Background

1. It has been the practice of the Conveners Group to produce a legacy paper at the end of each session looking back at its experience of how the committees have operated and making observations and recommendations for future practice.

2. This paper sets out the thoughts of the Conveners Group at the end of Session 3. It draws on the experience of 12 years of committee business.

3. The paper is addressed to the following bodies in Session 4 each for their own interest.
   - The Conveners Group
   - The Bureau
   - The SPCB
   - The Standards, Procedures and Public Appointments Committee
   - All other subject and mandatory committees

Independence and status of committees

4. The Group believes that when undertaking the policy scrutiny function, committees work best when a collegiate approach is adopted by members. Although party business managers make recommendations concerning committee membership, committee members are appointed by the Parliament. This gives them an independent status when working on committees which manifests itself in the number of recommendations that are reached on a consensual, unanimous basis. This is an important factor in giving weight to committee conclusions.

5. The Group believes that it is essential to maintain this position and urges the parties in Session 4 to respect the independence of their members when working on committees.

6. The independence of committees would be further underlined if the Presiding Officer were to use his discretion, when calling speakers in debates, to call committee conveners in that capacity, where a committee indicates that it wishes its views to be heard in a debate. At present, a committee convener has to rely on being called from his or her party list. This can cause difficulties if the committee’s stance is at odds with the position of the convener’s party.

7. The Group noted the growth of assertive Parliamentary committees over the last 30 years at Westminster. The role of committee member and, in particular, committee chair, was seen as an alternative career path to that of Minister or shadow Minister. This was underscored by the payment of an allowance to committee chairs. The effectiveness of Westminster committees was enhanced by having members and chairs who had served for long periods of time on the same committees and who were respected for the expertise they had developed.

8. A recent innovation in the House of Commons was that committee members and chairs were elected by the House, effectively removing control of the process from the party whips.
9. The Group wishes to see the committees of the Scottish Parliament develop in this way. In particular, the Group would like to see the same stability in membership of committees to enable expertise to develop which would enhance scrutiny, particularly scrutiny of Bills. The Group also recommends that the Standards, Procedures and Public Appointments Committee consider introducing a system of election of committee members and conveners. So far as payment of an allowance to conveners is concerned, the Group does not believe that this is appropriate at this time.

Scrutiny of legislation

10. The Group considered whether the current system in which committees are responsible both for policy and legislative scrutiny within their subject remits remains appropriate. The system has given rise to concerns in the past when some committees, notably Justice, have found it difficult to find an appropriate balance between considering bills and scrutinising policy.

11. Although in the early years of the current session the legislative workload was lighter, the current year and, in particular, the run up to dissolution has been problematic for a number of committees. The Group remains concerned that the system can lead to a lack of time for oversight of the delivery of Government policy.

12. However, despite these concerns, the Group believes that the benefits outweigh the disadvantages. The main benefit is that, if the committee membership remains reasonably stable, members develop a shared understanding of the subject remit of the committee and are better equipped to scrutinise bills. If committees face too heavy a legislative workload then that must be addressed midsession. However, the solution found in Session 2 of creating two Justice Committees with the same remit should not be applied as a model. The main drawback of this arrangement was that the allocation of bills by the Bureau did not take into account the policy areas in which each committee had developed expertise thereby losing the main benefit of our system.

13. The Government should give serious consideration to the number of bills that can reasonably complete their stages in the final year of a session. Experience of three sessions has shown that the final year of the legislative programme results in committees being dominated by Government legislation. This impacts on their other scrutiny functions including an inability to find time to scrutinise Members’ Bills. It also leads to the loss of committee time in the run up to dissolution as more Chamber time is needed to complete Stage 3 proceedings. This deprives the committees of time needed to complete their work programmes.

14. The Group also believes that there would be merit in the Standards, Procedures and Public Appointments Committee considering the rules governing the amendment of Bills at Stage 2. The process is not transparent. Few observers are able to understand the process of grouping, debating and voting on amendments. The lists of individual textual amendments do not help stakeholders understand the impact of proposed changes. The Group believes that some radical thought is needed as to how this important process of making law can be made more readily understood.
15. The Group considers that post legislative scrutiny should be an important part of a committee’s work programme. Due to competing priorities, it is an area of work that has not received the attention it deserves. The Group recommends that the current committees should identify in their legacy papers the areas which would benefit from post legislative scrutiny. It is also a type of work that lends it itself to public engagement and consideration should also be given as to how civic society can be engaged in identifying areas of concern. The committees in the next Session should consider these recommendations at their first business planning sessions and each committee should develop a programme of post legislative scrutiny.

16. The Group has also supported the extension of the scrutiny of European Union legislation by committees. Under a new European Union scrutiny strategy, supported by the Group and agreed by Parliament in December 2010, committees will in future play an active role in the Europe-wide ‘early warning system’ for EU legislation, aided by the appointment of European Reporters on subject committees.

Committee workloads and priorities

17. Although believing that committees should continue to scrutinise both policy and legislation, there are undoubtedly problems for committees in finding sufficient time to undertake their full range of scrutiny activities.

18. When committees are constructing their work programmes, the Group considers that it is necessary to achieve, so far as possible, a balance across different types of work.

19. Inquiries will always be an important element in a work programme. The experience of conveners is that inquiries are most effective when they are focussed and relatively short. Lengthy inquiries with wide remits may have their place but the danger is that the political landscape can change during their course and evidence taken early in the process can be out of date at the end.

20. Although the Group believes that committees work best when members can work consensually across party boundaries, committees should not avoid politically controversial issues although members do need to work hard to avoid these damaging effective working relationships.

21. At the end of inquiries, committees must ensure that recommendations are followed up. This can be a lengthy process as it may take some time for recommendations to be translated into action.

22. Committees need to balance inquiry work with one off evidence taking sessions which can be a valuable form of scrutiny. These should include “stock taking session” with Ministers which bridge the gap between the immediacy of questions in the Chamber and the more in-depth committee inquiry.

23. The Group believes that the committees have a limited role in pre legislative scrutiny. This is the stage at which the Government should consult with stakeholders and, if committees are to be effective in scrutiny of government policy, it is important that an arm’s length relationship is maintained. However, in the next session committees should aim to use their scrutiny role to identify issues and influence the policy agenda at stage even earlier than the pre legislative stage.
24. The committees play an important role in scrutinising the Scottish Government’s budget. However, the experience of conveners is that the timetable for budget scrutiny leaves insufficient time for committees to undertake this essential work in the level of detail that it clearly merits. For example, in the current year some committees were only able to have one evidence taking session. This is wholly unsatisfactory and the budget scrutiny timetable should be examined with a view to giving sufficient time to committees to fulfil their scrutiny role. In addition, the Group is unclear as to the added value of the introduction of the Budget Strategy Phase.

25. Much has been done in recent years to improve the resources available to committees for budget scrutiny, including the creation of the Financial Scrutiny Unit and the co-ordinating role played by the adviser to the Finance Committee. However, if sufficient time is not made available, committees cannot be effective in their scrutiny.

**Balance between Chamber and Committee time**

26. Given the range of work to be undertaken by committees, the Standards, Procedures and Public Appointments Committee should look at the balance of the parliamentary week between committees and the Chamber.

27. The Group recognises the need for sufficient Chamber time, particularly for the passage of legislation but believes that the current arrangements do not properly reflect the range and importance of committee business. It might be appropriate to consider a more flexible division of the parliamentary week which would recognise that the Chamber might need more time at particular points in the year or session such as the weeks immediately preceding the summer recess or dissolution. The work of committees could be given a larger proportion of the parliamentary week at other times of the year. Other options should also be considered including devoting weeks exclusively to committee or Chamber business. The Group recognises that changes of this kind would require a new approach to business programming.

28. The Group also recommends that the Standards, Procedures and Public Appointments Committee review the Rule that prevents committees from meeting at the same time as the Chamber. The Group considers that a change in that Rule could provide valuable additional time for committees without any adverse impact on the work of the Parliament.

**Resources**

29. The work of the committees is core to the Parliament and should be appropriately resourced. This is all the more important in the current economic climate with a reducing parliamentary budget. The SPCB should, in particular, ensure that the committees have sufficient support from clerking, the official report, advisers and SPICe to undertake their functions.

30. The Group believes that clerking support for the legislative process should be reviewed to ensure that proper support is available to Members without placing undue pressure on staff.
31. The Group considers that support for Members Bills should be reviewed. The Non Executive Bills Unit (NEBU) is, understandably, not resourced to cope with periods of peak demand. The Group, however, believes that all members wishing to introduce Members Bills should be supported to do so. If NEBU cannot provide this support, then the SPCB should consider how the required support can otherwise be provided.

32. The Group is concerned about the timescale for production of committee official reports which, in Session 3, regularly were unavailable until just before the next committee meeting. Particularly when committees have taken evidence, it is essential for committee members to have early access to the official report of the proceedings. This is needed to allow members to prepare for the next committee meeting and ensure that they are in a position to hold Ministers to account. It is also needed to enable committees to be effective in securing media coverage for their work. The Official Report of a committee meeting should be available to committee members and staff no later than early on the Friday morning of the week in which the meeting took place.

33. The Group suggests that there should be a review to consider how the official report can be produced more quickly, including the use of technology. It also considers that the practice of always giving priority to production of official reports of Chamber proceedings should be reviewed.

34. It is important that the committees achieve a high media profile for their work and that they are properly supported to achieve this. Coverage in the media is a vital component in effective scrutiny of the Government. The current arrangements for providing media support should be reviewed to ensure that the committees are properly resourced to maximise coverage of their work.

35. It is essential to the development of committee media strategies for committee members and committee staff (including media relations staff) to have access to the audio visual record of the proceedings immediately after the conclusion of the meeting. This allows access to an accurate record of proceedings in advance of production of the Official Report. Arrangements should be put in place to ensure that this occurs.

Public Engagement

36. The Group itself has a role in allocating budgets for some elements of committee work. In recognition of the reduction in Parliament’s budget in the next four years, the Group recommends that in the next session in general terms and wherever possible the Conveners Group should apply the following principles to budget allocation:

- Business planning days should be undertaken within the Parliament rather than outside Edinburgh or in a hotel.

- Committee sponsored events should take place in the Parliament wherever possible and should be arranged using in house resources.

- Fact finding visits within Scotland should be undertaken, wherever possible, by delegations of reporters rather than the whole committee.
• Requests to hold formal committee meetings outside Edinburgh should be carefully scrutinised and the meetings should be run as cost effectively as possible.

• Requests to undertake overseas travel should only be granted where the Group is persuaded that the information sought can only be obtained by such travel. Committees should be encouraged to use research and video conferencing as alternatives to travel. Wherever possible, travel should be undertaken by reporters rather than by the full committee.

37. The Group continues to believe that engagement with the public to inform their work is an important element in effective scrutiny.

38. In the next session, the Conveners Group should consider whether there are sufficient mechanisms to ensure that people who want to engage in the work of the committees can do so. This should include further work to engage those who do not normally participate in the democratic process. It should also include consideration of whether new technologies and social media can be harnessed to support engagement including a review of how these are used in other parliaments and assemblies. The Parliament’s outreach and education service should become more involved in supporting committees in this area of activity.

Meetings with the Secretary of State and First Minister

39. Based on the Groups’ recent experience of meeting the Secretary of State for Scotland, the Group recommends that, in the next session, the Conveners Group should make an approach to the Secretary of State for Scotland with a view to organising an informal meeting to be held in public which would enable conveners to ask the Secretary of State questions arising out of the impact of the Queen’s Speech on Scotland.

40. The Group also recommends that the Conveners Group should invite the First Minister at least annually to attend an informal meeting of the Group which would enable conveners to question the First Minister on the impact of the Government’s legislative programme on committees.

Committee Office
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