

Standards, Procedures and Public Appointments Committee

1st Meeting, 2021 (Session 6), Tuesday, 22 June 2021

Legacy Paper

Purpose

1. The Committee is asked to note the Session 5 Standards, Procedures and Public Appointments Committee Legacy Paper.

Legacy Papers

2. At the end of a Parliamentary session Committees usually publish a Legacy Paper to pass on the knowledge and experience, both in terms of policy and Committee working practices. [The Standards, Procedures and Public Appointments Legacy Paper](#) can be found online and is included as an annexe to this paper.

Action

3. The Committee is invited to thank the members of the Standards, Procedures and Public Appointments Committee for their legacy paper, to note it for now and agree to consider the report as part of its work programme discussion.

**Katy Orr
Clerk to the Committee
June 2021**

Annexe

Introduction

1. The Standards, Procedures and Public Appointments Committee covered a wide range of work during Session 5. This legacy report sets out key areas of the Committee's work to inform its successor committee and makes recommendations in relation to future work for that successor committee to consider at the beginning of Session 6

Cross-Party Groups

2. The Committee continued to take an active role in ensuring Cross-Party Groups complied with the Rules in the Code of Conduct, considering a report annually on compliance with the Rules. The Committee issued reminders to Groups about the need to comply with the Code.
3. At the start of the session, the Committee was concerned about the volume of Groups. The Committee agreed though that placing a cap on the number of Groups that could be accorded recognition would not be a suitable solution. The Committee was satisfied that, if Groups could not comply with the Rules in the Code of Conduct, then recognition could be removed and that this was preferable to a cap on the number of Groups. The Committee considers that CPGs should be encouraged to consider whether they could cover a wider range of issues or have joint meetings.
4. During the Covid-19 pandemic, many Groups chose to meet virtually. This ensured compliance with the Code and has made meetings more accessible for some Groups, for example Groups with members who are unable to travel or members that live some distance from the Parliament. The Committee recommends that Groups should continue to meet virtually or in hybrid form if they wish, not least because this will promote the accessibility of CPGs and also relieve pressure on the availability of meeting rooms for CPG meetings in the Parliament. The Committee recommends that consideration should be given to how additional support can be provided to CPGs to allow them to meet in virtual or hybrid formats.

Public Bodies

5. Public Bodies are responsible for around £17 billion of public spending.¹ The Committee has taken evidence from the Commissioner for Ethical Standards on a number of occasions, focussing on diversity targets for Boards. We draw our successor committee's attention to the Government's failure to achieve

¹ Ethical Standards Commissioner, Delivering Diversity, page 2, March 2019. Available at: <https://www.ethicalstandards.org.uk/sites/default/files/publications/Delivering%20Diversity%20Ten%20Years%20On.docx>

Boards that are reflective of the people they serve. We are also concerned about the excessive amount of time it is taking for recruitment rounds to be completed. We recommend that our successor committee takes a close interest in progress in improving the representativeness of Boards and the time taken to appoint new Board members.

Members' work outside Parliament

6. The Committee reviewed the Code of Conduct Rules which restrict MSPs' ability to work as lobbyists or parliamentary advisers. We agreed that they were fit for purpose but issued a reminder to all MSPs and agreed to keep the matter under review. We recommend that our successor committee may wish to review the Rules with a view to addressing the fact that remuneration for services provided by and MSP is not registrable if it is paid to a person or entity other than the MSP.

Code of Conduct for MSPs

Sexual harassment and inappropriate behaviour

7. The Committee conducted an inquiry into sexual harassment and inappropriate conduct at the Scottish Parliament. Following this, and the report of the Parliament's Joint Working Group on sexual harassment, the Committee made a series of revisions to the Code of Conduct to clarify the standard of behaviour expected of MSPs, to support individuals who experience this behaviour to bring complaints forward and to promote the confidentiality of the Complaints process. As set out further in paragraph 22, the Committee also introduced a Committee Bill to amend the Scottish Parliamentary Standards Commissioner Act 2002 in order to place MSPs' staff on the same footing as other complainers with regard to historical complaints. We recommend that the next committee monitors these changes with a view to making further adjustments if necessary.

Lobbying

8. The Committee proposed Standing Order Rule changes so that the delegated powers to make further provision about Parliament's procedures could be commenced and used to confirm details of the operation of the Lobbying (Scotland) Act 2016.
9. We also took evidence from the Lobbying Registrar on the first Scottish Parliament Lobbying Annual Report 2019 and recommend that its successor committee takes evidence on future annual reports on the lobbying register.

Scottish Elections

10. The Committee scrutinised three Bills and a series of statutory instruments in relation to Scottish elections. We recommend that the Session 6 committee

responsible for elections conducts post-legislative scrutiny of the Scottish Elections (Franchise and Representation) Bill and the Scottish Elections (Reform) Bill, particularly in relation to the extension of the franchise.

11. The Committee also considered the Scottish General Election (Coronavirus) Bill and a number of statutory instruments related to the May 2021 election. The Committee recommends that the Session 6 committee with responsibility for elections reviews the management of the 2021 election, particularly regarding the impact of the Coronavirus pandemic on voting patterns, the uptake of postal ballots and voter turnout

Involving people in our work

12. We have sought to incorporate public engagement into our work where possible. In particular, our engagement with the Scottish Refugee Council on the Scottish Elections (Franchise and Representation) Bill and with organisations that engaged with the Parliament as part of our Resilience Inquiry provided valuable insights that informed our inquiry work. We recommend that our successor committee should aim to include public engagement, where appropriate, as part of its work.

The Parliament's practices and procedures

13. The Committee considered some of the recommendations contained in the report of the Presiding Officer's Commission on Parliamentary Reform (CPR).
14. In its report on [Standing Order rule changes](#) in 2019, the Committee proposed rule changes to implement a number of the recommendations made by the Commission on Parliamentary Reform. The effect of these rule changes was to:
 - Change the name of “Emergency Questions” to “Urgent Questions” to more accurately reflect the nature of the questions being asked and the importance of the timing of that question.
 - Remove the requirement for scripted diary questions for First Minister's Questions and formalise the practice whereby the Presiding Officer may, during First Minister's Questions, call any Member to ask a question, for example in relation to a constituency issue.
 - Provide for “committee announcements” to ensure that time is made available to any committee to make an announcement about matters relating to that committee's activities.
 - Provide for greater transparency when the Scottish Government proposes to legislate on the same proposal as a Member's bill and reduce the timescale within which the Scottish Government must legislate following its blocking of a final proposal for a Member's Bill (to either two years, or the end of the session, depending which is the shorter). The rule which allows the Scottish Government to stop a final

proposal for a Member's Bill by indicating that the UK Government has or will initiate legislation to give effect to the final proposal was also removed.

- Allow any member to request to speak on a business motion which sets out a programme of business for future weeks.
15. In addition, in response to the Commission on Parliamentary Reform's recommendations on portfolio and general questions the Committee considered that General Questions should be continued at 11:40 on Thursdays; that three portfolios of 20 minutes should take place each week, allowing each portfolio to be covered every three weeks; that the additional portfolio should take place from 2:30-2:50 on Thursday afternoons as proposed by the Parliamentary Bureau; and that the number of questions drawn for each portfolio should be reduced from ten to eight under the existing rule (with no need to suspend business if portfolios questions finish early).
 16. The Committee notes that in the context of the Covid-19 pandemic, there were some temporary changes to business patterns to adapt to the constraints on the Parliament meeting. We believe that there may be a value in reflecting on the impact of these changes and whether there would be a value in adjusting the structure of the parliamentary week in Session 6.
 17. There were also some recommendations made by the Commission on Parliamentary Reform that the Committee agreed could best be pursued in ways other than by making rule changes. For example, the Committee has kept a watching brief on the quality of accompanying documents and would recommend that its successor committee should continue this practice. It has also considered issues surrounding the responses to written questions, particularly the use of holding answers by the Scottish Government where it is unable to provide a response within 10 counting days a written parliamentary question being lodged. The Committee recommends that the quality and timing of written answers is an issue that its successor committee should take up with the new Government early in the new Session with a view to better defining minimum standards .
 18. The Commission on Parliamentary Reform recommended that the Standing Orders of the Parliament be reviewed towards the end of each session. In response to this recommendation, the Committee established a "log" of potential Standing Order changes and agreed a number of rule changes at the very end of Session 5. These included rule changes relating to the Rules on Private and Hybrid Bills, Rules relating to financial scrutiny and Rules on accompanying documents for emergency bills.
 19. A number of additional rule changes were agreed by the Parliament during the course of Session 5. These included:

- Revisions to Standing Orders to respond to the requirement in the Scotland Act 2016 for a “super-majority” in relation to legislation on particular protected subject matters.
 - A revision to Standing Orders to address the situation where a committee convener is absent for an extended period of parental leave.
 - Revisions to Standing Orders in 2018 to reflect the changes to the Scottish Parliament's budget scrutiny process, which were requested by the Finance and Constitution Committee.
 - A revision requested by the Equalities and Human Rights Committee to change its remit to include Human Rights on a permanent basis.
 - A revision to the admissibility criteria for petitions requested by the Public Petitions Committee.
 - A new rule to provide for urgent questions to the SPCB. This was proposed by Gordon MacDonald MSP and the Committee considered that there was merit in this proposal and developed a proposal for a new rule on urgent questions to the SPCB and selection criteria to be used by the Presiding Officer.
20. The Committee recommended a number of Standing Order rule changes as part of its Inquiry into the Resilience of the Parliament's practices and procedures in relation to its business. These included permissive changes to allow the Chamber and Committees to meet in a fully-virtual or hybrid format, as well as to vote virtually, and a provision to allow for temporary rule changes to be made. We recommend that our successor committee monitors the effectiveness of these rule changes, as well as the others made in the course of Session 6.
21. David Stewart MSP wrote to the Committee in February 2019 to ask us to consider introducing proxy voting. We considered this matter and recommended awaiting the outcome of the review of the House of Commons proxy voting scheme. However, in response to the Covid-19 pandemic, the House of Commons extended its proxy voting arrangements and the Scottish Parliament developed platforms to provide for the virtual participation of Members in Chamber and Committee business, including arrangements for voting virtually. The Committee therefore recommends that proxy voting be reconsidered by our successor committee in the wider context of the monitoring of the rule changes introduced to promote the resilience of the Parliament's practices and procedures.

Committee Bills

22. Two Committee Bills introduced by the Committee were passed by the Scottish Parliament in Session 5. The first was the Bill on financial assistance for opposition parties, which transferred responsibility for setting the terms of

the funding of nongovernmental political parties – the provision of so-called “Short money” from the Scottish Government to the Scottish Parliamentary Corporate Body. The second was a Bill to amend the process for complaints against MSPs set out in the Scottish Parliamentary Standards Commissioner Act 2002. The Bill sought to remove an admissibility requirement that a complaint be made within one year and to allow the Commissioner for Ethical Standards to investigate cases of alleged historic misconduct by MSPs towards their staff, thus putting Members’ staff on the same footing as other staff groups. We recommend that our successor committee considers monitoring the impact of these two pieces of legislation.

Conclusion

23. The Committee has summarised key areas of its work in Session 5 and made a series of recommendations that we hope our successor committee will consider.