



The Scottish Parliament
Pàrlamaid na h-Alba

Standards, Procedures and Public Appointments Committee

Room CG.07
EDINBURGH
EH99 1SP

Tel (Clerk): 0131 348 5239
e-mail: sppacommittee@parliament.scot

28 January 2021

Dear Presiding Officer,

Standards, Procedures and Public Appointments Committee consideration of the Delegated Powers and Law Reform Committee's review of the Presiding Officer's determination to identify a Scottish Law Commission Bill

I am writing in response to your letter of 21 December in which you invited the Standards, Procedures and Public Appointments (SPPA) Committee to examine the findings of the review conducted by the Delegated Powers and Law Reform Committee's (DPLRC).

The SPPA Committee considered the review in detail at its meeting on 14 January 2021. The Convener of the DPLRC – Bill Bowman MSP – as well as the DPLRC Clerk and the Head of the Legislation Team attended the meeting to respond to the SPPA Committee's questions.

On a more general level, the Committee considered that it was important to respect the Scottish Law Commission and its role in providing independent advice on law reform and the need to improve, simplify and update the law of Scotland. In relation to the role of the DPLRC and its consideration of SLC Bills, the SPPA Committee was of the view that in relation to the determination of whether a Bill was a SLC Bill in accordance with Rule 9.17A.1, there was a need to be mindful that the DPLRC should not be used to accommodate legislation that could not be considered by subject committees due to the need to consider other legislation. The criteria in the Presiding Officer's determination were therefore considered crucial in ensuring that the appropriate bills were referred to the DPLRC.

As part of its consideration of the review, the SPPA Committee explored the objectives of the working group and the DPLRC in proposing a revised determination and how this would contribute to the aim of improving the implementation rate of Scottish Law Commission (SLC) reports. The SPPA Committee was satisfied that the revised criteria could promote an improvement in the implementation rate of SLC

reports while continuing to allow Bills to be considered by the relevant subject committee where they might generate substantial controversy. The SPPA was of the view that it remained important to take financial or ECHR implications into account and that it was vital that these were identified in the general purpose statement.

The SPPA Committee also examined in detail the arguments presented in relation to the operation of each of the previous criteria and the thinking behind all of the changes proposed. The SPPA Committee was satisfied with the explanations provided in the DPLRC's report as well as those provided to it by the DPLRC Convener and clerks.

In your letter, you identify a specific issue in relation to how the final paragraph sits in the new determination or whether it is intended to sit in guidance. The SPPA Committee raised this issue and it was confirmed that this was part of the overall revised determination.

You also highlighted in your letter that the criteria make up only one of three elements that define an SLC Bill and should therefore be read alongside Standing Order rules 9.17A(a) and (c). The SPPA noted that the previous determination included the following introductory sentence:

“As well as implementing all or part of a report of the Scottish Law Commission, the definition of a Scottish Law Commission Bill includes criteria to be determined by the Presiding Officer.”

Given that the determination sits separately from the Standing Order Rules, the Committee would have no objection to the inclusion of any text to highlight that the criteria sit alongside rules 9.17(a) and (c) if you consider that this would provide greater clarity.

Having considered the proposed changes, the SPPA concluded that it was content with the revised determination.

Yours sincerely

A handwritten signature in blue ink that reads "Bill Kidd MSP". The signature is written in a cursive style and is positioned above a horizontal line.

Bill Kidd MSP
Convener
Standards, Procedures and Public Appointments Committee