Scrutiny under Devolution—committees in Scotland, Wales and Northern Ireland

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Executive Summary

- A vast range of policy and administrative issues are available for attention from committees in the three devolved institutions. In the limited time available, they need to both concentrate on a small number of issues where they can make a significant contribution, as well as complying with the functions outlined in Standing Orders.

- Committees will inevitably react to events and Executive priorities in shaping their work-plans. However, they should also attempt to steer their own course, by drawing a balance between policy development work, investigations of problems, and scrutiny which is purely reactive.

- For the most part committees have followed the standard methods of gathering information and taking evidence used by Westminster committees. There have been a few innovative practices, which have been quite successful, and perhaps more direct contact with members of the public through visits than is typical at Westminster. Committees could extend the use of innovative practices such as sub-committees or reporters, seminars, and conferences.

- Research services have increased in their scope through the first term of the devolved institutions. The use of special advisers has become more measured as a result.

- Questioning in oral evidence sessions is variable in quality. Many respondents indicated that brief questions demanding factual answers, plus the freedom to follow a line of questioning, were most effective when teasing out information which is not readily available. When a committee is seeking information, a less interrogative style of questioning is more appropriate, to encourage witnesses to talk freely.

- The role of the committee chair is vital in co-ordinating the committee's workplan, maintaining cordial relations with the executive, ensuring members are properly prepared and briefed on issues before meetings, and ensuring proceedings within meetings take place efficiently.

- The impact of committee work on the executive depends partly on political luck and good timing. But if a committee can produce a consensual report highlighting possible future progress or improvements in existing policies, backed up with strong evidence, it is more difficult for the executive to ignore.

Introduction

1.　This briefing forms part of the Constitution Unit's research into effective scrutiny. The research is taking place from 2002-2004, and will examine the practice of scrutiny at all levels of government: national, devolved, regional and local. This briefing is the second output of the project, following an Annotated Bibliography of all academic and practical pieces of work published on the subject of scrutiny. It will be followed in late 2003 by a guide to scrutiny structures at the different levels of government, and by a briefing on the practice of local authority scrutiny.

2.　The briefing outlines and analyses the practice of scrutiny in the Scottish Parliament, Northern Ireland Assembly and National Assembly for Wales. In each of these three devolved institutions, committees exist to scrutinise the policy and administrative duties of the executive.[1] Subject committees in Scotland and Northern Ireland also have the responsibility of scrutinising primary legislation. The time period analysed was the first term of the devolved institutions: May 1999 to May 2003.[2]

3.　Subject committees' remits are set by each institution's Standing Orders (see Appendix 2). Their task is to carry out enquiries both into executive policy in the given subject area and into the subject matter generally. In each institution, the work of public audit committees was also studied.[3] Other, non-subject committees (such as Equal Opportunities and Standards) exist in each institution: these are not included in this research. All of the committees in each institution are listed in Appendix 1.

4.　In each institution, the research focused on 4-6 committee enquiries. These were treated as case studies, and were selected following advice from contacts within the institutions. In each case a range of different types of reports was sought: hence, at least one large policy

review, and at least one piece of work relating to a non-departmental public body (NDPB), was obtained in each institution. The final reports of each enquiry were studied in each case (except where one was not produced). Where available, verbatim transcripts of hearings were studied, as were meeting minutes. Finally, in each institution some 20 interviews with members, clerks, officials, witnesses and Ministers who had been involved with the case study enquiries were carried out. Non-attributed quotes from the respondents are used in the analysis below.

5.　The briefing begins by proposing a classification of scrutiny enquiries. This is intended not as a set of hard boundaries, but as a tool for analysing the balance of type of review carried out by committees. The briefing then examines each of the elements of conducting an enquiry, roughly in the order in which they take place. For each element, the briefing sets out the procedures observed in the case study enquiries, then analyses the rationale for those procedures, both independently and using respondents' assessment of them. Bulleted recommendations are then listed for the successful practice of each element of scrutiny.

6. For the purposes of this briefing, we have applied the following definitions to the following words:

- 'Scrutiny' refers to all of the policy and administration-related work of subject committees, including policy development and budget work as well as enquiries into past events. However, it does not cover legislative scrutiny undertaken in the Scottish Parliament and Northern Ireland Assembly, which has been excluded from this research;
- 'Public audit committees' and 'the audit office' are used as generic terms for the committee which replicates the function of

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[1] Although the National Assembly for Wales is legally a body corporate, and is not obliged to set up a cabinet of ministers, in practice it has done so since its inception.

[2] In the case of the Northern Ireland Assembly, devolution did not take place until December 1999 and the committees were not established until then. The Northern Ireland Assembly also experienced several suspensions due to disputes amongst some of the political parties. The output of the committees suffered as a result, with enquiries often being cut off in mid-stream by suspension.

[3] For a detailed comparative study of audit committees, see Oonagh Gay and Barry Winetrobe, *Parliamentary Audit Scrutiny: Innovative and Effective?,* Constitution Unit, London, 2003. Also see note 4 below.

the Public Accounts Committee and the National Audit Office at Westminster: those committees have slightly different names in each institution.[4]

- 'Executive' is used to refer to the Governments of Scotland, Wales, and Northern Ireland.
- 'Devolved assemblies' has been used to refer to the non-executive sides of the Scottish Parliament, Northern Ireland Assembly and National Assembly for Wales.

7.   We would like to thank all of the officials and elected members in the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly who took the time to be interviewed on a topic which, in most cases, was not at the head of their list of concerns. In particular we would like to thank the three clerks who acted as points of contact for the research—Adrian Crompton in Wales, Christine Darrah in Northern Ireland, and Joanna Hardy in Scotland—who have been an enormous boon in advising on interviews, on reports, and pointing out omissions. We would also like to thank their respective managers, Marie Knox, Debbie Pritchard, and Elizabeth Watson, for allowing them to spend a considerable amount of time working with us on this research.

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[4] In the Northern Ireland Assembly there is both a 'Public Accounts Committee' and an 'Audit Committee'. The Audit Committee is responsible for agreeing with the Comptroller and Auditor General the operating expenses of the Northern Ireland Audit Office and for laying out the estimate of expenses for the Northern Ireland Audit Office. The Public Accounts Committee carries out audit of public expenditure, in the manner of the Public Accounts Committee in the House of Commons and the Audit Committees in the Scottish Parliament and National Assembly for Wales.

The work of committees in the devolved assemblies

8.   Committees in the three devolved assemblies share one central characteristic: their resources and capacity are tiny in comparison to the executive. Committees have at most a few full-time staff and a small number of elected members, for whom the committee is one amongst many priorities. To carry out their role of scrutinising the executive in a situation of such disparity, committees need to be smart. They need to focus their resources at the points of maximum potential impact; use any available means of extending the time available to them to scrutinise; and to use the full range of means of influence, besides formal meetings and hearings (which constitute the most common conception of 'scrutiny').

9.   In each assembly, the committees have powers to send for persons and papers within the institution. These powers are statutory in origin and hence more restricted than those available at Westminster—for instance, in Wales the National Assembly can only apply them to certain public bodies.[5] Their membership is proportional to party strengths in the assembly, and varies from 7 (some Scottish committees) up to 17 (Committee of the Centre in Northern Ireland). Most contain between 9 and 11 members. Typically, committees meet either weekly or fortnightly for a period of 2-3 hours. Each has at least one dedicated clerk, and some also have an assistant or access to a pool of assistants.

10.   Each committee also, at the time of writing, has access to between 1 and 2.5 full-time equivalent staff for research purposes within the respective assemblies' library and information services. The number of staff who work full-time for committees has implications for the role of the members. Members invariably have huge demands on their time, and the possibility of enquiries becoming staff-driven becomes increasingly real. But it is vital that members lead the enquiry process, as scrutiny itself is a function of democratic procedure and not merely a bureaucratic process.

11.   Membership of the committees is selected by the political parties. The membership of most committees suffers from a high turnover (see Appendix 3). High turnover may be due to elected members being appointed to the executive, which normally leads to a knock-on effect throughout most of an assembly's committees, or it may be due to internal political party decisions. It is not conducive to the development of a collective memory or a team spirit for the committees. Collective memory is important to allow previous experience to be brought to bear on current reviews; team spirit is important to permit cross-party concentration on effective scrutiny. However, there is little that committees can do about high turnover, as committee membership remains in the hands of the political parties. A change to this situation would require collective action by backbenchers against their own party machines.

12.   Evidence indicates that smaller committees enjoy better attendance records. The Committee of the Centre, in Northern Ireland, contained 17 members, but experienced increasing delays obtaining a quorum of 5. Respondents suggested that the larger numbers meant that members did not feel an obligation to attend, as they assumed someone else would. In Scotland, an equivalent effect was noticed following a reduction in numbers from 9 to 7 on many committees. Respondents suggested that both attendance, and team spirit, improved:

"I thought it [the reduction] would have a negative impact because we lost a lot of experienced members. But it actually worked better because it felt more like a family or a team effort than it did with 11. They felt more pressure to turn up. If only one member of the SNP turned up, there could be four Labour so they didn't want to be drowned out."

"The dynamics of smaller numbers work better. [There should be] nine at most, but seven on a committee works well. You work as a committee. With 11, people come and go,

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[5] See Oonagh Gay, *The Regulation of Parliamentary Standards—A Comparative Perspective*, Constitution Unit, 2002, p. 4-5, for a discussion of the devolved bodies' relationship to parliamentary privilege. In practice there have been very few problems for any of these committees in obtaining information or the appearance of witnesses.

they tend not to leave behind their political baggage [when in the committee session]."

13. The National Assembly for Wales differs considerably from the other two institutions studied in that its Ministers are members of their own subject committees. Constitutionally this is a blurring of the executive and scrutiny roles: it results from the hybrid nature of the Assembly in law. Although having the Executive member on the committee would appear to make scrutiny very difficult, Welsh respondents showed a limited amount of interest in the issue. The most pressing issue was the practical one, of switching, in a single committee meeting, between a 'scrutiny' mode where the Committee would interrogate the Minister, and a policy development role where the Minister resumed their seat as a committee member.

14. In the National Assembly each Minister delivers a monthly report to the committee on their activities. Members will then question them on current or forthcoming issues. This is considered to be the 'scrutiny section' of the committee meeting: it enables the committee to keep themselves informed about the Minister's activities. Respondents indicated that Ministers tended to be relatively quiet in their 'committee member' role, largely speaking only to give an indication of their department's position on issues. No Welsh respondent complained of Ministers dominating debate or exercising improper influence in committees. Indeed, several suggested that the presence of the Minister was a useful means of keeping the Committee's work relevant: both executive and scrutiny know what the other is doing. This could, of course, be achieved without the Minister being a committee member, as long as s/he appeared at committee meetings. More regular attendance at committee meetings, giving a monthly or bi-monthly report and being subject to questioning on it, could be considered as an effective form of regular scrutiny in Scotland and Northern Ireland.

Recommendations

- The substantive work that committees do must be member rather than officer led. Committee staff may play the leading role in scoping out a potential enquiry identified by the members, but the workplan must be set (or at the least, approved) by the committee and the members must play the central role in the enquiry process.
- Long-term membership of a committee is a vital factor in developing a committee team spirit that offers an alternative focus of loyalty to political party loyalty. It deserves encouragement, to achieve more effective scrutiny. Turnover on committees should be planned by political parties with this in mind.
- Ministers in Scotland and Northern Ireland should deliver a regular bi-monthly or quarterly report as ministers in Wales do. The production of a topical report or a regular question session is a particularly useful way for committee and department to keep up with one another's work, and for routine questions to be asked without the need for a specific enquiry.
- Committees could experiment more with sub-committees as a way of concentrating expertise and saving time for the full committee. This may produce strain on resources, which explains why it has been done very little so far. The use of reporters in the Scottish Parliament (discussed below) has a similar effect—one or two members will investigate an issue and report to the full committee.

Classifying committee reports

15.   So far there has been no agreed typology of committee work, though there is an acknowledgement that there are different kinds of work a committee can do. There is an identifiable difference between a policy review into higher education and a report on the failure of the Scottish school examinations system. These distinctions are important, because the remits or terms of reference of subject committees are very wide and inclusive, and all committees will face choices about what issues deserve enquiry.

16.   In trying to establish what committees 'do', we have attempted to create a typology of scrutiny work. Three broad categories have emerged in which substantive reports can be grouped, together with a number of other categories for reports of a more specialised type. This typology is not presented as a definitive group of hard and fast categories: in many cases, it is a matter of judgement as to which reports should go under which headings. The purpose of the exercise is not to attach labels but to contribute to analysing what varieties of work scrutiny committees carry out.

Table 1: enquiries analysed (ordered by type)

Name of Report	Place	Type of Report [see Box 1 for explanation]
Outbreak of Brucellosis	NI	Audit
Northern Ireland Tourist Board	NI	Audit
EU Structural Funds	W	Audit
Titanic Quarter Leases	NI	Event enquiry
Exam Results Enquiry	S	Event enquiry
Foot & Mouth Disease	W	Event enquiry
Nantygwyddon	W	Event enquiry
Children's Commissioner	NI	Forward policy proposal
Children's Commissioner	S	Forward policy proposal
Petition on MMR	S	Forward policy proposal (reporter)
Highlands & Islands Ferries	S	Forward policy proposal (reporters)
Graduate Endowment	S	Legislative
Countryside Council for Wales	W	NDPB scrutiny
Tourism in N. Ireland	NI	Strategic Policy Review
Homelessness	NI	Strategic Policy Review
Drugs and Deprived Communities	S	Strategic Policy Review
Review of Higher Education	W	Strategic Policy Review

Box 1: A typology of scrutiny:

Strategic policy review: these are large-scale forward-looking reviews into widely-drawn policy areas. Examples include the Review of Higher Education in Wales, a substantial tranche of the Education portfolio; also the Impact of Drugs on Deprived Communities enquiry in Scotland, a cross-cutting issue but with a similarly wide range. Despite being forward-looking in their focus, these reviews often look in depth at recent approaches to the policy field.

Forward policy proposal: these focus on particular issues or policies. Examples are the committee enquiries into proposals for Children's Commissioners. These may be inspired by proposed or draft legislation.

Event enquiry: These are backward-looking reviews of one-off events. The 'disaster review' comes into this category. An example is the Titanic Quarter lease enquiry in Northern Ireland, triggered by allegations made on a television documentary. Compared with strategic enquiries (and legislation), these reviews are relatively rare in the devolved institutions. They offer the best opportunity for press coverage due to their topical quality. As with strategic policy reviews, these reviews often find it necessary to delve into recent policy practice. The Exam Results enquiry in Scotland is an example of this: the committee heard considerable detail about recent reforms within the Scottish Qualifications Authority as background to the analysis of the event (a failure of the SQA computer systems).

Box 2: other forms of scrutiny:

Legislative and secondary-legislative: subject committees in the Scottish Parliament and Northern Ireland Assembly are obliged to consider primary legislation passing through the institution. This took a very substantial amount of committee time in the first term. The National Assembly for Wales has only secondary legislative powers.

Annual reports and legacy reports: committees are increasingly producing annual reports listing their achievements. Both the Scottish Parliament's committees and those of the National Assembly for Wales have produced 'legacy reports' enumerating the Committees' achievements and suggesting directions for future work.

Budget reports: these are distinct from the work of public audit committees. The Scottish Parliament's Finance Committee reports annually on the Executive's budget, incorporating reports from subject committees. The Northern Ireland Assembly's Committee for Finance and Personnel produces co-ordinated reports on the Draft Budget and on the financial aspects of the Executive's Position Report. Practice in Wales has been less assiduous, with some reports produced on annual budgets by the committees.

Non-departmental public bodies: some NDPBs are invited to annual sessions examining their performance and forward work programme. This procedure appears to be most common in Wales: however, opinion over its effectiveness is divided. NDPBs will frequently be present at other committee sessions, particularly if a review of policies which relate to them is taking place: it is in their interest to keep in touch with Committee opinion.

Planning work and selecting topics

20. When deciding what work to do, committees face a number of options. Should they create a balanced workplan at the beginning of a session, or should they leave the workplan fluid in order to respond to events outside their own control? Committees cannot choose a subject to inquire into whilst the relevant policy world and actors stay still. In particular, how much should the executive be consulted when drawing up the workplan, and indeed how much should the committee be driven by executive actions? Committee workplans inevitably include enquiries and evidence sessions that come about for a variety of these reasons. In order to be capable of independent scrutiny and innovative in their own right, a committee must take control of its own agenda and preserve the ability to respond to events. This section outlines what gets onto a committee's agenda, and how.

Setting the workplan

21. The committees in each devolved institution maintain a rolling workplan over a twelve-month session. In each institution, each committee would deal with a mixture of regular business, conducted at each meeting, and longer-term business, consisting of some form of large-scale enquiry. This balance is demonstrated in Table 2.

22. In the Scottish Parliament it has been normal practice for the committee to have an initial meeting, or frequently an away-day, at the beginning of each Parliamentary year where members give suggestions for enquiries. The clerk would then produce a short briefing outlining the possibilities of each enquiry. The Committee would then vote, often using a multivote system, to choose between the competing reports.

23. Committees have less discretion over the items listed under 'short-term business'. Committees must deal with these issues in order to comply with the standing orders setting them up, although the time balance between the items may vary between committees according to the preferences of chair and members. But these items are either responses to events taking place elsewhere, or routine items relating to other agencies.

24. The scrutiny of NDPBs (non-departmental public bodies) deserves some attention, as closer scrutiny of NDPB plans and performance was expected to be a significant benefit of devolved government. In practice regular scrutiny of NDPBs has been variable. To some extent the audit office and public audit committee take the responsibility for ensuring efficiency and propriety of NDPBs, but scrutiny of their policy falls to subject committees.

25. Scrutiny of NDPBs in Wales has been relatively systematic. One of the processes studied was the annual scrutiny of the Countryside Commission for Wales (CCW). This takes place in a single three-hour session once per year, when CCW, the Environment Agency, and the three Welsh national parks authorities are questioned on their performances and plans. Opinions differed on the effectiveness of this session. One respondent suggested that it was growing in effectiveness, as the committee's awareness of ongoing policy issues became stronger and the NDPBs themselves became accustomed to being scrutinised. Another suggested that one annual three-hour session was inadequate for interrogative scrutiny of five NDPBs: they should either be invited to one

Table 2: types of business carried out

Short-term business	Long-term business
Primary Legislation	
Noting Government reports	Strategic policy review
Secondary legislation	Forward policy proposal
Ministerial monthly report [Wales]	Event enquiry
Responses to topical subjects	Reporters' reports
NDPB scrutiny	

session each or scrutiny of them should be subsumed into wider reviews of the policies that they were concerned with.

26.   The committee's discretion over its long-term business is far greater. Committees must make decisions about the balance between policy reviews, performance enquiries and other pressing matters, and the items listed under 'short-term business'. We have referred to the need to transact 'short-term business' to comply with standing orders, but two other factors limit committee discretion over long-term business: large policy reviews and executive policy-making.

Executive pre-emption

27.   Many strategic forward reviews have run in parallel to executive or executive agency enquiries into similar subjects, with limited dialogue between the two sides. For committees, this may mean that the executive is not disposed to listen to their recommendations, or decides its policy before the committee's report appears. Unless there is a real gulf of trust between the two sides, such duplication is also to be avoided purely because it is inefficient. However, committees sometimes decided to investigate subjects which were already under review by the civil service, under the aegis of the executive, in order to educate themselves:

"We had programmed a large section of time to look at the [forthcoming] Bill clause by clause…[but it was delayed. So] we thought it would not be a waste of time to do some preparatory work, so we did a number of enquiries—into large scale voluntary transfers, homelessness, housing generally."

28.   In Wales, Ministerial presence on committees can lead to attempted "thunder stealing" by the Minister who, having sat through the deliberations, knows the themes in the report and is able to respond immediately with a press-release rebutting committee criticisms if she so chooses. Clearly in all three territories ministers respond to committee criticisms, but they do not have the same opportunity to pre-empt them.

29.   In consequence, some committees in all three devolved assemblies found it difficult to produce a proactive agenda, being obliged to react to legislation and departmental initiatives. In some cases it had become clear that the executive was bringing forward plans either to legislate or to initiate a change in policy. Committees would therefore feel it appropriate to investigate the executive's proposals, or, if these were not to hand, the subject generally:

"There tend to be other areas that emerge over the course of a year. Whether they are sparked by the legislative programme or by government action, or by other events—for example, the SQA enquiry was a direct result of the failure of the exam system in Scotland."

30.   One respondent believed that strategic reviews of this kind could not produce detailed policy prescriptions in themselves—which was the job of the executive:

"[I wonder] how far using committees to actually bring forward detailed recommendations on policy is the right thing to do. If you go for a commission, working in a very intensive way, which is able to do detailed analysis and quantification and all those kind of things and come forward with recommendations in a way that a committee could never do."

31.   The exchange of information between executive reviews and committee reviews was not guaranteed. Both in Scotland and Northern Ireland, each executive department contains a Departmental Committee Liaison Officer who is the formal point of contact between the committee clerks and the executive. In Northern Ireland, committees might obtain general background papers from the executive but there was no sense of a two-way process where the committee was intimately involved in the making of departmental policy.

32.   Interviews did not produce any clear view about whether it was necessary for a committee to carry out independent subject reviews *because* the department was carrying out a review, or whether committee enquiries should dovetail with departmental reviews. The rationale for carrying out a review seemed to be purely that the subject was topical or of interest. Most respondents did not critique the process, though the following respondent did suggest that committee time could be better used:

"I thought there was a bit of duplication, because the Northern Ireland Housing Executive carried out its own enquiry into

homelessness. We haven't seen the outcome of that, but I felt that Committee time was not best used by spending time doing what another agency had already done. And if you look at the recommendations made in the [committee's] report, a lot of them actually mirror what the Housing Executive said."

Disruption of workplans

33. In the first term of the devolved bodies there has been a tendency to launch large strategic forward reviews into a wide range of policy areas, which were previously directed on a UK-wide basis with little territorial consideration. One respondent talked of a committee "that was notorious in its desire to change the world." Such reviews consider a wide range of strategically important issues, but have dominated workplans at the expense of more focused, short-term studies. Enquiries' terms of reference have typically been very wide and inclusive. Many of them have over-run and disrupted the forward workplan, and their inclusive, strategic nature predisposes them to doing so.

34. Workplans can be disrupted by the need to enquire into topical issues. Some enquiries need to be carried out quickly, either to influence executive actions before they occur or to strike whilst the media spotlight is still on an issue. In deciding to carry out short, sharp enquiries, committees must weigh up the benefits and drawbacks of lengthy versus fast work. It is important that committees do carry out quick reports on topical issues, as it signals to the public that committees are concerned with relevant matters: and, as respondents openly admitted, enquiries into high-profile issues were a useful means to publicity for their committee. Similarly, some respondents felt that their position in a mechanism of public accountability put them under a duty to investigate potential misdeeds, as in the case of the Titanic Quarter leases in Northern Ireland:

"The fact that something quite secretive was being embarked up on by the Belfast Harbour Commissioners together with the company [Harland & Wolff] meant that we were alarmed that we didn't know what was going on. We had to react and we had to react strongly…. I don't think we thought very carefully or very deeply about the extent of the

enquiry. We just wanted to know what was going on."

35. Few respondents mentioned time constraints as a significant factor in their decision-making over what to investigate: each enquiry was allowed to run its course. There were very few instances where a committee would interrupt one enquiry to begin another. Respondents did not perceive the length of time spent on individual enquiries as a problem, although for clerks it could be a source of frustration: taking evidence in strategic enquiries might be timetabled over a six-month period, which might then itself slip.

36. One respondent admitted that their committee had expressed a desire to run a short enquiry, but then asked for broad wide-sweeping terms of reference from which a long enquiry was bound to follow. Another stated that relatively long enquiries would frequently be driven to a sudden conclusion:

"The committee decided, all committees do this, that all of a sudden it was very, very urgent. We always see that. It starts off very slowly and usually stops, dips, and the last bit is usually really truncated."

37. It is easy, therefore, for large strategic reviews to crowd out event enquiries by virtue of expanding into the space provided for them. Committees would benefit from not only planning the length of the enquiry, but setting the time allocated to various parts of it, to prevent a rush when the deadline is approaching.

38. Committees would benefit from greater balance between strategic policy reviews and the other types of enquiry listed in Box 1. The terms of reference for committees requires them to do a variety of work, but so far holding ministers to regular account has tended to suffer due to concentration on large reviews. For instance, a committee could limit itself to one strategic policy review per 12-18 months. The motives for lengthy enquiries are often that the committee wants to build up a bank of expertise and knowledge and create some original research in a field. This is a worthy aim, but it is not the only function of committees. It is also sometimes the case that a lengthy enquiry is the result of a lack of thought as to the aims and feasibility of an enquiry in the planning stage,

and the setting of unmanageable terms of reference as a result.

Reporters

39.   One of the means open to committees to increase their output is to use a reporter to investigate a particular topic. One or two committee members is tasked with researching either background issues to a wider enquiry or investigating a focused topic. The resulting report is adopted by the committee. This method is used only in the Scottish Parliament, not in the other two assemblies. It derives from the use of 'rapporteurs' in the European Parliament. Reporters' reports mostly fall into the category of 'forward policy proposal', and a significant number relate to petitions received by the Parliament, though there are no formal restrictions on what a reporter's report can be about. The relevant Committee approves the reporter's report.

40.   The two reporters' reports studied varied considerably. In the report on Highlands & Islands ferry services, both reporters were interested in the issue (one was a Highlands and Islands MSP and the other interested in European legislation). The majority of the work was carried out during the parliamentary recess, hence, as one said, "we knew we would come back at the end of the recess with the report pretty well written, and the committee would then decide if they were happy with what we had done." Public consultation was a major concern, as only limited consultation had taken place, whilst several scare stories had circulated in the media.

41.   The reporter on MMR had little support from the clerking office (due to lack of resources) and found herself embroiled in a medical debate which she herself felt unable to come down on either side of. Instead she collated relevant material and recommended that an expert group be established by the executive. The reporter found it a particularly stressful experience:

> *"I simply couldn't go into the detail. You know, I was sitting there at my kitchen table doing it on my own."*

42.   In both cases evidence was gathered informally, through private meetings and chats in public places. Scottish Parliament standing orders do not provide for formal meetings to be convened by a reporter. No transcripts of the meetings are published. In both cases the reporter (as opposed to the clerk) wrote the report.

43.   A number of committees use reporters purely as fact finding missions without asking them to produce a written report. Members will go and visit a particular area and meet with individuals there, and then report on that experience back to the group. This allows the committee to gain information from across Scotland without the need for large numbers of people to travel: "two or three will go to different constituencies and then we will come back and report." Reporters largely obviate the need for sub-committees, which have been very rarely used in the Scottish Parliament. Standing sub-committees would require extra staffing resources, so reporters (who are in a sense very small task-and-finish groups) are an advantage from that point of view also.

44.   The advantages of reporters are that they enable committees collectively to be more productive and flexible. One respondent stated that "the reports are more of a political tool for the committee than a full-blown enquiry report." Additionally, individual members may gain satisfaction from carrying out research on an issue of particular interest to them.

Recommendations

- When preparing their work programmes, committees should prioritise between enquiries. Low priority enquiries can be dropped to free up time in each annual or sessional plan for unanticipated topical reports or discussions.
- Committees should not plan to carry out more than one strategic enquiry per 12-18 months. The number of witnesses and length of deliberation required preclude this from being effective. Committees will achieve more if they target their limited resources into one particular issue on which they have assembled considerable evidence.
- Committees should plan short, topical enquiries carefully, and set stringent limits on the time spent on them and the number of witnesses called. The desired outputs and outcomes from the enquiry should be carefully considered. Simply producing a

- report on a subject is a necessary but not sufficient element of effective scrutiny.
- Committees should timetable each part of the enquiry. It may be helpful to use external deadlines (such as government announcements) in this regard.
- Reporters are an extremely effective means of enhancing committee capacity, and of undertaking fact-finding missions, where a committee has a number of matters demanding its attention. However, reporters need a disproportionate amount of support time from committee staff and research services in order to complete an effective report. This must be taken into account at the planning stage.
- Committees should consider their relationship with the executive in relation to policy development. They could, for instance, agree to share consultation data or wait until the executive has produced a summary of responses, allowing committees just to take oral evidence. Committees could structure their workplans so that consultees are not approached by either side at the same time: this is a drain on consultees' resources.

Methods of investigation

45. Respondents indicated that, overwhelmingly, the devolved bodies' committees used the traditional 'classical scrutiny' model of inviting written evidence, followed by oral hearings, leading to a published report being sent to their department. Interviews did not indicate that committees were making a positive choice as such to do this—these were simply regarded as the proper methods to use. Innovation in methods of scrutiny in the new institutions, though it has certainly happened, has been the exception rather than the rule.

46. There are a number of means of gathering information available to committees. From the examples studied, the balance between methods used does not appear to depend a great deal on the type of enquiry that is being carried out. The choice between methods is at the discretion of the Committee:

- Research by the clerks or by the library research service;
- Written submissions from outside the institution (which has affinities with executives' consultation processes);
- Commissioning external research;
- Appointing a special adviser.

47. There is far less emphasis on written evidence when the types of enquiry referred to as 'short-term business' are carried out. The annual scrutiny of Assembly-sponsored public bodies in Wales, for instance, focuses on the annual report and the corporate plan of the NDPB(s) in question. Again in Wales, Ministerial monthly reports consist of interrogative questions focused purely upon the written report presented to the Committee: no additional evidence is sought.

48. Not to be underestimated is the personal networks of committee members, who may be alerted to problems within their constituency that relate to general executive policy, which may point towards particular lines or subjects of enquiry. Members may be able to add considerable detail both to the knowledge of the committee and to questioning from information supplied by constituents or other correspondents.

Gathering the information

49. The manner in which written evidence is invited depends upon whether an enquiry's emphasis is on public and/or stakeholder involvement or on obtaining reliable information. Committees in each assembly approach gathering written evidence differently, though none of these three methods are exclusive to any one institution:

- In Northern Ireland it is common practice to place an advertisement in the main newspapers;
- Scottish committees place a general invitation to give evidence on their websites;
- In Wales, Scotland and Northern Ireland, individuals and organisations who are known to have a particular interest are identified either by clerks, research staff or special advisers and are directly invited to provide written evidence.

50. Each of these methods provides a different type of written evidence. In Northern Ireland it is particularly important to give everybody an opportunity to respond to a consultation. Placing advertisements in newspapers is the only way of ensuring that 'nobody is missed out'. However, so openly advertising an enquiry can produce written evidence which is not directly relevant to the terms of reference for the enquiry. For instance, the consultation on the Titanic Quarter development in Belfast Harbour produced a number of responses about the use of the land generally rather than the specific terms of reference referring to the Belfast Harbour Commissioners, and Harland and Wolff plc in relation to the Titanic Quarter.

51. It was suggested by one respondent that putting an advert in the paper was limited in its outreach and that it would be better to write to all organisations involved and individually ask them to give evidence. This method was used with 'the school of the future' enquiry in Wales—every school in Wales was sent the consultation documents. General notices on websites inviting evidence can be an effective means of advertisement, but only for users of the Internet who look at the Scottish Parliament website—a relatively small cross-section of the electorate. There were no instances of committees using on-line consultation or polling, an area which

may grow in the next few years as methods become more sophisticated.

52.   Another respondent spoke of "natural people" to invite to give evidence on given issues. In most enquiries, explicitly or implicitly, there were certain organisations who would be automatically invited to either submit written or oral evidence. Occasionally the enquiry will limit itself to the 'natural people'—this may be because a feature of the enquiry is to achieve some level of consensus between the organisations under scrutiny, or because the enquiry's concern is to obtain informed opinions as opposed to being inclusive. One respondent claimed that: "the Committee…knew the key players and it was subject specific, so there wasn't an ad [in the newspapers] as there would be in some cases: people were aware in the first enquiry [into housing policy] that there was a further phase relating to homelessness." A different respondent on this enquiry supported this approach:

> *"If you advertise, it makes a lot of work, because every Tom, Dick and Harry writes to you and writes the same thing, and the officials have to sift through it. We took oral evidence from 12 groups who we felt had something to add, had sufficient weight, or whom we wanted to ask something."*

53.   Two respondents implied that part of the purpose of what appears to be a repetitive procedure is to achieve buy-in from the witnesses, in the instances where they would be the leading players in making any change of policy work. An important role of the committee was to provide a forum in which points of view could be aired and, even if a consensus could not be achieved on recommendations, interested organisations had had some input into them. This was valuable with regard to the public, as well a organisations, in Northern Ireland:

> *"It's not just about producing a report, it is also the exercise of interchanging [sic] the institution with people. You'll see the list of people who gave evidence—those people will then go away and think, well, we can see our evidence had an impact and we are happy with the outcome. It builds that relationship…. The relationship between the government and the society has been a lazy one for 25–30 years."*

54.   A related point was made in Wales over the Higher Education review, where the Committee's review stimulated Higher Education Wales to set up working groups into the main themes of the review itself. Hence the Committee was acting as a focus for thinking on future policy, outside as well as inside the Assembly.

55.   The question of which are the leading organisations can, of course, be disputed. Most committees relied upon the clerk or a specialised member of the research service to establish contact with relevant organisations and to ensure that none were overlooked. Committees built up contact lists of these organisations over the time of the first term. No standard mechanism to identify 'relevant organisations' exists: committees relied on existing policy networks.

56.   Written evidence is always made available to committee members in full (whether it is all reproduced for all the members is, in Scotland and Wales, dependent on the volume). In Northern Ireland all written evidence is copied to members, and it is contrary to Standing Orders for the clerk to withdraw a document sent to the committee, unless with the committee's knowledge and approval. Members are sometimes provided with summaries of the evidence, particularly if a very large amount of written evidence is received:

> *"Special advisers will highlight [submissions] of particular importance and summarise all of them. If you are doing an enquiry and…[you] write to all 32 authorities, all of the authorities will write back, and what you find is that few people will read them all—the special adviser will read them all and take out the points of interest. And I'll read my own local authority, those the special adviser has drawn my attention to, and any others I know would be interesting."*

57.   In the Higher Education Policy Review in the National Assembly for Wales debate on whether clerks should or the committee could withhold evidence was sparked by an experience of the Education Committee. The committee received a piece of evidence that some members of the committee found offensive. One member suggested that the evidence be removed from the enquiry. Others, despite finding it offensive, believed that no

evidence should have been kept from the public eye: "the argument was whether scrapping the particular views he had given from the report would set a dangerous precedent and my view was that it would." The evidence was retained in the public record.

Specialist research

58.   Committees requiring research, as distinct from submitted written evidence, can choose between:

- briefings from the committee clerk;
- commissioning external research;
- briefings from researchers in the assemblies' library and research services department;
- appointing a special adviser.

59.   Table 3 below shows the enquiries studied on which a special adviser was appointed. Clerks' briefings were usually not used on enquiries where a special adviser was appointed (though the Tourism enquiry in Northern Ireland was an exception to this rule), nor are they required for audit enquiries. Clerks' briefings are typically short and are not intended as expert opinion or advice: they simply assemble the relevant issues in an accessible fashion for members.

60.   Normally, clerks make the decision to access library and research services, if members have requested a briefing to which they cannot do justice:

"Other committees use Research and Library Services in a different way, to help identify key issues for consultation documents. I tend to respect their role, to be used not sparingly but sensibly, efficiently. I'm very selective about when I refer to them, and it's always a substantial piece of work, not a two-page paper that someone else can do."

61.   The amount of support available from this source is considerable, much greater per member than is available in the House of Commons.[6] The existence of this research facility is of tremendous importance. The support provided by audit offices to public audit committees, by large numbers of qualified staff, has long been held up as an example,[7] and respondents felt that good access to information for subject committees would have an exponential effect:

"What we have now is research services dedicated to education. They are there providing us with sound background information about any particular issues or bodies presenting evidence. And we read the briefs and draw our own conclusions, so that really puts scrutiny in a more informed light."

62.   The services are likely to be more used in future than they have been up till now, particularly as the service in the National Assembly for Wales has only recently been expanded to its current complement.

Special advisers

63.   Committees in all three assemblies have the power to appoint a special adviser to assist with enquiries. Of the enquiries studied, special advisers were appointed in the following:

64.   Table 3 suggests that strategic, large-scale enquiries, whether forward—or backward-looking, are more likely to appoint a special adviser. The one strategic enquiry studied which did not do so (Homelessness in Northern Ireland) made use of internal research papers from Library and Research Services. The Social Development Committee, dealing with the issue, had just conducted a more general enquiry on Housing on which it had appointed an adviser: it did not reappoint one because it felt its members had sufficient expertise.

65.   The case of the two Children's Commissioner enquiries, in Northern Ireland and Scotland, is interesting. In Northern Ireland it was felt that a special adviser would not be needed, whereas one was appointed to look at the same subject matter in Scotland. This could be a result of a number of factors: the knowledge

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[6] The House of Commons has specialist researchers appointed to committees from outside Parliament, for fixed terms. The National Assembly for Wales, and the Scottish Parliament Information Centre, have specialists inside the library research team, which also provides services to individual members.

[7] There was no suggestion that subject committees should have the same numbers of staff as public audit committees, merely that they demonstrated the effectiveness of good information.

Table 3: appointment of special advisers

Name of Report	Place	Type of Report
Exam Results Enquiry	S	Event enquiry
Children's Commissioner	S	Forward policy proposal
Nantygwyddon [Independent Investigator-see box 3]	W	Event enquiry
Tourism in N. Ireland	NI	Strategic Policy Review
Review of Higher Education	W	Strategic Policy Review
Drugs and Deprived Communities	S	Strategic Policy Review

of the committee members, clerks and research staff, the lack of existence of appropriate candidates, and previous experiences with special advisers.

66.   When respondents were questioned, the rationales for hiring advisers were not entirely clear. As one respondent admitted "I'm not sure whether there has been a consistent rationale over whether the committee should appoint an adviser or not". The evidence suggests that special advisers are appointed when either the subject under enquiry, or the size of the review, is sufficiently daunting that members feel that they require extra help:

> *"I couldn't suggest who the witnesses ought to be…. I don't think there's any option other than to depend on the special adviser for that. The only other person who could do that might be the clerk.…[The special adviser] essentially designed the whole process: how it should be conducted, who should be invited, what should be asked of them."*

67.   This is reflected by the tasks given to special advisers. In each case they briefed the committee on the contents of written evidence, producing concise summaries. They usually would then play a part in the drafting of the report. (This might mean actually writing it themselves, or merely advising on drafts.) Agreement should be reached on the special adviser's role at the time of appointment: one respondent said that "expert advisers sometimes get a bit too big for their boots and regard it as their report". The use of advisers for drafting varied between committee.

68.   In both Wales and Northern Ireland, guidance notes have been produced on the appointment of special advisers. These specify that they should only be appointed where internal sources cannot provide the service required, and should be appointed with detailed terms of reference relating to a specific enquiry. Some respondents indicated that special advisers had occasionally been appointed to provide a wide range of services on very long, strategic-level enquiries. This was not felt to be the best use of their particular expertise— internal researchers could obtain and present much basic information on an issue.

69.   In some enquiries the special adviser's role extended to shaping the oral evidence sessions. For instance, the adviser on the enquiry into Tourism in Northern Ireland selected eight key themes which were used as subjects for seminar workshops. The adviser to the Higher Education in Wales enquiry selected key themes which informed the questioning in oral evidence sessions. The Exam Results enquiry in Scotland appointed one general and one IT expert as advisers; the IT expert analysed the Scottish Qualifications Authority's computer systems and produced some twenty recommendations which were incorporated into the report.

70.   In some instances respondents were able to articulate clearly why an adviser should not be appointed.

> *"Who was out there who specialised in a commissioner for children? There are people who specialised in bits of it—health, education—which one was the right one…? It is not just a case of having a special adviser*

for the sake of it, they need to make a contribution and of course they need to be able to deliver. I have been on committees where the special adviser has delivered a report that has been absolutely awful."

71. However, it is possible that the absence of a special adviser might compromise the quality of the enquiry. The Social Development Committee in Northern Ireland did not appoint an adviser to its Homelessness enquiry, because several members came from constituencies with severe housing shortages or related social problems. But most of them sat for Belfast constituencies, and in the words of one, "I don't think we really appreciated that homelessness was a rural phenomenon as well, and we had to adjust some of the evidence we took to invite some groups from rural areas later on in the process, whom maybe we would have got [earlier] if we had advertised [for written evidence]." The presence of a special adviser would very likely have picked up on this omission earlier in the process.

Who is appointed?

72. The way that committees have selected and appointed special advisers has changed since 1999. Although the norm in Scotland and Wales is now through open advertisement, one respondent admitted that early on advisers had been appointed from lists of people known to the committee secretariat. Individuals can register interest in becoming a special adviser on the Scottish Parliament's website. They are then selected from that list according to committee requirements: hence their appointment may still take place without open competition.

73. Special advisers are typically established experts in an academic field closely related to the subject of the enquiry. Committees considered it important that they had up-to-date knowledge of the field under study. This often makes the field of candidates small, and creates associated problems. For instance, Dr Leslie Hobson was appointed special adviser to the Higher Education Review in Wales, despite being Vice-Chancellor to the University of Glamorgan, the only higher education institution in Wales not to belong to the federal University of Wales. On paper this appears a strong potential conflict of interest, the more so as there were many rumours that the outcome of the review would be voluntary or enforced mergers

between institutions. Respondents on this case study defended the decision, indicating that any special adviser with sufficient knowledge of the issues was likely *ipso facto* to be in a position of potential conflict. The appointment was made through open competition and individuals from other universities had been free to apply. The only way to categorically prevent this is to use internal researchers in place of external special advisers or to appoint two advisers.

74. The appointment of the Independent Investigator on the Nantygwyddon enquiry, in Wales, was an unusual step in accessing expert advice. David Purchon was essentially asked to carry out the entire enquiry, interviewing witnesses and bringing his expertise (he is a senior environmental health officer) to bear on the issues. Essentially the scrutiny role was contracted out to a subject expert. This is not an option that is regularly open to committees: the funding required for this step was only available because the commission derived from a resolution of the Assembly. Purchon's position, as a practitioner rather than an academic, was atypical for special advisers.

The clerks' role

75. When no specialist advice is accessed the task of briefing the committee falls to the clerk. The clerk will draft terms of reference for the enquiry. S/he will produce a briefing for the members, summarising the main issues of the enquiry. Where written evidence has been submitted, the clerk's brief may include suggested topics of questioning for oral hearings drawn from the main issues referred to in the submissions. S/he will also draft the final report, which will be discussed and approved by the committee, normally after a number of iterations.

76. Such pivotal involvement means that the conduct and outcome of the scrutiny process rests substantially on the ability of the clerk. Their role is much wider than providing minutes, agendas, background papers, the administration of the committee, and its enquiries. Clerks will often draw up the initial lists of people and organisations from whom written evidence is sought, with members having an opportunity to suggest extra names. This does not mean that clerks exert undue influence of a political nature: in each case the invitees were organisations involved in the relevant policy debates, and in the case of the Northern Ireland Children's

Box 3: Nantygwyddon

Nantygwyddon was a landfill site in the Rhondda valleys which had long been the source of complaints, from local residents, that it was causing ill-health, smells, and even birth defects. During the early minority government in the National Assembly for Wales (1999-2000), a resolution was passed that the Environment, Planning and Transport committee should undertake an investigation, in consultation with the Environment Minister, with the assistance of an independent investigator.

David Purchon was appointed as investigator by the Minister for Environment on the recommendation of two members of the Environment, Planning and Transport Committee and an independent assessor. His terms of reference were set by the Committee, and he was obliged to report periodically to the Committee. His investigation had affinities with committee enquiries: he took evidence from members of the public and from relevant public bodies, such as the local health authority and the Environment Agency. Purchon was a senior environmental health officer with some thirty years' experience, and hence was aware of issues and standard practices in environmental health.

The investigator's report produced was some 50 pages long, with substantial appendices in addition. The investigation took place over a period of 14 months at a total cost of some £250,000, including two specialist reports commissioned by the investigator. In its own report to plenary, the Committee adopted all of the recommendations of the investigator's report.

Factors which distinguish this investigation from most others include:

- The very local nature of the issues (though the investigation has subsequently informed the public health and environmental strategies of the Assembly);
- The scientific complexity of the issues—which continued to cause controversy after the publication of the investigator's report, due to disagreements over the interpretation of some decisions, over some facts, and over the validity of some recommendations;
- The lack of involvement of Committee members in much of the initial evidence-taking. Members were able to question public officials in considerable detail, because of the quantity of information available to them from the investigator's report. As with public audit committee reports, the committee did not need to spend a long time obtaining the most basic information from witnesses, but could conduct a high-level debate from the beginning;
- Putting a subject expert (the investigator) in charge of choosing witnesses and taking evidence. This is a qualitatively different relationship between specialist and process from that which exists when a committee appoints a special adviser;

There are many ways in which the independent investigation could become the template for certain forms of 'disaster enquiry'. The Nantygwyddon landfill tip had long been a source of controversy. Most critically, it was a politically-charged issue between Labour and Plaid Cymru, a fact reflected in the Assembly debates. Relations between the Environment Agency (the regulator) and the local community were very poor. Public relations were a major consideration in appointing a non-party individual to carry out the investigation. What the independent investigation achieved was to remove the scrutiny process from party politics entirely, but to keep it within that process for the purposes of influencing decision-making.[8] Another independent investigator could be appointed when and if those criteria are met again.

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[8] Another aim of the independent investigation was to avert a public enquiry, on the grounds that this would have cost a great deal of public money.

Commissioner "the clerks would…write a list and people would argue for names".

Recommendations

- When inviting written evidence, committees need to consider carefully what type of evidence they want. Are they interested in the views of the public, or of professionals and interest groups, or both? This will influence how the evidence is invited.

- Members are unlikely to have time to read a large number of submissions, but clerks should not sift the submissions for the members as all views must be considered by committee. Clerks may wish to summarise the main points from the written evidence as well as passing on the individual submissions to committee members.

- Committees must consider the likely responses to different kinds of publicity. Newspaper advertising is likely to reach a wide audience. Advertising on a website will reach only a computer-literate audience, which is a subset of the whole population.

- The most valuable submissions are evidence-based rather than opinion based. Witnesses seeking to have the most impact on the committee should produce evidence to support their cases.

- Writing to interested organisations will attract a different form of submission, perhaps better informed, but potentially un-representative of public concerns. Committees must be aware of this distinction, and allow it to inform the weight they attach to different evidence.

- To gain evidence from others than the 'usual suspects' more use could be made of focus groups and opinion polling, as well as informal visits by groups of members (as takes place through the reporter system in Scotland to some extent). The time and expense of these activities could be offset to some extent against hearings, which in some cases appear to become repetitive.

- Internal research services are used effectively by some committees at present, but might be more readily treated as the first port of call for specialist research. Special advisers ought not to be hired to carry out basic data gathering: this is properly the job of internal research services.

- Special advisers should not be used for strategic-level lengthy enquiries as expertise is usually, by nature, on a specialised subject. Best use of special advisers is made when an enquiry is focused on a particular issue where an expert is both likely to exist, and add value to the work the committee does.

- Special advisers are likely to be selected from a small field of candidates under any circumstances. The field should be kept as wide as possible and the process for appointment should be fair and open.

Oral evidence

Methods of gathering oral evidence

77.   All of the enquiries studied took some form of oral evidence. The majority was taken in the form of hearings: witnesses were invited to appear before the Committee and were questioned. This is a part of the 'classical scrutiny' model used by Westminster committees.

78.   The witnesses invited to give oral evidence were normally a sub-set of those submitting written evidence. On Homelessness in Northern Ireland, there was conscious intention in this:

> *"Where three or four organisations said the same thing we took the lead organisation or the organisation…. who we felt had something to add, had sufficient weight, or whom we would like to ask something [specific]".*

79.   In that particular instance the sub-set contained some 70% of organisations submitting written evidence. As with written evidence, committees might invite oral evidence either to achieve buy-in from major organisations, or to bring in informed opinion. The review of higher education in Wales invited representatives of every HE institution, students' union representatives, and members of executive agencies such as ELWa and the representative organisation Higher Education Wales. The process of obtaining 'informed opinion' is partly political:

> *"You can tell when [their] written evidence comes in that they would be good…. Some people you have to have for credibility of the report, and would be upset if you didn't have them in. The second [group] was stuff that caught our eye."*

80.   Alternative models of oral evidence can be divided into two types.

- A range of methods drawn from public consultation and participation may be used: for instance, focus groups, informal discussions, or citizens' jury-type events.
- The committee, or committee members, may travel to relevant organisations and 1) discuss issues informally or be shown the work of those organisations, or 2) hold formal or semi-formal hearings in the organisation's building: this may encourage members of traditionally excluded groups to be more forthcoming in giving evidence to the committee.

Aims of oral evidence

81.   Two purposes can be identified for taking oral evidence:

- Members have an opportunity to question witnesses in greater detail about issues raised in the written submissions. This is the sole function of the oral evidence process for audit reports, where the questioning is interrogative. By contrast, on strategic reviews, where the questioning is normally informative, it was more common for witnesses to be asked general questions.
- Oral evidence sessions allowed interested organisations to make their views known—even if the committee did not reflect them all in the final report. This was particularly important where strategic reviews were running alongside executive-led reviews or planned legislation, allowing opportunities for cross-fertilisation between the two reviews. Executive review reports often (whether sincerely or due to political etiquette) pay tribute to committee reviews: examples are the Northern Ireland Housing Executive review on homelessness and the Welsh Department of Education's "Reaching Higher". One Welsh respondent was quite open about this cross-fertilisation, facilitated in Wales by the minister being a member of the departmental committee:

> *"If the minister takes a complete role in the investigation, he can give a steer as to what's acceptable and what's not acceptable. There's little point in coming up with recommendations which will be wholly rejected. That's why I become bothered when the Minister doesn't become involved. He has access to information and data which we don't…. so at least we can focus on issues we can influence and not those we can't."*

82.   Cases where those giving oral evidence had not given written evidence first tended to occur where evidence was being taken from hard to reach groups such as the young people

in the Children's Commissioner enquiries, and those from deprived communities in the drugs misuse enquiry in Scotland. As a couple of respondents pointed out, achieving participation in the democratic process as opposed to a range of expert views was the priority in these cases:

"[Visits are useful] for the purpose of translating our objective enquiry into the realities of somebody's life. It is good to have somebody explain what the impact of a particular problem is on their life…. If you speak to someone who has studied it as an academic, hopefully you will get someone who has looked at the whole area. So you always have to temper the two."

83.   Frequently such sessions also took place outside the Assembly or Parliament building (Nantygwyddon, Children's Commissioner Northern Ireland, Drugs Misuse, Tourism). These were cases where it was felt that people would firstly appreciate the outreach, and secondly present evidence more confidently in a more 'friendly' surrounding:

"We went up to Derry and met the young people first, so there was a mingling, and then we went into the hall and took evidence. There…seemed to be a freer interchange of information. Normally when we take evidence we have maybe three people at the most, a key person and a person either side…. This was much more open and I think it was more informal. We were trying to have a proper engagement with young people and I think in our wisdom we concluded it would be difficult for young people to engage in the formal setting."

"We talked to students, returning mothers, people who would not be able to give anything sensible to the formal committee meeting— sitting in their own places, outnumbering us, they were quite happy to do that…. It applies to anyone who would be intimidated. You tend to forget because we are here sitting round this table every day that it can be intimidating. You have university principals sitting here and after a while you realise that their hands are shaking…. That reminds you of how tough it can be."

"We did a lot of work with community groups and people who live in a particular area who were sick and tired of crime…we found out

some interesting things that we weren't looking for."

84.   Committees occasionally used overseas travel to gather information. The use of visits tended to be restricted by members' availability rather than financial pressures. The value added by overseas visits was considered to be great by those members and clerks who had taken part in visits. The opportunity to see other policy worlds and innovations in practice, and speak to practitioners, can be very useful.

85.   In most cases in all three institutions, formal evidence sessions are recorded in a verbatim transcript. However, in the National Assembly for Wales this is not always the case because of resource issues. Although this does not yet appear to have produced a problem, the lack of a record is a potential source for dispute as there could be "a problem of a retrospective disagreement over what was meant or said." It is also important for those writing reports to be able to quote from oral evidence as well as written evidence. Respondents occasionally cited problems with reports which were perceived to make unsubstantiated claims or to be unclear about how the conclusions followed from the evidence: this can be avoided through access to verbatim transcripts.

Oral evidence and the chair

86.   The committee chair can be one of the most influential factors in a committee enquiry. It is the chair's task to direct oral questioning, and to manage the relationship with witnesses and with the Minister if applicable (the latter is particularly important in Northern Ireland, where the chair provides balance by being of a different party from the Minister). The chair may also manage the relationship with the clerk and direct the use of written evidence. S/he may also take a central role in oral questioning of witnesses.

87.   Many chairs saw their role in oral evidence sessions to be facilitating the session by putting the witnesses at their ease. In these cases the chair would ask the first question (which would frequently be an 'easy' question or a request for a general introduction) and would then pass over to other members. Some chairs like to ask the last few questions, covering any material which might have been missed. One chair went so far as to say that he felt his role as chair precluded his making any hard-hitting criticisms

Box 4: Northern Ireland Tourism enquiry

The Northern Ireland Enterprise, Trade and Investment committee, when conducting its enquiry into Tourism in Northern Ireland, used an alternative method to the 'classical' means of inviting oral evidence: two one-day conferences, held in Omagh and Coleraine, to which interested parties were invited.

The Committee had received 80 written submissions on issues around tourism. Their previous two enquiries had received some 60 written submissions: all of these had been invited to give further oral evidence, lengthening the process considerably. One member suggested a conference as a more time-efficient means of hearing their points of view. After an exploratory visit to the Scottish Parliament (which had carried out similar events), a tender document was put out to professional conference organisers, of which one was selected.

The Committee had already appointed a special adviser, when it was expected that the enquiry would run to a standard format. The special adviser analysed the written submissions and derived eight key themes from them. These themes were then used as the titles of the conferences' workshops. The two conferences were identical in format: two were held because not all interested delegates could be accommodated in one.

The conference organisers were responsible for sending out invitations to the conferences. These were sent to everyone who had submitted written evidence, plus another dozen organisations which had been expected to submit evidence but had not. All of the Northern Ireland district councils were also invited. Delegates were allocated to two workshops each by the special adviser (one in the morning and one in the afternoon) for whichever conference they came to. Some delegates requested that they be moved into different workshops, and those requests were accommodated. Members of the Committee chaired the workshops according to their availability.

Following the workshops there were plenary sessions of 30-45 minutes, during which time the workshop chairs reported back and issues were thrown open for general discussion. The special adviser began work on a draft report summarising the conferences, but was interrupted by suspension of the Assembly (the report has still not been completed). The intention was to follow up the conferences with a limited number of standard oral hearings, questioning the Department and ministers, and a small number of 'major players' such as the Northern Ireland Tourist Board.

The conference organisers had a concerted press strategy, which met with considerable success in getting the conferences reported in the local Northern Ireland press. The total cost of the conferences was in the region of £22,000. Respondents were very positive about the process: one suggested "it was extremely useful because people felt free and relaxed and able to express their ideas…. A lot of ideas bounced from one [person] to another."

The most pressing problem of the event was the numerous discrepancies between the content of the workshops and the chairs' reports. It was suggested that some delegates were annoyed that the outcome of the workshops was not reflected in the chairs' reports, which sometimes appeared to follow the chair's preconceived ideas rather than the reality of the workshops. One respondent suggested:

"What I would do is have a conference style event earlier in the process, brainstorming—allowing the Committee to reassess the parameters of their enquiry, some of what they thought were big issues might not have been and vice versa. Doing [the conference] earlier might have allowed the process to be streamlined, then [you can] use selective evidence sessions to polish everything off. But I think it was useful—we gathered a lot of evidence in two days."

within the committee. However, others made it clear (and transcripts backed them up) that they would interrupt members who asked irrelevant questions—even if the answers might prove of interest to the committee—and witnesses who either rambled or made irrelevant points. This was normally only necessary in interrogative sessions.

88. The chair is also a pivotal force in permitting in-depth questioning to take place. This relates to their judgement in knowing when to bring in a new question or to extend a hearing beyond its time allocation. One respondent articulated the issues in this way:

> *"[The current chair] isn't prepared to allow conversation to evolve…. She goes for standard stock questions and simple answers, rather than allowing the opportunity to pursue further. On the other hand, when [the previous incumbent] was chairman he was very effective in steering it and teasing issues out, and in coming up with propositions about what the committee might want to do."*

89. A challenge for the chair is to maintain a balance of questioning between members—in particular between members of different parties. This is vital for keeping the committee's confidence, particularly if the chair is a member of the governing party. It is also particularly vital in Northern Ireland where balance between parties is a *sine qua non* of the whole assembly.

Recommendations

- Committees should use traditional oral hearings when they wish to gauge practitioner feeling and/or hear interest group and expert views.
- Oral hearings also appear the most effective means through which interrogative scrutiny can take place, as opposed to outreach, for which alternative methods such as informal visits and focus groups should be considered.
- Where committees wish to ask informative questions, or to hear from groups unused to taking part in the political process, they should be more ready to use alternative and innovative methods. These have been used more commonly with hard-to-reach groups in the enquiries studied, allowing those groups to contribute from their own turf.

- Oral hearings or other oral evidence sessions with hard-to-reach groups, or groups unaccustomed to formal assembly procedure, should take particular care to put the 'witnesses' at ease, both in their environment and in the questioning/ discussion process. Interrogative questions (see below) should be avoided. 'Easy starter' questions should be used to accustom the 'witnesses' to the process of talking to members.

Questions in oral evidence sessions

90.   Questions can be divided into two types: interrogative and informative. Interrogative questions are asked when members are seeking information which the witnesses would not readily give to them: sometimes, the non-availability of this information is the justification for the enquiry taking place. They predominate in audit work and event enquiries.

91.   Informative questions are the norm in strategic policy reviews, where the committee is seeking information on a particular subject and witnesses are willing to provide it. As suggested above, innovative evidence-taking methods are used to ask this kind of question, although it is possible for interrogative questions to occur here too if witnesses appear to contradict themselves or to be unclear.

92.   The questions asked in oral evidence sessions are clearly critical to effective scrutiny. They are also the facet of scrutiny which varies the most between committees. The discrete parts of the questioning process are as follows:

•   **Drawing up the questions.** On many enquiries, the committee chair will ask the special adviser or the clerk to draw up a list of questions for oral hearings (though this was being actively discouraged in the Northern Ireland Assembly). On public audit committees, this role is filled by the audit office. Frequently, though, questions written by a clerk or special adviser (especially on a strategic policy review) will be generic suggestions of topics, allowing members the final say over phrasing and focus. On one enquiry studied, the chair opted for a more informal process:

> *"What I didn't want to do is what I think select committees do, and that's increase the element of falseness by having planned questions. I just think that it's about a general conversation, a backwards and forwards discussion."*

•   **Dividing the questions between members.** The questions or topics may be divided up either by the chair, just before the hearing begins, or by the clerks with the agreement of members when preparing briefing materials. If a question or questions match known interests of particular members, those questions will normally be allocated to them. That member may be able to challenge the witness on factual accuracy or interpretation: this occurred in the Brucellosis Outbreak enquiry (Northern Ireland) and the Foot and Mouth Disease enquiry in Wales. This process does not preclude the same members bringing questions which have been prepared by their party researchers or by themselves, nor does it preclude the members asking one or more supplementary (and perhaps more focused) questions to their allocated one.

Even distribution of questions can also be required in order to give all parties and points of view an equal stage during committee meetings. Some committees avoided the formal distribution of questions on the grounds that it would produce a stilted evidence session with individuals taking it in turn to read out their allotted questions. Also, as one respondent stated, "we have some very strong members, and some members who are not so strong in respect of being proactive and asking questions." This unspoken knowledge influenced the proceedings themselves, but did not appear to affect the plans for proceedings. Some committees allowed stronger members to dominate proceedings, by virtue of not having a formal mechanism by which each member would take their turn. Meanwhile, in other committees there is a fairly strong political (with a small p) pressure to permit every member a chance to ask a question. Prioritising equal time allocation in this way can lead to important issues being skimmed over or to repetition, and is not necessarily the best use of time to achieve effective scrutiny.

•   **Questions being called by the chair.** Committees vary in the length of time permitted to members to ask their questions. In some cases the chair will take members one by one, permitting each to ask one question plus a supplementary: hence all members will be able to speak. In others members indicate to the chair when they would like to ask a question. Also at issue here is the length of time available: public audit committees frequently hold very long meetings, allowing members as much as half an hour each to develop a line of questioning. Being able to return to an issue again and again is particularly valuable for interrogative questions:

> *"If you are busy moving on from a questioner you are doing more of a process than trying to find out an answer. We have always operated on trying to find out information than [on]*

who is asking the question. Sometimes you find that one person keeps going down a particular road because it is useful. It makes room for only two other people to ask questions."

93.   The importance of members being able to ask questions effectively was stressed by almost all of those interviewed. Questioning is a skill which assemblies could consider providing training sessions for. The skills of either teasing out information from people who are nervous or inexperienced at giving evidence, or interrogating those who are less willing to be open with the committee, are quite specialised. They are also critical to effective scrutiny:

"The only specific training I have been given was IT training. No training is given to members on chairmanship. I think that people need to learn how they should behave as a member of a committee. I think there should be some sort of training. New members need a particular type of support around the committee process. It is a steep learning curve."

"You are dealing with, in some of these enquiries, some incredibly bright people, unless you can get them on the run—in order to do that you do have to sometimes be smarter and cleverer than they are and follow up answers. If you simply accept them then you are a walkover."

Informative questions

94.   The prepared questions are frequently general and indicative of a subject area, not dealing with focused, specific issues. Respondents indicated that, when ministers or officials were giving evidence, committee members occasionally asked questions which related to events or people in their constituencies. Properly, these belong in plenary sessions or letters to ministers, and they are almost never an effective approach. Ministers and officials cannot be expected to know the details of individual cases, and inevitably promise to look into the matter and produce a written note. This is not an effective way of holding the executive to account in the round.

95.   Executive-side respondents indicated that they were often not taxed by appearing in front of committees:

"We had gone to great lengths to brief ourselves, and the Minister, on all the details of the issues, in anticipation of tough questions. Well, none of it was needed. The questions just weren't probing enough."

96.   A number of members also experienced frustration with this:

"If members just ask the questions they're given, they are pretty disappointing, pretty poor, especially given the type of individuals we're interviewing in these situations. There needs to be much more in-depth scrutiny."

"You always knew somebody who had just taken this list of questions and wanted to get their name on the record, read a question out, and it was quite clear they hadn't read any of the background. Once they'd got an answer to the question that was it, they didn't want to pursue it any further, they felt they'd done their bit. If the questions are simply regarded as lead-ins and people have done the background work, I suppose they're a useful tool…. The researchers probably [already] knew the answers to all these questions."

97.   Questioning on policy reviews, and occasionally on disaster enquiries, was frequently general in character. Typical questions which recur in transcripts include "what could best be done for the future of [this policy]?" and "what lessons have you learned from this episode?". Such general questions invite answers which are short on specifics and long on principles: hence it is difficult to measure subsequent performance or decisions against the answers.

98.   Generalism is abetted by the practice referred to above of having oral hearings as one item amongst several, and by the practice in some enquiries of permitting presentations by witnesses. A few respondents stated that the purpose of this was to put witnesses at ease, which is obviously a valid motive: but witnesses inevitably repeated their written submissions in the presentations. Together with this, the general answers obtained may mean that no added information is gleaned from the oral evidence session, as this respondent implies:

"I sometimes feel that the people who come along must have felt short-changed as well. It's quite a daunting process for some of them.

I'm sure a lot of them would like to have been pursued on the work that they do and would have come back with some very revealing answers. I felt on occasions if I'd been there I would have been thinking 'Why are you asking me that question? Surely I've already written that to you!'"

99. This implies the need for greater preparation and more focused questions, and/or more evidence being obtained by written correspondence instead of the time—and labour-intensive process of oral hearings.

Interrogative questions

100. Having the opportunity to develop a line of questioning on a particular issue was cited as an effective way of uncovering uncomfortable facts, in an event enquiry or audit. One respondent stated "it's not the initial questions [that matter]. You ask a question when you know what the reply is, but that response leads to another question." The ability to develop a line in this way depends critically upon the style of the committee chair and upon the degree of understanding of the issues by the member asking the question. There is an issue here on the chairing of meetings, as respondents acknowledged:

"Sometimes you really only find out detail if you are allowed to go on poking and poking at an issue until…the witness has no option other than to answer the question"

"You have to coax evidence out of some people, and cajole it out of others."

101. A further use of developing a line of questioning comes in developing an alternative view to that being put forward by the witness, and using this view to steer the committee in a particular direction. This was articulated by one respondent:

"For me some of the time it was about creating a situation where a Labour member would say something I needed them to say…. You ask a series of questions that can only lead to one conclusion, but you don't actually say it yourself, and then you wait, because someone else will say it."

102. The importance that members interviewed gave to the ability to develop a line of questioning suggests that hearings on interrogative enquiries should be the only major item on the agenda of their meeting On the enquiries studied, sessions of oral evidence lasting for as little as twenty minutes would take place. Two respondents stated that this was done purposefully because members' concentration would wane if too long was spent on one subject at each meeting. By contrast, public audit committees might have sessions on a single report lasting three hours or more. This not only permits lines of questioning at some length by members, but reduces the possibility of witnesses giving vague answers or 'talking out' the questioner. This gives members several opportunities to revisit the issues and to "go on poking and poking".

103. A similar observation could be applied to the Ministerial monthly report in Wales. This is a classic interrogative scrutiny, but is frequently fitted in as one of several agenda items, putting members under pressure. One of the committees surveyed spent up to an hour scrutinising the minister: the chair believed that "scrutiny is probably as effective a way of developing policy, in this institution, as any other". A respondent on a different committee said that "at present it's inevitable that the minister sets the agenda with the monthly report because there's no time for us to get suitably briefed on the report". This member suggested replacing the monthly report with a dedicated quarterly session.

104. Respondents indicated that, although close ministerial involvement and contact with committees is useful, the effectiveness of the monthly report varies. One respondent described it as "useless…because the formal report we get now is merely a list of diary engagements." Other committees were able to use the session to ask topical questions: this session thus doubled up as a regular topical scrutiny. However, one respondent suggested that "if you look at the scrutiny process, the questions come from the parties in opposition and from the Lib Dems [then junior coalition partners]", implying that this respondent thought Labour members tended to support 'their' minister in the case of Wales.

105. Respondents were unanimous that the most effective interrogative questions were those which asked one question, on a specific issue, which did not invite a long-winded or

general answer. Questions which either contained preambles setting out the member's own views, or which contained anything from two to five questions within them, were far less likely to extract useful information. One member, who had been a barrister, said, "If you are examining a witness, one thing you shouldn't do is ask a long question". One respondent who had appeared before a committee stated:

"The shorter the question the more difficult it is to answer. When people ramble on and ask four or five questions at a time, it's dead easy to choose the ones you want to answer and [ignore] the ones you don't…. It's never effective to make a speech asking a number of questions in a committee. The proper way to ask a question in a committee is to ask one sentence—two at the most."

106.   This was echoed by other respondents:

"You get two kinds of answers to very long involved questions. You get non-comprehension which leads either to answering the question which you think is being asked, or you get somebody saying 'sorry I don't understand', neither of which is useful and both are a waste of time. Secondly, you can get somebody who is quite an accomplished witness who can use that to say what they want to say because they are not pinned down."

"If you are examining a witness, one thing you shouldn't do is ask a long question. 'What is your name?' 'What is your job'…you get a whole series of answers and you build up a picture. But what politicians tend to do is ask long winded questions—they try to squeeze too much into the question."

107.   This issue relates extremely closely to the quantity of briefing available to the members. Public audit committee briefings are normally extremely extensive, because they come from professional staff who may have spent up to a year investigating the affairs of a particular organisation. In quantity and detail they are bound to outweigh the efforts of clerks, who have many other demands on their time besides briefings. Hence, the public audit committee questioning that was analysed was always very detailed and frequently brought new information to light.

Recommendations

- Pursuing a line of questioning, asking up to five questions on the same topic, is particularly effective in interrogative scrutiny. This suggests that enough time should be allowed to permit members to take lines on subjects that appear promising. The discretion of the chair, both in permitting questioning at length and ensuring it is relevant, is vital here.
- To get the most out of extended questioning opportunities, committee members should ensure that they are well prepared both in their understanding of the subject area and with their questions. They should also feel free to suggest questions to the chair, the clerk, or other members in pre-meetings.
- It is particularly useful for committees to have agreed key questions before the evidence session at a pre-meeting where the officers can brief the members on the coming session.
- If a number of similar organisations are invited to oral hearings, committee members should be prepared to be flexible in their questioning. Asking the same, general questions of similar organisations may invite similar answers, which will be of little benefit.
- Committees should ensure that oral questions do not repeat questions already asked of organisations through written consultation, but that they expand on information already in the Committee's possession. Repetition of basic information by witnesses is not a good use of either witnesses' or the Committee's time.
- As their workload and responsibility (and sometimes their pay) exceeds that of other members, committee chairs should not sit on any other committees *if at all possible*. (Pressure of numbers makes this recommendation especially hard to follow in the National Assembly for Wales.)
- Training sessions in the key tasks of evidence sessions should be offered to all committee members. These include asking questions in a variety of styles and learning which style is most appropriate in which circumstance.

- Committee chairs perform well in ensuring political balance and permitting all members to participate. Committee chairs should encourage members to ask short questions and to avoid mini-statements.

Report drafting, publication and follow-up

108.   The majority of enquiries studied followed the format used at Westminster, of publishing a lengthy report together with a set of recommendations. Some reports, particularly those produced by reporters, were shorter. Reports from the Scottish Parliament and the Northern Ireland Assembly were published in standard covers and format, whilst those from the National Assembly for Wales were published in brighter covers with pictures. (The drabness of Westminster committee reports was a recurring issue in the debate over reform of the select committees of the House of Commons.)

109.   The only enquiry not to publish a final report was the Northern Ireland tourism enquiry (due to suspension of the Assembly). The Foot and Mouth Disease (FMD) enquiry in Wales did not publish a hard copy of their report, although a copy can be downloaded from the internet. This was a deliberate decision: the Agriculture and Rural Development Committee had received updates through Ministerial monthly reports throughout the FMD outbreak of 2001, and devoted two three-hourly committee sessions to examining the handling of the crisis in early 2002. The aim was to hold an enquiry focused on forward planning rather than attributing blame: this was doubtless partly due to the fact that many of the most critical agencies were outwith the purview of the National Assembly and so would not have attended a formal enquiry, had one been called.

110.   The report is drafted by the clerk, or sometimes by the special adviser if one is appointed, or both. It is then presented to the committee for deliberation, and adjustments made where required. Though committees reserve the right to hold deliberation sessions in private, it is relatively rare for overt disagreements to take place.

111.   From the enquiries studied, it appears that line by line scrutiny of the reports by the committee, which is common in Westminster, varies across the devolved assemblies.

Unsurprisingly, detailed scrutiny of draft reports increases where strong political views are held by members from different parties about the subject under review. The content of reports is much more directly influenced by members when this happens. In Scotland in particular, the time taken from first draft to final report is far greater:

> *"Every paragraph is gone through three times by members. You don't write a draft report and they nod and say can you toughen up paragraph 6 but basically it is okay…. What we tend to do is get to the end of the enquiry and have a sort of open discussion, in private, about points that people want in there."*

112.   There was little evidence of co-ordinated press strategies from any of the committees. The main audience of the reports appeared to be the people who had been involved in the enquiry, and the executive. There is a press office for both Scotland and Wales which handles press releases centrally. In Northern Ireland committee staff do the press work for the committee. In Scotland and Northern Ireland as at Westminster, the executive normally replies to reports within two months of their publication. In the National Assembly for Wales the same deadline applies informally. In most cases, the executive accepts the majority of recommendations.

Impact of reports

113.   Committees cannot force any action from the executive and hence the impact of committee reports was neatly, if accidentally, summed up by one respondent who said "to some extent they carry no weight at all". In the last instance, committee recommendations depend on the executive for action.[9] Committees' power is moral and political rather than legally enforceable. Most important to this power is the cross-party support of the committee. In the devolved assemblies, this consensus has almost always been forthcoming. Most respondents reported either that votes had never taken place or that they had taken place on only one or two occasions. Votes, and

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[9] This is not strictly true in Northern Ireland and Scotland, where the committees can initiate legislation—so they may investigate a subject and propose legislation putting into effect their recommendations. Similarly, if the executive produces a bill on the subject of a recent enquiry, the bill will have to pass through the same committee, which will have taken a position on most of the issues—and the executive will inevitably take that into account in drafting the bill.

minority remarks in published reports, were slightly more prominent in the Scottish Parliament than elsewhere.

114. In Northern Ireland, politics was also remarkably absent from committee reports, although some respondents indicated that this led to very broad ranges of recommendations which were not necessarily consistent with one another. The existence of agreed committee reports itself has a strong political significance in Northern Ireland: more than one respondent described the committees as the opposition under the consociational form of government. Their impact could be particularly felt on policy questions when they pre-empted Executive action, because the Executive had no existing policy position to defend:

> *"The report is not going to create a children's commissioner. It is going to be a leverage to it. You want to send a signal to the department that we have looked at this and this is the sort of thing we want to see. So a department is going to know when it comes back with something different that there is likely to be some resistance…. There's no point in their producing a consultation document to be rejected, although I think if you want it to be as effective a signal to the department as possible then it does look better if everyone endorses it."*

115. Though this quote came from Northern Ireland, where committees can table amendments for debate in plenary on legislation on devolved matters, it applies equally in Wales where there is no legislative power. Few Welsh ministers would ignore committee views with equanimity. There were also indications that on a few occasions, committee chairs had discussed the wording of recommendations with the relevant Minister. This does not necessarily indicate that the committee process is compromised. It may reflect a desire on both sides to achieve a working relationship which is of maximum benefit, recognising the existing power differential between committee and Executive.

116. Where committees cannot overcome internal dissent, it may become necessary to indicate this in the final report. A number of different ways of doing this are evident from the reports studied. The Higher Education Policy Review in the National Assembly for Wales contained a motion for amendment put forward in an appendix. The Scottish Parliament Enterprise and Lifelong Learning Committee footnoted the dissent of five of its members from two of its recommendations but did not publish the minority view. Guidance exists in all three institutions on how to do this.

117. The interest of the executive in the report is critical for its success, and this cuts to one of the lasting debates about the new devolved institutions. Subject committees were expected to form a counterweight to the executive, avoiding the acknowledged problem of the over-mighty executive found at Westminster. The reality has not matched the messianic hopes of the run-up to 1999, and has varied between institution. In Northern Ireland, committees have been relatively influential, as the consociational executive and dispersed party system means that the Northern Ireland Assembly does not have a normal system of electoral arithmetic. In the limited life of the Assembly they had considerable influence on bills, in particular. Scottish committees have had some influence on bills but have been subject, in policy work, to lack of interest from the executive: they have few means of forcing the executive to listen to their work.

118. The same has been true of Welsh committees, but the hybrid system in Wales where the Minister is also a member of his/her committee means that the two 'sides' are in fairly close contact. Respondents from both sides claim that this obliges executive staff to take more notice of committee views than they otherwise might, and it ensures that committees are more likely to carry out work that is timely and influential (we referred above to the tendency for executive reviews to run alongside committee work). The sheer physical size of these institutions should not be underestimated as a factor in enabling closer working: with 129, 108, and 60 members in Scotland, Northern Ireland and Wales respectively, and far smaller office space, it is much easier physically for cross-fertilisation and contact to take place than at Westminster, with 659 MPs and an executive spread across central London.

Follow-up

119. Substantial following-up of responses to Committee reports—that is, continued work on a given issue as opposed to an immediate

response by the Committee—could have been carried out more often in the first sessions. The exceptions to this are the public audit committees in each assembly. For instance, in Wales, the audit office and assembly jointly operate a compliance mechanism to ensure progress on recommendations which have been accepted by the executive. This is uncontroversial as the public audit committees are required to focus on evaluation of administration, and to avoid criticism or examination of policy issues.

120. Elsewhere, follow-up has been limited. Few members appear to wish to press the points made in their report for months after its publication. Members have been more concerned to comment on a range of issues than to challenge the executive repeatedly in the medium to long term on a small number of points. In the National Assembly for Wales, some respondents suggested that the closer relationship between the committee and Minister reduced the need for follow up: "they are happy that they have had a major influence over the assembly government's strategy and want to see that implemented".

121. Follow-up looks as though it will a bigger part of the committees' workload in the second session of the Scottish Parliament, as in the first term they were keen to cover new ground. In the legacy reports of the Scottish and Welsh committees both 'post-enactment' scrutiny and revisiting enquiries are mentioned in possible forward work for the committees to do. The legacy reports do not, however, look at the detail of following up on recommendations, nor do they suggest any guidelines as to what kind of recommendations are the most effective or likely to be acted upon.

122. The Ministerial monthly reports in Wales are sometimes used as a follow-up mechanism. Ministers will be expected to report upon, and be questioned on, ongoing matters. The outcomes of the Nantygwyddon investigation were an example of this. The Minister gave regular briefings on joint progress on the investigation's recommendations relating to public health and environmental health.

Politics in committee sessions

123. Members of committees have several competing motivations. They are party politicians, constituency representatives, and assembly or Parliament members (as opposed to government members). In committees it must be the latter motive that drives the enquiry forward. A great deal of emphasis was placed by members in all three bodies that committees followed a consensual approach and party politics played next to no role. However, it is clear from reading transcripts and interviews with others involved in the committee process that committee members used committees to make both political points and to raise constituency issues. Politics was more evident where members of the executive and their civil servants were interested. When looking at issues such as homelessness or drug misuse politics was considered to be less evident because they were not issues where making a political dig was viewed to be politically viable.

"I did it [put down a motion on an amendment] for two reasons, the principal reason was to record my dissenting view but secondly it was good fun to get the Liberal Democrats in a slight bit of trouble."

"I think we have come across a range of issues where potentially political interests have stepped in, but I think that they haven't, and people took the sensible route and looked at it from the position of the public money and whether this public money has been well used or not. They left their party political interests at the door."
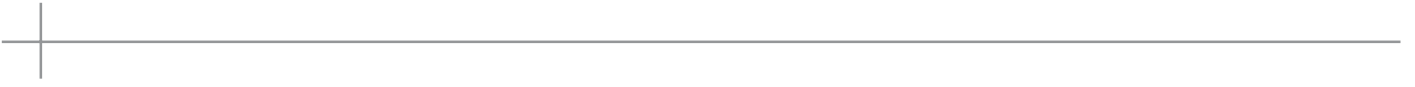
124. It is inevitable that discussions of policy issues on which party views differ will become political, even if they are within committee. It is the role of the chair to ensure that political point-scoring does not take up a great deal of the committee's time, and that it does not sour relations between members. The vast majority of respondents indicated that this had been successfully done. Party politics was usually restricted to occasional point-scoring. Most committees approached deliberation on reports by agreeing as much as they could before moving on to topics of contention.

Recommendations

• When terms of reference are set for each enquiry, they must be set with a mind to the fact that the most powerful reports are those which achieve consensus. Terms of reference therefore should avoid the

provocation of political division further into the enquiry.

- In order to follow up on recommendations, the recommendations themselves must be clearly worded. If there are a large number of recommendations made by the committee, key recommendations should be picked out

- Committees should not be afraid to work with the executive side, to a limited degree, to help them produce reports which have the maximum possible impact.

- It is important that committees have their own branding as a separate entity to the executive. This can be achieved through attempting to gain media coverage both for evidence sessions and for the launch of formal reports.

Recommendations

Before setting out on a report the clerks and the chair should work through the following checklist:

- Contact the department to see what work is planned on the issue by the executive to avoid doubling up on consultations and to ensure work;
- Think about the potential for political division within the committee;
- What resources would you need and would you get value for money?
- What are the potential media hooks?
- Is the enquiry you have in mind feasible in the time you can allocate to it?

The following lists reproduce the recommendations from the main sections of the briefing. They are re-arranged here according to which scrutiny 'actors' they are directed at.

Committees collectively and chairs

- When preparing their work programmes, committees should prioritise between enquiries. Low priority enquiries can be dropped to free up time in each annual plan for unanticipated topical reports or discussions.
- Committees should not plan to carry out more than one strategic enquiry per 12-18 months. The number of witnesses and length of deliberation required preclude this from being effective. Committees will achieve more if they target their limited resources into one particular issue on which they have assembled considerable evidence.
- Committees should plan short, topical enquiries carefully, and set stringent limits on the time spent on them and the number of witnesses called. The desired outputs and outcomes from the enquiry should be carefully considered. Simply producing a report on a subject is a necessary but not sufficient element of effective scrutiny.
- Reporters are an extremely effective means of enhancing committee capacity where a committee has a number of matters demanding its attention. However, reporters need a disproportionate amount of support time from committee staff and research services in order to complete an effective report. This must be taken into account at the planning stage.
- Special advisers are likely to be selected from a small field of candidates under any circumstances. The field should be kept as wide as possible and the process for appointment should be fair and open.
- It is particularly useful for committees to have agreed key questions before the evidence session at a pre-meeting where the officers can brief the members on the coming session.
- Oral hearings or other oral evidence sessions with hard-to-reach groups, or groups unaccustomed to formal assembly procedure, should take particular care to put the 'witnesses' at ease, both in their environment and in the questioning/discussion process. Interrogative questions (see below) should be avoided. 'Easy starter' questions should be used to accustom the 'witnesses' to the process of talking to members.
- Committee chairs perform well in ensuring political balance and permitting all members to participate. Committee chairs should encourage members to ask short questions and to avoid mini-statements.
- As their workload and responsibility (and sometimes their pay) exceeds that of other members, committee chairs should not sit on any other committees *if at all possible*. (Pressure of numbers makes this recommendation especially hard to follow in the National Assembly for Wales.)
- Pursuing a line of questioning, asking up to five questions on the same topic, is particularly effective in interrogative scrutiny. This suggests that enough time should be allowed to permit members to take lines on subjects that appear promising. The discretion of the chair, both in permitting questioning at length and ensuring it is relevant, is vital here.
- Training sessions in the key tasks of evidence sessions should be offered to all committee members. These include asking questions in a variety of styles and learning which style is most appropriate in which circumstance.

Clerks

- The substantive work that committees do must be member rather than officer led. Committee staff may play the leading role in scoping out a potential enquiry identified by the members, but the workplan must be set (or at the least, approved) by the committee and the members must play the central role in the enquiry process.
- When terms of reference are set for each enquiry, they must be set with a mind to the fact that the most powerful reports are those which achieve consensus. Terms of reference therefore should avoid the provocation of political division further into the enquiry.
- Committees should timetable each part of the enquiry. It may be helpful to use external deadlines (such as government announcements) in this regard.
- Committees must consider the likely responses to different kinds of publicity. Newspaper advertising is likely to reach a wide audience. Advertising on a website will reach only a computer-literate audience, which is a subset of the whole population.
- Internal research services are used effectively by some committees at present, but might be more readily treated as the first port of call for specialist research. Special advisers ought not to be hired to carry out basic data gathering: this is properly the job of internal research services.
- Members are unlikely to have time to read a large number of submissions, but clerks should not sift the submissions for the members as all views must be considered by committee. Clerks may wish to summarise the main points from the written evidence as well as passing on the individual submissions to committee members.
- Special advisers should not be used for strategic-level lengthy enquiries as expertise is usually, by nature, on a specialised subject. Best use of special advisers is made when an enquiry is focused on a particular issue where an expert is both likely to exist, and add value to the work the committee does.
- In order to follow up on recommendations, the recommendations themselves must be clearly worded. If there are a large number of recommendations made by the committee, key recommendations should be picked out.

Members

- Committees could experiment more with sub-committees as a way of concentrating expertise and saving time for the full committee. This may produce strain on resources, which explains why it has been done very little so far. The use of reporters in the Scottish Parliament (discussed below) has a similar effect—one or two members will investigate an issue and report to the full committee.
- When inviting written evidence, committees need to consider carefully what type of evidence they want. Are they interested in the views of the public, or of professionals and interest groups, or both? This will influence how the evidence is invited.
- To gain evidence from others than the 'usual suspects' more use could be made of focus groups and opinion polling, as well as informal visits by groups of members (as takes place through the reporter system in Scotland to some extent). The time and expense of these activities could be offset to some extent against hearings, which in some cases appear to become repetitive.
- If a number of similar organisations are invited to oral hearings, committee members should be prepared to be flexible in their questioning. Asking the same, general questions of similar organisations may invite similar answers, which will be of little benefit.
- Writing to interested organisations will attract a different form of submission, perhaps better informed, but potentially un-representative of public concerns. Committees must be aware of this distinction, and allow it to inform the weight they attach to different evidence.
- Committees should use traditional oral hearings when they wish to gauge practitioner feeling and/or hear interest group and expert views.
- Oral hearings also appear the most effective means through which interrogative scrutiny can take place, as opposed to outreach, for which alternative

methods such as informal visits and focus groups should be considered.

- Where committees wish to ask informative questions, or to hear from groups unused to taking part in the political process, they should be more ready to use alternative and innovative methods. These have been used more commonly with hard-to-reach groups in the enquiries studied, allowing those groups to contribute from their own turf.
- Committees should ensure that oral questions do not repeat questions already asked of organisations through written consultation, but that they expand on information already in the Committee's possession. Repetition of basic information by witnesses is not a good use of either witnesses' or the Committee's time.
- To get the most out of extended questioning opportunities, committee members should ensure that they are well prepared both in their understanding of the subject area and with their questions. They should also feel free to suggest questions to the chair, the clerk, or other members in pre-meetings.

Ministers

- Ministers in Scotland and Northern Ireland should deliver a regular bi-monthly or quarterly report as ministers in Wales do. The production of a topical report or a regular question session is a particularly useful way for committee and department to keep up with one another's work, and for routine questions to be asked without the need for a specific enquiry.
- Committees should consider their relationship with the executive in relation to policy development. They could, for instance, agree to share consultation data or wait until the executive has produced a summary of responses, allowing committees just to take oral evidence. Committees could structure their workplans so that consultees are not approached by either side at the same time: this is a drain on consultees' resources.

Others

- Long-term membership of a committee is a vital factor in developing a committee team spirit that offers an alternative focus
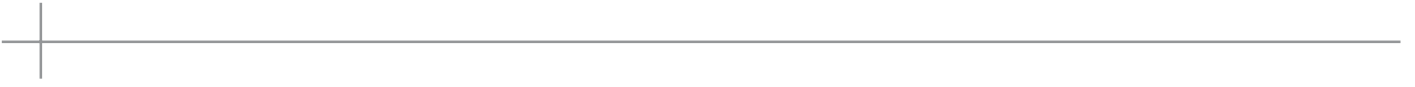
of loyalty to political party loyalty. It deserves encouragement, to achieve more effective scrutiny. Turnover on committees should be planned by political parties with this in mind.
- Committees should not be afraid to work with the executive side, to a limited degree, to help them produce reports which have the maximum possible impact.
- It is important that committees have their own branding as a separate entity to the executive. This can be achieved through attempting to gain media coverage both for evidence sessions and for the launch of formal reports.
- The most valuable submissions are evidence-based rather than opinion based. Witnesses seeking to have the most impact on the committee should produce evidence to support their cases.
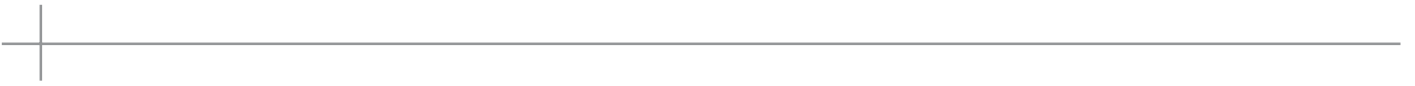
Appendix 1: Committees in the devolved institutions (1999–2003)

	Northern Ireland	**Wales**	**Scotland**
List of 'subject' committees	Agriculture & Rural Development	Agriculture & Rural Development	Education Culture & Sport
	Culture, Arts & Leisure	Culture	Enterprise and Lifelong Learning
	Education	Economic Development	Health and Community Care
	Employment and Learning	Education and Lifelong Learning	Justice 1
	Enterprise, Trade and Investment	Environment, Planning and Transport	Justice 2
	Environment	Health and Social Services	Local Government
	Finance and Personnel	Local Government and Housing	Rural Development
	Health, Social Services and Public Safety		Social Justice
	Regional Development		Transport and the Environment
	Social Development Centre		
List of other committees	Audit	Audit	Audit
	Business	Business	Equal Opportunities
	Procedures	Equality of Opportunity	European
	Public Accounts	European Affairs	Finance
	Standards and Privileges	Legislation	Procedures
		Standards of Conduct	Public Petitions
		Mid Wales Regional Committee	Standards
		North Wales (RC)	Subordinate Legislation
		South-East Wales (RC)	
		South-West Wales (RC)	

Appendix 2: Standing Orders relating to subject committees in the devolved institutions

Wales
Subject Committees

Title and Membership

9.1   The committees established under section 57(1) of the Act shall be known as subject committees. Each subject committee shall, subject to the requirements of section 57(8), have at least 7 and not more than 11 members, including the chair and the Minister who is a member of the committee by virtue of section 57(4).

Chairs of Subject Committees

9.2   Chairs of subject committees shall be selected from a panel of Members elected by the Assembly so as to secure that, as far as is practicable, the balance of the parties in the Assembly is reflected in the membership of the panel. The panel shall have as many members as there are subject committees. Ministers shall not be eligible to be members of the panel.

9.3   The Business Minister shall table motions for election of Members as panel members, and for selection of chairs of particular subject committees, following consultation in the Business Committee with the political groups represented in the Assembly.

9.4   No amendment may be proposed to a motion proposed under paragraph 9.3. The Presiding Officer may allow the Business Minister to propose the motion, one Member from each political group to respond and the Business Minister to reply, and shall then put the proposition to the vote.

9.5   A Member elected to the panel may resign by giving written notice to the Presiding Officer. A Member shall cease to be a panel member on ceasing to be a member of any political group represented when he or she was elected to the panel. A member who resigns from or ceases to be a member of the panel shall cease to be the chair of a subject committee.

9.6   The panel may consider issues relating to the operation of subject committees. The Deputy may attend meetings of the panel and may by invitation chair any such meetings.

Responsibilities

9.7   Each subject committee shall

(i)   contribute to the development of the Assembly's policies within the fields for which the relevant Minister is accountable to the Assembly;

(ii)   keep under review the expenditure and administration connected with their implementation; and

(iii)   keep under review the discharge of public functions in those fields by public, voluntary and private bodies.

9.8   Each subject committee shall also, within the relevant fields,

(i) advise on proposed primary, secondary and European legislation affecting Wales, including performing its functions under standing order 22;

(ii) provide advice to the Assembly Cabinet on matters relating to the allocation of the Assembly's budget in accordance with standing order 19;

(iii) perform its functions under standing order 21 (complaints);

(iv) perform any functions assigned to it under the Code of Practice on Public Appointments Procedure made by the Assembly under standing order 20; and

(v)   consider matters referred to it by the Assembly within its fields.

9.9   Each subject committee shall maintain rolling programmes of work covering periods of at least 12 months. Such programmes shall identify topics or matters within the committee's remit which are for detailed consideration (taking account of the committee's other work under paragraphs 9.7 and 9.8 and such urgent issues as may arise from time to time). Subject committees shall invite the views of other

committees and the Assembly Cabinet on their draft programmes, and shall have regard to the comments received in finalising them. Each subject committee shall notify the Assembly of its programmes, and shall report to the Assembly from time to time on its progress in fulfilling them.

Meetings of Subject Committees

9.10 The chair of each subject committee shall determine the agendas for its meetings, in consultation with the relevant Minister; but the Minister may require specified items to be discussed at meetings of a subject committee or a sub-committee. At the request of any two of its members, the committee may resolve to include an item of business on the agenda of a specified future meeting.

9.11 The Minister shall from time to time report on matters relating to the discharge of his or her responsibilities; but a member of a subject committee may propose that the Minister should provide the committee with an oral or written report on a specified matter within the committee's remit, and if the committee so resolves the Minister shall submit a report on the matter within a period agreed with the chair.

Attendance at Meetings

9.12 Members who are not members of a subject committee may attend the committee's meetings when these are in public. With the permission of the chair secured in advance they may make brief representations on individual items of committee business touching on particular constituency or regional interests before the discussion on those is concluded, but they may not vote. A Minister who is not a member of a particular subject committee may attend a meeting of that committee where the matter under consideration is closely related to his or her responsibilities, and may participate in the meeting with the consent of the chair.

9.13 A committee member who has given advance notice to the chair may be represented at a meeting of a subject committee by another Member from the same political group who has been identified in advance. In giving such notice, the Member shall indicate the reason for the need for substitution. The nominated representative may participate in the meeting of the committee in all respects as if he or she were

a member of it. No Member may represent more than one committee member at a meeting.

Summoning of Witnesses and Production of Documents

9.14 A subject committee, and a sub-committee of a subject committee, may exercise the powers in sections 74 and 75 of the Act.

9.15 A member of the committee or the sub-committee may propose a motion to summon witnesses or for the production of documents. Any such motion shall identify the persons who are to be summoned and the documents which are to be produced.

9.16 When a committee or sub-committee has resolved to summon witnesses or order the production of documents, the chair shall notify the Presiding Officer of the terms of the resolution, and request the Presiding Officer to give notice in writing to any relevant persons. Such a notice shall contain the information specified in section 74(6) of the Act, and comply with the requirements of section 74(7).

9.17 A person who has been summoned to attend may be required to take an oath (or make an affirmation). Where an oath is to be administered under this paragraph, it shall be in the following form:

"I swear by Almighty God that the evidence I shall give shall be truthful and honest, and that I will give the committee all such information and assistance as I can to enable it to discharge its responsibilities",

but where the person giving evidence prefers to affirm, the affirmation shall be in the following form:

"I do solemnly, sincerely and truly declare that the evidence I shall give shall be truthful and honest, and that I will give the committee all such information and assistance as I can to enable it to discharge its responsibilities".

Scotland

Rule 6.2 Functions of all committees

1. A committee shall examine such matters within its remit (referred to as "competent matters") as it may determine appropriate or as

may be referred to it by the Parliament or another committee and shall report to the Parliament on any such matter.

2.   In particular, each committee shall conduct such enquiries into such competent matters as it may consider appropriate or as the Parliament or another committee may require, and may-

(a)   consider the policy and administration of the Scottish Administration upon any competent matter;

(b)   consider any proposals for legislation which relate to or affect any competent matter, including proposals for primary or secondary legislation, whether before the Scottish Parliament or the United Kingdom Parliament;

(c)   consider any European Communities legislation or any international conventions or agreements or any drafts which relate to or affect any competent matter;

(d)   consider the need for the reform of the law which relates to or affects any competent matter;

(e)   initiate Bills on any competent matter; and

(f)   consider the financial proposals and financial administration of the Scottish Administration (including variation of taxes, estimates, budgets, audit and performance) which relate to or affect any competent matter.

Rule 6.3 Membership of committees

1.   The membership of each committee shall be approved by the Parliament on a motion of the Parliamentary Bureau.

2.   Each committee shall have at least 5 but not more than 15 members.

3.   A member may indicate to the Parliamentary Bureau his or her interest in serving on a particular committee.

4.   In proposing a member to be a committee member, the Parliamentary Bureau shall have regard to the balance of political parties in the Parliament and, where that member has expressed an interest in serving on that committee, to his or her qualifications and experience as indicated by him or her.

5.   A committee member shall serve as a member of a committee for the duration of that committee unless-

(a)   he or she resigns from that office by intimating his or her resignation to the Parliamentary Bureau;

(b)   he or she is removed from that office by the Parliament on a motion of the committee; or

(c)   he or she ceases to be a member of the Parliament otherwise than by virtue of a dissolution.

6.   A committee member may not be represented at a meeting of the committee by a substitute.

Northern Ireland

44. Committees of the Assembly—General

(1)   The Assembly shall establish Committees to:

(a)   -discharge duties in relation to Departments (Statutory Committees); and

(b)   -carry out any other functions deemed necessary.

(2)   Committees to assist the Assembly in the discharge of its business shall be appointed by motion made after notice setting out terms of reference, quorum and composition and/or referring to any Standing Order, as appropriate, which prescribes these.

(3)   All Committees of the Assembly shall have leave to sit during a sitting of the Assembly and notwithstanding any adjournment of the Assembly.

(4)   The names of the Members present at each sitting of a Committee shall be entered in the minutes of evidence or in the minutes of proceedings of the Committee (as the case may be) and reported to the Assembly in any report of such Committee.

(5)   A general record of the proceedings of a Committee shall be brought up and laid before the Members of the Assembly with the report of the Committee.

(6)   If, at any time, during the sitting of a Committee, the quorum of Members fixed by the Assembly is not present, the Clerk of the Committee shall call the attention of the Chairperson to the fact, and the Chairperson shall thereupon suspend the proceedings of the Committee until a quorum is present, or adjourn the Committee to some future day.

(7)   Every Committee shall have leave to report its opinions and observations upon any matters referred to it by the Assembly, together with the minutes of any evidence taken before it and also to make a special report of any matters which the Committee may think fit to bring to the notice of the Assembly.

(8) No document received by the Clerk of a Committee shall be withdrawn or altered without the knowledge and approval of the Committee.

45. Statutory Committees

The number of Statutory Committees established and their membership shall be determined by the Assembly following

(a)   -the appointment of the Executive Committee; and

(b)   -consideration and recommendation by the Business Committee having regard to

(i)   -the need to ensure that membership of Committees is in proportion to party strengths within the Assembly (see Standing Order 46);

(ii)   -the overall number of the Assembly members; and

-the best arrangement for allowing the Assembly to discharge its functions.

46. Establishment of Statutory Committees

(1)   As soon as practicable after the appointment of Ministers, the Speaker shall supervise:

(a)   -the establishment of Committees of Members of the Assembly ("Statutory Committees") to advise and assist each Minister in the formulation of policy with respect to matters within his/her responsibilities as a Minister. Each such Committee shall carry out

such role in relation to one or more Ministerial Portfolios; and

(b)   -the allocation of Committee Chairs and Deputy Chairs to parties in accordance with the following procedure.

(2)   Statutory Committees shall have the powers described in paragraph 9 of Strand One of the Belfast Agreement (CM 3883) and may, in particular, exercise the power in Section 44 (1) of the Northern Ireland Act 1998.

(3)   The Speaker shall supervise the establishment of Statutory Committees. Each Committee shall have one Chairperson, one Deputy Chairperson and a number of Members other than himself/herself to be determined by the Assembly subject to the requirements upon the Speaker to ensure that all Members who do not hold Ministerial or junior Ministerial office are offered at least one Statutory Committee place (see Standing Order 47).

(4)   [specifies mathematical formula for allocation of seats]

(5)   The Speaker shall then invite the nominating officer of the party with the highest figure to nominate a member of that party who is a Member of the Assembly to be Chairperson or Deputy Chairperson of one of the Committees referred to in paragraph (3) above; and to specify which Committee that Member is nominated to Chair or to serve on as Deputy Chairperson as the case may be. In making nominations, nominating officers shall prefer Committees in which they do not have a party interest over ones in which they do have a party interest.

(6)   For the purposes of paragraph (5) a nominating officer has a party interest in a Committee if it is established to advise and assist a Minister who is a member of his/her party.

(7)   Subject to paragraph (8), where the Speaker asks the nominating officer to make a nomination under paragraph (5):

(a)   -if he/she fails to do so within 15 minutes of the request being made (whether the nominating officer was present when the request was made or not), or

(b)   -if the person nominated does not take up the specified office within 15 minutes, of the request being made, (whether that person was present when nominated or not),

unless the nominating officer, the person nominated, or another Member of the Assembly asks the Assembly to extend that time limit, and gives a reason or reasons for so asking and the Assembly approves the granting of the extension, the power shall be exercisable by the nominating officer of the party for which the formula in paragraph (4) gives the next highest figure.

(8)   Paragraph (7) shall not operate whilst the Assembly is adjourned.

(9)   Paragraphs (5) to (7) shall be applied as many times as may be necessary to secure that each of the Chairperson and Deputy Chairperson offices has been allocated and taken up as required by paragraph (1).

(10) A Minister or junior Minister may not be the Chairperson or Deputy Chairperson of a Statutory Committee.

(11) Where a nomination is made, on acceptance, the Speaker shall announce and confirm the appointment.

(12) No person may be nominated to serve as a Chairperson or Deputy Chairperson of a Committee if they have already been appointed as a Chairperson or Deputy Chairperson of a Committee established under this Standing Order.

(13) A Chairperson or Deputy Chairperson shall cease to hold office if:

(a)   -he/she resigns by notice in writing to the Speaker;

(b)   -he/she ceases to be a Member of the Assembly; or

(c)   -he/she is dismissed by the nominating officer of the party which nominated him/her and the Speaker is notified of his/her dismissal.

(14) The nominating officer of a party may at any time nominate a different member of the party to replace a Chairperson or Deputy Chairperson of a Committee established under

paragraph (3) who is a member of that party and shall nominate such a replacement within ten days if a Chairperson or Deputy Chairperson of a Committee who is a member of the party resigns or ceases to be a Member of the Assembly. If the nominating officer fails to make a nomination within ten days or the nominated person does not take up office within ten days the power of nomination shall become exercisable by the nominating officer of the party for which the formula in paragraph (4) gives the next highest figure. Any such nomination must comply with paragraphs (6), (10) and (12). Any such nomination shall be announced and confirmed by the Speaker at the next following meeting of the Assembly.

47. *Membership of Statutory Committees*

(1)   Each Statutory Committee shall consist of 11 Members.

(2)   In the following provisions of this Standing Order the offices of Chairperson and Deputy Chairperson (which are filled in accordance with Standing Order 46) count as seats on a Committee.

(3)   All Statutory Committees shall be constituted to reflect, as far as possible, the different political parties into which the Members of the Assembly are divided except in so far as individual parties or individual Members may waive their rights.

(4)   Seats on Statutory Committees will be allocated on a proportional basis in accordance with the following basic principles:

(a)   -that not all the seats on a Statutory Committee are allocated to the same political party;

(b)   -that the majority of the seats on each Statutory Committee is allocated to a particular political party if the number of persons belonging to that party is a majority of the Assembly membership;

(c)   -subject to paragraphs (a) and (b) above, that the number of seats on the Statutory Committees of the Assembly which are allocated to each political party bears the same proportion to the total of all the seats on the Committees as is borne by the number of Members of that party to the membership of the Assembly; and

(d)   -subject to paragraphs (a) and (c) above, that the number of seats on each Statutory Committee which is allocated to each political party as far as possible bears the same proportion to the number of seats on that Committee as is borne by the number of members of that party to the membership of the Assembly.

(5)   The allocation of seats to parties or individual Members shall be undertaken by the Business Committee and shall be approved by resolution of the Assembly.

(6)   The Business Committee shall review the representation of the different political parties as soon as may be following any numerical changes to party memberships in the Assembly.

(7)   The quorum of every Statutory Committee shall be five and such quorum shall be deemed to be present where Members are linked by a video-conferencing facility.

(8)   The period of the continuance of every Statutory Committee shall be for the duration of the Assembly unless the Assembly determines otherwise.

(9)   All questions at a Statutory Committee shall be decided by a simple majority. Voting shall be by show of hands unless otherwise requested by a Member of the Committee.

Appendix 3: Turnover rates in Scottish and Welsh committees

National Assembly for Wales

Committee Name	Turnover
Agriculture and Rural Development (June 1999–April 2003)	122%
Culture (June 1999–April 2003)	25%
Economic Development (June 1999–April 2003)	60%
Education and Life-long Learning (November 2000–April 2003)	33%
Health and Social Services (June 1999–April 2003)	75%
Environment, Planning and Transport (April 2000–April 2003)	122%
Local Government and Housing (March 2000–April 2003)	13%

Scottish Parliament

Committee name	Turnover
Health and Community Care	89%
Audit	143%
Education Culture and Sport	157%
Enterprise and Lifelong Learning	127%
Transport and Environment	133%
Equal Opportunities	133%
European and External Relations	122%
Finance	186%
Justice 1	100%
Justice 2	71%
Local Government	143%
Procedures	114%
Public Petitions	86%
Rural Development (previously Rural Affairs)	118%
Social Justice (previously social inclusion housing and voluntary)	157%