

To: Business Committee
From: Business Committee Secretariat
Date: June 2012

Review of committee structure

Purpose

1. Business Managers are invited to consider the information provided on experience of the committee structure during the first year of the fourth Assembly.

Action

2. The Business Committee is asked to consider the recommendations in paragraphs 23, 31 and 40 and to agree its approach to timetabling the Public Accounts Committee and Committee for the Scrutiny of the First Minister.

Background

3. On 21 June 2012, the Business Committee agreed on the titles, remit and sizes of committees for the Fourth Assembly. They agreed that the subject areas which fall within the remits of committees would be issued in a report to give clarity about the lead committee(s) responsible for any given area. It would also set out guidance / any conventions relating to the role of the committees. The Business Committee's report also contained a role description for committee chairs, setting out its expectations for how they would operate.
4. The Business Committee agreed to review how well the structure is working after around 12 months, and that the impact of the decision to mainstream European matters would be an important part of the review.

The model selected - Dual legislative and scrutiny committees with the capacity to undertake both functions simultaneously

5. A relatively small number of subject-based committees have been established with sufficiently large memberships to allow them to undertake work in smaller groups so as to allow policy and legislative work to take place simultaneously.

Committee	Membership
Public Accounts	8
Finance	8
Constitutional and Legislative Affairs	4+Chair (DPO)
Petitions	4
Standards of Conduct	4
Children and Young People	10
Communities, Equality and Local Government	10
Enterprise and Business	10
Environment and Sustainability	10
Health and Social Care	10
Committee for the Scrutiny of the First Minister * (established Spring 2012)	4+Chair (DPO)
Total	84

6. An important aim was to benefit from the development of subject specialism amongst Members that would be brought to bear on the scrutiny of both legislation and policy. The model maintains separate committees for some of the specialist functions required by the Standing Orders and requires fewer committee places in total, compared with the third Assembly.
7. It was also hoped that the simpler structure would make it easier for external stakeholders to engage with committees on relevant legislation and policy.
8. In order to accommodate the workload generated by broad portfolios and legislative/policy scrutiny responsibilities, the weekly timetable provides significant blocks of time for the use of each committee (for example, 1½ days every fortnight for each of the 5 subject committees to schedule their activity). The model also requires committees to self-manage a demanding and varied programme of work and to make greater use of formal sub-committees, informal groups and rapporteurs etc. as well as continued operation in full committee.
9. It was anticipated that the risks associated with the agreed model would be:
 - less certainty for Members around the demands on their time, with advance notice of committee meetings being less certain and a

need to keep significant periods of time free for potential workload.

- legislation not being spread uniformly between subject areas so some committees having a heavier workload, either delaying legislation or crowding out scrutiny.
- being unable to respond quickly to legislative scrutiny, impacting on legislative timetables

10. Critical too would be prior notice of legislative demands so that committee time and resources were not over-committed to other work.

Experience of the system in operation

11. There have been 4 Bills introduced so far in this Assembly: The Local Government Byelaws, and Official Languages Bills were both remitted to the Communities, Equality and Local Government Committee; the School Standards and Organisation Bill, to the Children and Young People Committee, and the Food Hygiene Bill to the Health and Social Care Committee.
12. Eighteen committee inquiries have already been completed, with a further twenty two currently underway. Although we are only one year into a five year Assembly, these already cover a broad cross section of subject matter. Commission staff have received some anecdotal feedback received from external organisations commenting on perceived 'gaps' in some significant areas though these relate more to the choice of particular inquiry topics in the first year rather than to the fundamental remit of committees.
13. Committees have also increased the amount of external expertise they have drawn on, with more expert advisers being appointed in 2012 than in any previous year. These advisors are drawn from a range of fields, including academia and specialist organisations.

Handling legislative work

14. As yet only one Bill has completed committee scrutiny stages, and as such it is possibly a little premature to base any decisions about the committee structure or timetable on our experience so far, but there are a few observations to make.

15. The Communities, Equality and Local Government Committee have had a heavy legislative workload this year. Since November last year they have considered two Government Bills, two LCMs and are about to have technical briefings on three Government White Papers. At the same time the Committee has completed four inquiries, with another still in progress. The Committee has used Task and Finish groups for some of this work, but not for the Bills it has considered. The Committee has not utilised all of its meeting slots and the evidence suggests that they have managed the balance between their legislative and policy scrutiny.
16. The Health and Social Care Committee faces a similarly challenging period from the Autumn onwards. They are currently considering the Food Hygiene Rating (Wales) Bill and are expecting three further Bills in the Autumn/Spring terms which will overlap (Human Transplantation, Social Services, and Mick Antoniw's Bill on Asbestos (Recovery of Costs))
17. Two of these Bills (Human Transplantation and Social Services) are likely to require Stage 1 consideration at about the same time. Alongside these the Committee is likely to want to continue with some policy scrutiny work, and consideration of the budget will fall during the Autumn term.
18. In the case of both CELG and HSC it is clear that continuing to carry out policy scrutiny and legislative scrutiny is challenging. The Committees are receiving earlier notice of the timing of Bills but have little opportunity to influence this and must adjust their work programmes as the timetables for Bills becomes clearer - usually only once the Business Committee has agreed the timetable proposed by the Business Committee.
19. In future years similar problems are likely to occur for other committees given the Government's future legislative programme. For example, there are still a number of potential Bills that fall within the CELG remit, and complex Bills on Sustainable Development, the Environment and Planning are planned for years three and four of the Government's legislative programme - all within the remit of the Environment and Sustainability Committee.

Other legislation

20. While committees receive some forewarning on the introduction of Bills the same is not the case for Legislative Consent Motions (LCMs), or other subordinate legislation referred by the Constitutional and Legislative Affairs Committee such as those arising from the Public Bodies Bill. On LCMs, in particular, the timetables to date have been extremely short, with Committees generally having only a few weeks to consider them. The Government has recognised this and has indicated that they hope to be able to provide more time for committee consideration of LCMs arising from the UK Government's latest legislative programme. The current Business Committee Consideration of Standing Orders 29 & 30 and the arrangements for tabling LCMs and related motions should go some way to improving this situation.
21. The committees considering Bills so far have agreed to carry out their work in full Committee and there appears to be little appetite for using sub-groups for consideration of Bills given the procedural nature of the process.
22. When agreeing the remits for committees the Business Committee considered the financial scrutiny of Bills and agreed that the Finance Committee should be selective, focusing its scrutiny on Bills of greatest financial significance, and take a strategic overview of financial matters relating to legislation.
23. In practice, the intention of the Business Committee a year ago seems to be being reflected in practice. The subject committees have taken a holistic view, including financial scrutiny in their work at Stage 1. The Finance Committee makes decisions on its involvement in Bills on a case by case basis.

Recommendation 1

Given that the key feature of the committee system – the dual legislative and policy scrutiny role – has yet to be tested in earnest, it is recommended that the Business Committee keeps it under review but does not make fundamental change at this point.

European issues

24. As part of the fourth Assembly committee structure a decision was taken to mainstream European affairs across the work of all committees rather than having a dedicated European/ External Affairs Committee. This represented significant change with the past.
25. In practical terms this means the five thematic policy/legislation committees lead on European issues falling within their remit, with an appreciation that the highest level of activity would be likely to fall within the scope of two Committees:
- Enterprise and Business Committee
 - Environment and Sustainability Committee
- In addition to this, the Constitutional and Legislative Affairs Committee is responsible for subsidiarity monitoring checks.
26. Six inquiries on key European policy and funding issues to Wales have already been undertaken:
- Future EU Structural funds (Enterprise & Business Committee)
 - Reform of Common Agricultural Policy (Environment & Sustainability Committee)
 - Reform of Common Fisheries Policy (Environment & Sustainability Committee)
 - Public Procurement Directives (Enterprise & Business)
 - Horizon 2020: EU Research and Innovation Framework Programme (Enterprise & Business Committee)
 - Effectiveness of current EU Structural Funds in Wales (Finance Committee)
- A 'European dimension' has or is likely to feature in a number of others inquiries.
27. The first subsidiarity challenge by the Constitutional & Legislative Affairs Committee under the 'early warning mechanism' introduced by the Treaty of Lisbon, and consequently the first test of how the relationship with the UK Parliament would work in this process, has taken place.
28. In order to ensure a co-ordinated and joined up approach informal meetings have been introduced between the Presiding Officer and committee Chairs, sometimes involving others, such as Welsh MEPs or the UK Ambassador from the country holding the EU Presidency. At the

level of officials, the Assembly's EU Office is providing a 'co-ordinating' role, working with the committee clerks, lawyers and researchers, and liaising with committee Chairs, to ensure that the committees are aware of all key strategic issues relevant to Wales. Dedicated EU update sessions are provided to committees by the EU Office.

29. This approach to engaging with EU affairs has given the Assembly a high visibility in Brussels (in particular in comparison with other 'regional parliaments'), and has been highlighted by the European Commission, the Committee of the Regions and MEPs as an effective and distinctive way for regional parliaments to engage in the EU legislative process. Northern Ireland Assembly in particular has looked to the Assembly as a model of best practice, to learn from in reviewing its support for participation in EU affairs.
30. Despite some initial scepticism about mainstreaming EU affairs, the approach has been praised by the Welsh MEPs (as was clear at the informal meeting on 2 May and in various media articles e.g. Twitter and Western Mail), and there has been positive feedback by Welsh stakeholders.
31. There are three areas that used to form part of the routine work of the European and External Affairs Committee that have not become practice in this Assembly. All relate to updates and general awareness rather than to specific scrutiny of Welsh Government activity and could, in any case, be undertaken within the current structure if Members wished:
 - Updates on the broader activities of the Welsh Government in engaging in EU and international affairs;
 - Formal updates on the broader activities of the Welsh representatives in European and international bodies: the Welsh MEPs, the Committee of the Regions representatives, the Council of Europe, the British Irish Parliamentary Assembly, the Commonwealth Parliamentary Assembly, and the European Economic and Social Committee);
 - Information from the European Commission's Office in Wales on its work on the ground.

Recommendation 2

Given the recognised success in mainstreaming European issues, it is recommended that the Business Committee does not make fundamental change at this point.

Committee Chairs

32. At the start of the Assembly, the Business Committee's recognised the significant role that committee chairs play in the delivery of the Assembly's strategic scrutiny and legislative functions by setting out the specific responsibilities that they carry. In so doing, the Business Committee took a step not yet attempted by the other parliaments of the UK.
33. At least one committee chair has indicated that they would welcome feedback from their committee members on their performance in delivering the objectives set by the Business Committee.
34. It is suggested that the Business Committee invites feedback from chairs and Members on the value of the role description so that it can consider if any changes are desirable. The Committee may also wish to consider encouraging other Chairs to use the role description as the basis for private discussion and feedback with committee Members.

Committee workloads and the timetable

35. During the first year of the Fourth Assembly (to the beginning of June 2012) committees have met for slightly more time than committees in the equivalent period of the Third Assembly. This is whilst having fewer committees, and with very little legislative work having been undertaken to date. During the Third Assembly, Legislation Committees would meet only when they had a specific piece of legislation to consider. Legislation Committee meetings accounted for about a quarter of committee business in the first year.
36. The emerging pattern suggests that Fourth Assembly committees are seeking to be active, and to make the most of time available to them. Approximately 75% of time available to committees is already being used for formal business, with informal meetings and visits taking place in addition to that.

37. Use of formal sub-committees has increased in comparison with the Third Assembly. They have taken the form of Task and Finish Groups allocated specific work. However, as yet there are no examples of these being used to enable small groups of Members from one committee to be undertaking different pieces of work simultaneously.
38. The basic committee timetable in the Fourth Assembly has been designed to minimise clashes of membership whilst providing opportunities for:
- 1 ½ days meeting days per fortnight of the five subject committees
 - weekly meetings of Business Committee, Constitutional and Legislative Affairs and Public Accounts Committee (increased from fortnightly in April);
 - fortnightly meetings of: the Finance and Petitions committees, with additional slots available for budget consideration;
 - meetings of the Standards of Conduct Committee as necessary; and
 - Assembly Commission meetings

Additional demands

39. In addition to the meetings already programmed we are aware of a number of additional pressures that need to be accommodated:
- Public Accounts Committee - the Committee is still experiencing difficulties with the logistic constraints of its current Tuesday morning timeslot. Although additional time was provided by increasing meeting slots to weekly, committee Members consider that this continues to limit their capacity to carry forward the Committee's responsibilities. In particular, greater flexibility is necessary for the appearance of key witnesses for inquiries, such as the Welsh Government's principal accounting officer (who normally attends cabinet meetings from 9:00-10:30 on Tuesday mornings). In addition to routine work, during the autumn term the committee will be considering the Wales Audit Office's draft estimates for the 2013-2014 financial year, and potentially will have responsibility for considering the Welsh Government's audit bill.
 - Committee for the Scrutiny of the First Minister - established April 2012, with an expectation of meeting once per term at most. Able to meet on a Thursday alongside CYP/CELG/E&S without generating membership clashes.

- Constitutional and Legislative Affairs Committee – some Members of the Committee have expressed a preference not to meet on Monday. Monday meetings place restrictions on the potential membership of the Committee and also impact on their constituency and wider responsibilities. Substitution of membership is therefore commonplace and semi-formalised in some cases. The need to accommodate Member’s travelling arrangements also means that meetings start later than is desirable which delays the amount of time available to complete their work.

40. The level of take-up of allocated timetable slots does not suggest that committees are over provided with time. Options available to provide for the needs set out above would include continuing to conduct meetings on Monday afternoons, after plenary on Tuesday/Wednesday or during plenary in non-Government time.

Recommendation 3

Fundamentally the timetable works well, providing committees with the time they need. The Business Committee has been asked by the Public Accounts Committee to provide it with a regular, and longer, slot within the timetable. The Business Committee also needs to build in time for the Committee for Scrutiny of the First Minister and, though no formal request for a change of slot has been received, consider the challenges faced by the Constitutional and Legislative Affairs Committee. Options are provided below.

Current timetable

Week 1

Monday pm	Constitutional and Legislative Affairs
Tuesday am	Business Committee Public Accounts Petitions
Wednesday am	Children and Young People Communities, Equality and Local Government Environment and Sustainability
Thursday – full day for committee business	Enterprise and Business Health and Social Care <i>Assembly Commission</i>

Week 2

Monday pm	Constitutional and Legislative Affairs
Tuesday am	Business Committee Standards of Conduct (when needed)
Wednesday am	Finance Enterprise and Business Health and Social Care
Thursday – full day for committee business	Children and Young People Communities, Equality and Local Government Environment and Sustainability

Public Accounts Committee

Current	every Tuesday morning
Option 1	Week 1 Thursday morning* Week 2 Tuesday morning
Option 2	Week 1 Monday afternoon Week 2 Tuesday morning
Option 3	every Monday afternoon

* creates clashes for D Miller and L Whittle with HSC Committee. These would need to be resolved through membership changes. Alternatively other committees could be re-timetabled, but this would require membership changes for at least five Members on a number of other committees.

There is not an option simply to add the PAC to timetable slots that already house three large committees as the Labour Group has insufficient Members available for the number of seats that would need to be filled.

Committee for Scrutiny of the First Minister

Current	not scheduled (new committee)
Option	on a Thursday alongside CYP/CELG/E&S