



The Scottish Parliament
Pàrlamaid na h-Alba

Conveners Group

Agenda

2nd Meeting, 2021 (Session 6) Wednesday 27 October 2021

The group will meet at 12.30pm in Committee Room 2

1. Minutes of the previous meeting
2. Conveners Group work programme
3. Committee Debates
4. Selection of Stage 3 amendments
5. Next meeting details

The papers for this meeting are as follows –

- | | | |
|----|---------------------------------|--------------|
| 1 | Minutes of last meeting | CG/S6/21/1/M |
| 2. | Conveners Group work programme | CG/S6/21/2/1 |
| 3 | Committee Debates | CG/S6/21/2/2 |
| 4 | Selection of Stage 3 amendments | CG/S6/21/2/3 |

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Conveners Group

Minutes

1st Meeting, 2021 (Session 6) Wednesday 29 September 2021

Present:

Liam McArthur MSP, Chair of Conveners Group
Clare Adamson MSP, Constitution, Europe, External Affairs and Culture Committee
(Virtual)
Claire Baker MSP, Economy and Fair Work Committee
Siobhian Brown MSP, COVID-19 Recovery Committee
Ariane Burgess MSP, Local Government, Housing & Planning Committee
Jackson Carlaw MSP, Citizen Participation and Public Petitions Committee
Finlay Carson MSP, Rural Affairs, Islands and Natural Environment Committee
Joe Fitzpatrick MSP, Equalities, Human Rights and Civil Justice Committee
Neil Gray MSP, Social Justice and Social Security Committee *(Virtual)*
Richard Leonard MSP, Public Audit Committee
Dean Lockhart MSP, Net Zero, Energy and Transport Committee
Gillian Martin MSP, Health, Social Care and Sport Committee
Stuart McMillan MSP, Delegated Powers and Law Reform Committee
Audrey Nicoll MSP, Criminal Justice Committee
Martin Whitfield MSP, Standards, Procedures and Public Appointments Committee

Apologies:

Kenneth Gibson MSP, Finance and Public Administration Committee
Stephen Kerr MSP, Education, Children and Young People Committee

- 1. Introduction to Conveners Group:** Conveners made introductory comments on the strategic role of the Conveners Group and discussed developing a collaborative approach to scrutiny of cross-cutting Committee issues.
- 2. Meetings with the First Minister:** The Conveners Group agreed that the First Minister should continue to be invited before the group on a twice-yearly basis.

- 3. AOB:** The Group agreed that Deputy Conveners could be invited to attend on behalf of a Convener on a case-by-case basis where there was a relevant item on the agenda.
- 4. Next meeting details:** The Conveners Group agreed to meet on the last Wednesday of the month, as far as possible.

Date of Next Meeting: 27 October 2021

Contact details for the clerk

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Conveners Group

2nd Meeting, 2021 (Session 6), Wednesday 27 October 2021

Work Programme

Purpose of paper

1. The purpose of this paper is to invite Conveners to consider the Group's strategic priorities for this session.

Introduction

2. The Group will recall at the previous meeting that each Convener was invited to consider the Group's role and set out views on what the priorities should be in developing the Group's strategic function, as well as the Group's role in championing the work of committees over the current session.

3. Understandably, a large number of individual topics were covered. This reflects the diverse nature of the issues that relate to the workings of subject and mandatory committees. This aligns with how the Group has operated in the past, with a work programme that has historically been varied in nature: with a mix of operational, reactive and administrative issues, including adjudicating between bids by committees where demand outstrips supply. These issues will continue to be recurring items on meeting agendas.

4. But there is also a more strategic role in terms of the promotion of effective scrutiny by committees and it is this aspect of the Group's remit that is the focus of this paper. This paper aims to pull together the points from the discussion at the last meeting, focussing on where the Group can play a distinct leadership role within the Parliament.

5. Conveners are invited to consider the following themes and to agree a strategic leadership role for the Group:

- i. Cross-committee working
- ii. Diversity, Inclusion & Participation
- iii. Post-legislative scrutiny
- iv. Supporting Members as Parliamentarians

Theme 1: Cross-committee working

6. Cross-committee working was raised as a particular priority during discussions at the previous meeting. The Group acknowledged that policy

areas and remits have become increasingly complex over last 20 years. The cross-cutting nature of public policy means that there are many areas of scrutiny which would benefit from a cross-committee perspective.

7. The need for cooperation and coordination is therefore important for a number of reasons, including: avoiding unnecessary duplication; ensuring that issues do not fall between different remits and making sure that policy is considered in a holistic way, rather than through a departmental silo.

8. As discussed at the first meeting of the Group, bilateral communication between Conveners has a major part to play, as does very close working between the officials which support the work of individual committees. Structures have been put in place at an official level at the start of Session 6 to support this type of integrated scrutiny.

9. Although it is for individual committees to decide their own work programme, conversations between Conveners sharing knowledge, plans and approaches will help them make informed choices and trade-offs between future work.

10. This Group, as the place where all Conveners come together, could also take a more proactive role when it comes to innovating to find alternative and complementary ways to support parliamentary scrutiny, with a view to scrutiny bringing about more integrated public policy. These issues are discussed in more detail below.

Role of Conveners Group

11. Notwithstanding the importance of the bilateral approaches described above, it is suggested that there is a role for Conveners Group to take a more proactive role when it comes to the scrutiny of systemic issues, including championing innovative forms of scrutiny.

12. Coordinating scrutiny work like this can create a number of challenges. Coordination of committee work programmes as well as logistics around matters such as availability of members can be barriers to taking this work forward.

13. Committees are also clearly responsible for their own agendas and it is not for one committee to instruct another committee on its workload. It can therefore be a challenge managing the relationship between committees with a clear lead interest in a particular subject area and other committees who may also have an interest, while also encouraging cooperative joint working.

14. To overcome these barriers there needs to be the impetus for effective joint scrutiny work to be taken forward.

15. As a starting point the Group could make a statement to the effect that it considers joint work across committees to be a priority and that it will make every effort to facilitate this work. Making a commitment like this would

provide a starting point for the leadership required to support the aspiration of carrying out effective joint scrutiny.

16. The Conveners Group is invited to agree to make this commitment.

Awareness raising

17. To maximise opportunities for cross-committee working, committees also need to be aware of each other's work programmes and ongoing or future business that may create these opportunities.

18. There are good examples of joint committee working from previous sessions. One example is the inquiry in 2018 into the farmed salmon industry in Scotland which involved joint working between the Rural Economy Committee and the Environment, Climate Change and Land Reform Committee. This joint work came about through discussion between Conveners and officials.

19. The Group could be used as a forum for raising awareness of potential cross-cutting items of business like this to encourage more joint committee work of this nature.

20. One approach could be for Conveners to be invited to highlight to the Group any inquiries that their committee is considering taking forward that may be of a cross-cutting nature. It is not always obvious that particular committee remits are engaged in some scrutiny matters and so giving Conveners the opportunity to highlight ongoing or future scrutiny work would help to raise awareness.

21. Communication would continue at official level but this additional step would open up dialogue with other committees who may also have an interest in the subject area. This approach may also help to address some of the logistical challenges involved.

22. This information could be gathered on a regular basis and shared with the Group to facilitate discussion.

23. The Group is invited to consider this suggestion and other ways of raising awareness of potential inquiry topics.

Areas of joint scrutiny

24. The Group could also be used as a forum to coordinate scrutiny of specific items of business which engage the remit of a number of committees.

25. One example of this involves referral of legislation (primary and secondary) which engages more than one committee. Clerks and other officials work together to reach agreement on the allocation of these items of business. These bilateral conversations will continue to take place and any steps to encourage and improve communication across committee teams will continue on an ongoing basis.

26. There are also examples of more complex cross-cutting scrutiny, such as NPF4 which engages the remit of a number of committees. In the case of NPF4, given the longer timescales involved, it is possible for officials from across the relevant committees to work together to reach an agreed joint approach to this scrutiny work. This allows for the expertise from all relevant committees to be used effectively so that the various subject areas which the framework impacts on can be fully scrutinised.

27. A similar approach could be used when considering more complex pieces of legislation. To enhance this process, Conveners Group could be used as a vehicle to highlight the importance of particular items of business like this and also raise awareness amongst all committees with a view to encouraging and supporting coordination of this work.

28. There are various ways for cross-committee working to be facilitated. This includes setting up joint committee meetings, or appointing reporters to attend relevant committee meetings. Joint public engagement activities could also be coordinated to ensure that a range of issues are explored as part of the activity. Committees could also commission joint research.

29. The Group could also consider holding occasional thematic meetings where issues of a cross-cutting nature could be raised, perhaps with expert panels invited to speak to the Group. In its twice-yearly session with the First Minister, the Group may wish to choose one or two cross-cutting themes as the basis for its questioning.

30. Building on this type of approach, another option for innovation would be for the Group to identify those bills which are notably cross-cutting in nature and where the traditional approach to legislative scrutiny might not, of itself, be sufficient to enable integrated scrutiny of the proposed policy outcomes.

31. In these circumstances, Conveners Group may wish to provide additional support to the lead and other committees to ensure that a holistic approach is taken (including some of the options covered in paragraph 28 above).

32. The Group could pilot this approach by identifying one Bill from the current legislative programme as being suitable to this type of enhanced form of scrutiny. The Group is invited to endorse this approach, with a view to an options paper being drawn up consideration at the Group's next meeting.

Session-wide issues

33. Cross-committee scrutiny also involves session-wide issues which impact on most, if not all, committee remits. **At the previous meeting Conveners encouraged colleagues to focus on net zero and post-EU issues.**

34. Conversations have already taken place between the Convener of the NZET Committee and other Conveners of committees where Net Zero will have a clear impact seeking to coordinate scrutiny of these issues.

35. However, net zero is also an issue which impacts on all remits and so is something on which all committees will have an interest. To help to facilitate this work, committees were made aware at their business planning days of a sustainable development impact assessment tool which could be used to inform all scrutiny through the lens of net zero.

36. This is something for each committee to consider but Conveners have a clear role in deciding whether to adopt this approach and whether it could be applied in relation to other priority areas that the Group identifies.

37. Post-EU scrutiny is also a particularly complex area of work and impacts on the remits of a number of committees. At this point in the session, the new devolved landscape is evolving and the role of the Parliament within this has still to be defined.

38. Work is being taken forward on behalf of the CEEAC Committee with the Scottish Government to establish a scrutiny framework for post-EU issues to be considered. This will be a complex and lengthy process and the outcome will be for the CEEAC Committee in the first instance.

39. However, it is a matter which affects the Parliament as a whole and will impact on the remits of other committees. The Conveners Group will have a role here in ensuring that this scrutiny work is carried forward.

40. Similarly, interparliamentary working and how this can be taken forward is currently being considered by officials. The Group will be kept up to date on progress in this area.

41. Conveners are invited to note the current position with regard to Net Zero and post-EU issues. The Group is invited to agree options for its role in supporting these session-wide issues at a future meeting.

Theme 2: Diversity, Inclusion and Participation

42. The Group recognised the benefit of committees hearing from a greater range of voices when carrying out inquiry work. Conveners agreed to prioritise this work this session.

43. Officials in the Participation and Communities Team (PACT) support each committee, with a role to take forward participation work which enhances the quality of scrutiny. A number of Conveners recognised the good early work that has been done in relation to business planning days and the formation of initial work programmes.

44. It is recommended that the Group receives a briefing from PACT at a future meeting that would both cover current developments and facilitate discussion as to how the Group can support other initiatives in this area.

45. At the first meeting, there was some discussion around the diversity of witnesses. As noted previously, work was carried out in the previous session into improving the diversity of witnesses appearing before committees. The first phase of the exercise has now concluded

46. While good progress has been made in this area, further work is required. In particular, to ensure consistency around how data is gathered and recorded. Also, to consider ways in which to engage hard to reach communities.

47. Progress has been made on this work by the Senedd and the House of Commons. As part of consideration of this work, Scottish Parliament officials will carry out comparative work with these institutions to consider lessons learned and whether there are any practices which can be shared.

48. Conveners Group will be kept up to date on progress in this area and will be invited to take action as necessary.

Theme 3: Post-legislative scrutiny

49. The Group has also identified post-legislative scrutiny as a priority this session.

50. Work is being carried out to consider ways to take this work forward. This includes consideration of issues such as barriers to post-legislative scrutiny work and ways in which to allow it to be carried out more easily.

51. This could also include simple measures such as raising the profile and the importance of this work on the radar of committees. The Conveners Group would therefore have an important role to play here.

52. Issues to be considered also include how to identify what areas of policy would benefit from post-legislative scrutiny. As an approach to this, Conveners Group could be invited to consider a short list of subject areas which could be agreed as a priority. Consideration could also be given to use deliberative democracy tools to decide which policy areas would benefit from post-legislative scrutiny.

53. Another issue to consider is what options are available to committees once a piece of post-legislative scrutiny has been completed.

54. If further legislative change is required, a committee bill could be brought forward. Alternatively, the Scottish Government could be invited to commit to bringing forward any necessary legislation in response to inquiry's conclusion. This is something that could be explored with the Minister for Parliamentary Business.

55. The Group may want to use this as an opportunity to examine ways in which to follow-up on inquiry recommendations made by committees previously.

56. A working group of officials has been set up to explore these issues in more detail. It is hoped that this group could meet and come up with some recommendations relatively quickly.

57. The Group is invited to agree to consider an options paper as to how post legislative scrutiny arrangements can be improved at a future meeting.

Theme 4: Supporting Members as Parliamentarians (CPD)

58. The Group has expressed an interest in continuous professional development (CPD) for Members.

59. A number of induction and CPD sessions have been organised for new Members since they were returned in May. This has included the following:

- The initial sessions held in the Chamber on parliamentary procedures and the legal responsibilities of Members
- Legislation training
- Sessions delivered by the Chamber desk
- Non-Governmental Bills unit sessions on Members' Bills
- Web and Social media training
- Speechwriting courses
- Media training on how to handle interviews
- Introductions to the work of various offices in the Parliament
- Culture of Respect training

60. Conveners may wish to consider whether there are any CPD courses that they consider might be helpful in supporting the work in their committee.

61. In previous sessions, trainers have worked with individual Committees on how they can conduct scrutiny through evidence sessions. This has covered question techniques, the coordination of evidence sessions and how to pursue issues with witnesses. In addition, the legislation team have provided legislation training to committees before their first Stage 2.

62. Conveners are invited to consider if there is any CPD training that they think their committee would find valuable. The training could be offered to the Committee as a whole or to individual members. Possible CPD training includes:

- Sessions on optimising scrutiny, particularly question techniques

- Sessions on parliamentary procedures: committee procedures, legislation, standards issues (for example, the confidentiality requirements in relation to Committee work)

63. The Group is invited to note the CPD which has been organised and to consider whether there are other areas that would be of value.

Recommendations

64. The Conveners Group is invited to note the contents of this paper and agree that a Strategy for Session 6 should be based around the four themes identified in this paper.

**Clerk to the Conveners Group
October 2021**

Conveners Group

2nd Meeting, 2021 (Session 6), Wednesday 27 October 2021

Committee Debates

1. As Conveners will be aware, the Parliamentary Bureau is obliged to schedule 12 half days of committee business in each parliamentary year. Committees are invited to put forward requests for these debates and the Conveners Group is responsible for allocating slots (although in practice this is generally handled by officials with the Group only being consulted where there is competition for slots or potential contention to be resolved).
2. Committee debates have the potential to highlight the work of committees to the wider Parliament. They can therefore be a powerful tool for raising awareness of committee business.
3. During its discussion at the previous meeting, the Group agreed that consideration should be given to reviewing the operation of committee debates and finding ways to engage members beyond the membership of the committee leading the debate.
4. As it is early in the session, committees are still in the process of developing their work programmes and only one formal request has been received to date.
5. The request has been brought forward by the Local Government, Housing and Planning (LGHP) Committee. It has raised the possibility of leading a debate on the retrofitting of buildings to achieve net zero. While this is a subject area within the responsibility of the LGHP Committee, this also has the potential to engage the remits of a number of other committees.
6. This option has the potential to be used as a means of raising the profile of committee work while also engaging the Parliament more widely across a range of subject areas.
7. This approach could also be another option for promoting and facilitating cross-committee working more generally. Issues raised in debates like these could feed into any inquiry initiated by a committee and may also prompt other committees to engage in joint work.
8. Another potential is to use committee debates for the SPPA Committee to consult with the Parliament on possible changes in procedures or working practices. In the past the Committee conducted written consultations on possible procedural changes. Committee debates would be a way of engaging more Members on these matters and would help to achieve a parliamentary perspective on these issues.

9. **Conveners Group is invited to approve the request by the LGHP Committee to lead a debate.**
10. **Conveners Group is also invited to consider what other approaches may work well as committee debates, particularly in the first year of the parliamentary session.**

**Clerk to the Conveners Group
October 2021**

Conveners Group

2nd Meeting, 2021 (Session 6), Wednesday 27 October 2021

Standing Orders Rule on selection of amendments

Introduction

1. This paper outlines Rule 9.8.4 of Standing Orders and the corresponding Guidance on Public Bills criteria for selection of amendments at Stage 3 by the Presiding Officer.
2. It follows a request for a discussion at the Conveners Group meeting on the process for selection of amendments at Stage 3.
3. Officials from the Legislation Team will be available at the meeting to answer any queries Conveners may have on the procedures.

Selection procedures and criteria

4. Rule 9.8.4 states that the Presiding Officer may select, as the Presiding Officer sees fit, those amendments which are to be taken at Stage 3 from amongst the admissible amendments of which notice has been given. Paragraphs 4.71 and 4.72 of the Guidance on Public Bills outlines selection of amendments.
5. There is no selection of amendments at Stage 2 or Reconsideration Stage, and all admissible amendments may be debated.
6. The purpose of selection is to ensure that proceedings on the Bill can be completed in a reasonable time and to avoid repeating unnecessarily discussion of issues fully debated at Stage 2.
7. In making the selection, the Presiding Officer aims to apply the criteria as set out in the Guidance for Public Bills (striking a balance between them, if need be). These are outline below.
8. Amendments that are technically defective and if agreed to would leave the Bill in need of further amendment should not be selected. Since Stage 3 is the final amending stage, there is less opportunity to correct any defective drafting to ensure workable legislation.

9. Amendments which were considered at Stage 2 but which the debate made obvious that there was little real merit in the amendment or little support for it should not be selected.

10. Amendments that were fully considered at Stage 2 may still be selected if: the wording of the amendment has been revised to take into account criticism made at Stage 2; the member in charge gave an undertaking to reconsider the issue at Stage 3; the response of the member in charge at Stage 2 left genuine doubt as to the attitude of the member in charge to the issue; there has been, or appears to have been, a change in Government policy on the issues, or a relevant material development such as new evidence submitted from a stakeholder.

11. Selection may be used to reduce the number of alternative or overlapping amendments. But there need be no selection among a number of valid alternative amendments (which would in any case be grouped and debated together).

12. The fact that an amendment was disagreed to on division at Stage 2 is less important than the nature of the issue raised, and the overall level of support expressed in debate should be the guide. Continued cross-party interest and support in the policy area may therefore be a reason in favour of selection.

13. All Government amendments are normally selected. With Members' Bills or Committee Bills, member-in-charge amendments are also normally all selected. Committee amendments (i.e. amendments lodged by the convener of a committee on behalf of that committee) are normally selected.

14. The decision of the Presiding Officer on selection is final and reasons for selection are normally not given. It is for the Presiding Officer to strike the balance the Presiding Officer sees fit between time management and allowing full debate of all of the issues of interest to the Parliament.

Recommendation

15. The Conveners Group is invited to note the contents of this paper.

Legislation Team
15 October 2021