclusion in its letter, dated 4 December 2020, to the Presiding Officer "that there was a degree of support for either remunerating conveners and/or providing them with additional resources for their role and concluded that this might be a matter that merited further consideration at the beginning of the next session".
49. The Group notes that Convener remuneration would recognise the additional workload and responsibilities associated with the position, would demonstrate the value of committee scrutiny within the parliamentary system and would, as one Convener argued, make the committee route another way for Members to move forward outside of government".
50. **The Group supports renewed consideration of remuneration for committee Conveners, in line with other UK legislatures, as part of a wider piece of work on the resourcing available for Committees.**

Annexe A – Summary of Conveners’ Group consideration of recommendations relating to the operation of committees made by the Commission for Parliamentary Reform

Committee witness diversity

The Group supported the publication of SPICe research on gender representation and diversity on committee witness panels. Subsequently, the Group agreed a diversity of committee witnesses action plan on 17 May 2018.

Committee member diversity

The Group wrote to the Parliamentary Bureau suggesting that, in future, committee membership should reflect the gender balance in the Parliament, where practicable following its meeting on 22 March 2018.

Good practice for committee consultation

The Group agreed guidance to inform committees’ approaches to consultations on 22 March 2018.

Committee engagement unit

The Group supported the creation of the committee engagement unit. Thereafter, the Group has received regular updates on its work with committees.

Relations with COSLA and local authorities outwith COSLA

The Group agreed an engagement plan with COSLA on 19 September 2019.

Role of the CG

The Group held a session considering this issue on 20 September 2018.

Annexe B – the role of public engagement and the Committee Engagement Unit over Session 5

At the start of Session 5, the committees of the Scottish Parliament adopted a new approach to public engagement with the establishment of the Community Outreach Team. The aim was to improve scrutiny and involve a wider range of people from communities across Scotland in the work of committees.

This approach is now well established and valued by committees as an important part of their work. This means the Parliament is hearing from people directly affected by the issues being considered, in a way which works best for them, alongside more traditional forms of engagement such as online surveys and calls for written views. Session 5 has witnessed more participative outreach work taking place in, and with, communities across Scotland than ever before. Further details of such work can be found in individual committee legacy reports.

In 2018, this innovative approach was further developed with the introduction of the Committee Engagement Unit (CEU) as a result of the Commission on Parliamentary Reform. This further increased the capacity of committees to test and embed new and emerging methods of engagement to continue to improve their scrutiny.

Part of the CEU's remit has been to work with the Parliament's committees, and key external partners, to introduce deliberative methods of engagement. Building on the issues-based engagement introduced earlier in the session, deliberative engagement promotes deeper understanding of a topic and allows outcomes to be based on informed debate. Participants in deliberative exercises are randomly selected to underpin the legitimacy of the process. This also helps to provide a counter-weight to scrutiny becoming emotionally charged or dominated by interest groups. Deliberative engagement activities have been developed and delivered by CEU to support the work of several committees.

[The Citizen's Jury on Land Management](#), supporting the work of the Environment, Climate Change and Land Reform Committee, took place at the Scottish Parliament in March 2019 and as a result we became the first parliamentary body in the world to directly organise and deliver deliberative engagement to support the work of the institution.

Primary Care Public Panels were set up using a deliberative approach to inform the Health and Sport Committee's inquiry into the future of primary care. The Committee established three public panels in the west, east and north of Scotland to consider the question of the future of primary care in Scotland.

The participants' recommendations formed [the first report of the inquiry](#) and influenced the second stage. In the [final report](#), published in February 2021, the Committee noted: "The findings and recommendations of this second report are our own, but without the input we received it would not have been as possible to be as confident in the need for significant change".

The Covid-19 Committee commissioned [a Citizens' Panel](#) to examine: "What priorities should shape the Scottish Government's approach to COVID-19 restrictions and strategy in 2021?" The Citizen's Panel sat over four Saturdays in January and February and its [report](#) was published on 18th February 2021.

The Citizens' Panel's report has informed the Covid-19 Committee's recommendations to the Scottish Government on its response to Covid-19 in 2021. Speaking to the Committee, following evidence from participants, Cabinet Secretary for the Constitution, Europe and External Affairs, Michael Russell stated that: "I confirm that, as a Government, we take the views of the Citizens' Panel very seriously... I hope that the witnesses from the Citizens' Panel are reassured by knowing that their views and conclusions are of great importance". This illustrates that deliberative engagement can be used to strengthen scrutiny and hold government to account.

It is the first time that the Parliament has run a citizens' panel online, utilising experience gained from digital engagement work introduced this session.

The Digital Engagement Tools Team (DETT), a cross-departmental sub-group, was set up in Session 5 to:

- explore the new opportunities that digital engagement and participation tools offer for engaging with and empowering citizens;
- to identify, pilot and test new digital participation tools;
- and to make recommendations about the potential for such tools to be available for committees.

DETT's work with three digital tools, [Dialogue](#), [Citizen Space](#) and [Your Priorities](#) enabled over 7,000 people to support the work of parliamentary committees by taking part in digital engagement exercises including [surveys](#), submitting written views via [a new digital submissions platform](#), [sharing experiences via discussion forums](#) to inform questioning of Government Ministers, [debating issues](#), generating ideas to support [scoping of inquiries](#), and [commenting on the impact](#) of proposed legislation.

The Community Outreach Team and CEU have now merged to form the Participation and Communities Team (PACT). PACT will work to progress and improve our engagement and participation work in Session 6. We will continue to collaborate with teams across the Parliament to support meaningful public participation, to improve scrutiny and to support committees to hold the Scottish Government to account.

