



The Scottish Parliament
Pàrlamaid na h-Alba

Guidance on Committees

Stiùireadh air Comataidhean



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Foreword

This is one of a number of volumes of Guidance published by the Scottish Parliament, each one covering a distinct area of Parliamentary proceedings.

The Parliament was established by the [Scotland Act 1998](#), which includes some provision about committees. Further rules about the establishment and operation of committees are set out in the Parliament's [standing orders](#) (particularly Chapters 6 and 12).

The aim of this Guidance is to explain how, within the parameters set by the Act and the standing orders, committees operate in practice. It describes the various types of committees that have been established and the wide range of work they undertake.

Where what the Guidance describes has a source in the standing orders, the relevant Rule is mentioned in parentheses. Footnotes provide additional detail (including examples) and sources. Annex A includes a list of key terms used in the text, together with definitions.

The Guidance is primarily intended as a source of reference for MSPs and Parliamentary staff but should also be useful for anyone wishing to follow committee proceedings or who wishes to contribute to the work of the committees by, for example, submitting evidence or acting as a committee adviser.

Anyone wishing to obtain detailed information about the work of individual committees should refer to the [Committees](#) pages on the Parliament's [website](#).

This Guidance is published only in electronic format and every effort will be made to ensure that it reflects current practices and procedures.

If you have any comments on committee procedure, or on this Guidance, please send them to:

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For information in languages other than English or in alternative formats (for example Braille, large print or audio), please send your enquiry to Public Information, The Scottish Parliament, Edinburgh, EH99 1SP.

You can also contact Public Information by telephone on 0800 092 7500 (freephone) or 0131 348 5000 or in British Sign Language (BSL) through [contactSCOTLAND-BSL](#).

Alternatively, you can email info@parliament.scot or text 07786 209888. Written correspondence in any language is welcomed.

Part 1: Introduction and background

1.1 The Scottish Parliament consists of 129 elected representatives (MSPs), whose role is to pass laws, hold the Scottish Government to account and debate matters of importance to the people of Scotland. Much of its business is conducted at plenary meetings held in the Parliament Chamber. However, the range and complexity of the issues for which the Parliament is responsible mean that it could not adequately fulfil its functions through plenary proceedings alone. Not only is there not enough time in the week for all business to be dealt with in plenary, but the Chamber is not an appropriate forum for some types of scrutiny.

1.2 In common with nearly all other modern parliaments, therefore, the Scottish Parliament relies heavily on committees to carry out a large proportion of its business.

1.3 Parliamentary committees, like those in other organisational contexts, are subsidiary bodies whose members are selected as a representative sub-set of the whole, to which they report and are ultimately accountable. Nevertheless, within the remit set for them, and subject to carrying out specific tasks referred to them, committees generally have autonomy to decide on their own ways of working, and to initiate work of their own choosing. In this way, they can develop a pro-active as well as a reactive role, shaping policy as well as responding to it.

1.4 Committees don't just increase a Parliament's capacity to scrutinise government and hold it accountable, they also change the nature of how it does so. Because they bring small groups of MSPs together to discuss issues seated round a table, committee meetings are inherently more conducive to collaboration and compromise than set-piece debates in the Chamber, in which members stand to deliver their speeches surrounded by party colleagues. Over time, as members of committees get to know each other, listen to the evidence presented to them, and build an expertise in the subject-matter, they develop a collective identity and purpose that sits alongside their existing party allegiances. This, in turn, makes it easier for them to achieve the degree of consensus needed if their reports are to carry weight and achieve their purpose of promoting better policy-making and improving the quality of legislation.

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Part 1: Introduction and background

1.5 The importance of an effective committee system was recognised at an early stage in the long process that led to the creation of the Scottish Parliament in 1999.

1.6 The architects of devolution agreed early on that any new Parliament should be unicameral (i.e. have a single chamber) and envisaged a strong committee system, together with a proportional electoral system, taking the place of a second chamber in providing checks and balances and guarding against the risk of executive dominance.

1.7 Accordingly, the Scottish Constitutional Convention, in its 1995 blueprint for devolution, proposed that the Parliament should “operate through a system of powerful committees which are able to initiate legislation as well as to scrutinise and amend government proposals, and which have wide-ranging investigative functions”.¹ This approach was echoed in the UK Government’s 1997 White Paper², which set out the model for devolution that was endorsed in the referendum at the end of the same year, and translated into law by the Scotland Act 1998.

1.8 The Consultative Steering Group (CSG), established to recommend in detail how the new Parliament would work, further developed the committee-based model, adding innovations of its own. In particular, it called for “all-purpose committees” combining the roles of House of Commons departmental select committees and “standing” committees on Bills. These committees would be able to consider and report on the policy and administration of the Scottish administration, conduct inquiries and scrutinise legislation; unlike Westminster committees, they would also be able to initiate legislation.³

¹ [Scotland’s Parliament, Scotland’s Right](#) (1995), page 26. Available on the Parliament’s website under About / History of the Parliament / The path to devolution.

² *Scotland’s Parliament* (Cm 3658, 1997), paragraph 9.10.

³ [Shaping Scotland’s Parliament](#) (1998), Section 2, paragraphs 9 and 13. Available on the Parliament’s website under About / History of the Parliament / The path to devolution.

Guidance on Committees

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1.9 The CSG also recommended a requirement in standing orders to establish committees with functions “fundamental to the running of the Parliament”.⁴ It proposed that all committees would have power to call for witnesses and documents, appoint reporters (based on the continental model of “rapporteurs”), conduct joint meetings and establish sub-committees.⁵

1.10 These CSG recommendations were translated into the first set of standing orders for the Parliament when it was established in 1999, and remain the basis for committee procedures to this day.

⁴ [Shaping Scotland's Parliament](#), Section 3.2, paragraphs 60-92. This was translated into the Rules that require the establishment each session of the “mandatory committees” described in paragraph 2.8.

⁵ [Shaping Scotland's Parliament](#) (1998), Section 2, paragraphs 14-16; Section 3.2, paragraphs 94 and 102-106.

Part 2: Establishment of committees

Establishing new committees at the beginning of a session

2.1 After each general election, Chamber business can resume immediately, but committee business cannot begin until committees have been established by the Parliament. For both political and practical reasons, it is generally preferable to establish all the sessional committees (those established for the duration of the Parliamentary session – see paragraph 2.20) together. This requires discussion among the parties about the number and size of committees, their remits, and the distribution of convenerships (and deputy convenerships).

2.2 The Scottish Parliament is a relatively small legislature, meaning there is always a trade-off between the number of committees that can operate at one time and the number of members on each committee. Having fewer committees means giving each one a wider remit, with the risk that they struggle to give detailed attention to all the topics covered; but if there are more committees with more focused remits, they must either have fewer members, or more MSPs must be members of two or more committees.

2.3 Subject committee remits are largely based on the portfolios of Ministers. This approach gives clear lines of accountability when committees are scrutinising the policy and performance of the Scottish Government. However, it can lead to some committees having excessive workloads, given the volume of primary legislation that can be associated with some portfolios (notably justice), which can make it difficult for those committees to pursue own-initiative work. There can also be general topics (such as public administration) that it is desirable to include in the remit of a committee even though it doesn't fall within the portfolio responsibilities of a single Minister.

2.4 Because of the links between them, it is difficult to finalise committee remits until Ministerial portfolios have been decided on by the incoming administration. Each party also needs time to consider which members to nominate for each committee; and Parliament staff need time to consider the practical implications – for example, to ensure that all the committees proposed can be given regular meeting slots in the rooms available at Holyrood, and can be provided with the support they require.

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2.5 All this typically takes at least a month to resolve. Accordingly, following an early-May election, it is likely to be early or mid-June before committees are formally established and able to hold their first meetings. The aim is to allow each committee to hold at least one or two meetings prior to the summer recess in order to deal with any early priority business and to agree a longer-term work programme. This, in turn, allows parliamentary staff to make preparations over the summer so that the committees can be operating at full capacity from immediately after the recess. This includes offering briefing sessions to committee members to help them get up to speed with the subject-matter. Committees may also use the recess to hold an informal business planning day (see also paragraph 4.19).

Motions to establish committees

2.6 Committees are normally established on a motion of the Parliamentary Bureau. It is also possible for an individual member, by motion, to propose the establishment of a committee (Rule 6.1.2), but in practice, a motion by an individual member would require the support of the Bureau which would lodge the relevant motion for decision by the Parliament.

2.7 Motions to establish committees need to specify, for each committee:

- the committee's name
- the remit (to the extent this is not already specified in the standing orders)
- the duration of the committee (if this is not already specified in the standing orders)
- the MSPs who are to be members of the committee
- the MSPs who are to be party substitutes on the committee (from parties eligible to appoint substitutes and which have opted to do so)
- the party affiliation of the members on the committee who are eligible to be chosen as convener (and, if the committees are to have deputy conveners, the party affiliation of the members eligible to be chosen for that office).

2.8 There is no requirement for all of these elements to be included in a single motion. For example, an initial motion may be limited to committee names, remits,

durations and the party distribution of convenerships (and, usually, deputy convenerships); with a follow-up motion specifying memberships. Committee substitutes may also be appointed in later motions (sometimes after committees have begun to meet).⁶

Types of committee

Mandatory committees

2.9 Rule 6.1.5, together with Rules 6.4 to 6.11, requires that, for each session of the Parliament, seven “mandatory” committees must be established to deal with the following:

- Standards, Procedures and Public Appointments (the Parliament’s procedures, MSPs’ conduct, public appointments and the regulation of lobbying) – Rule 6.4
- Finance (public revenue and expenditure, Budget Bills) – Rule 6.6
- Public Audit (accounts, reports by the Auditor General for Scotland, financial control and audit in relation to public expenditure) – Rule 6.7
- Europe and External Relations (EU legislation and the Scottish Government’s international activities) – Rule 6.8⁷
- Equalities and Human Rights (including the observance of equal opportunities within the Parliament) – Rule 6.9

⁶ For example, in Session 6, committees were established by motion S3M-00393, agreed to by the Parliament on [15 June 2021](#); members were appointed to committees by motion S3M-00429 on [17 June 2021](#); and committee substitutes were appointed by a number of motions in September 2021.

⁷ On [15 June 2021](#), the Parliament agreed to a temporary rule that supersedes Rule 6.8 (until that Rule is permanently changed or until the end of Session 6). Under the temporary Rule, the mandatory committee is renamed as the Constitution, Europe, External Affairs and Culture Committee with a remit to consider the Scottish Government’s EU and external affairs policy, policy in relation to the UK’s exit from the EU, the international activities of the Scottish Government and related matters.

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- Public Petitions (the handling of petitions lodged with the Parliament and the operation of the petitions system) – Rule 6.10
- Delegated Powers and Law Reform (technical scrutiny of subordinate legislation, delegated power provisions in Bills, consideration of Scottish Law Commission Bills and Consolidation Bills) – Rule 6.11.

2.10 The first two of these committees must be established within 21 sitting days of a general election, and the others within 42 sitting days. All the mandatory committees must be established for the duration of the session (Rule 6.12.1).

2.11 While the main elements of each mandatory committee's remit are set out in the Rule that relates to that committee, the Parliament can add further elements (referred to as "additional matters") on the recommendation of the Parliamentary Bureau (Rule 6.1.5A). This allows the Bureau to give mandatory committees extra responsibilities, for example to balance out the likely workloads of committees, or to reduce the total number of committees that need to be established. Mandatory committee remits can be adjusted in this way either at the beginning of a new session (by incorporating the additional matters into the motion that first establishes the mandatory committees) or at any point later in the session (by a separate Bureau motion).

2.12 This is a more flexible mechanism than having to change the Rules each time mandatory committee remits need to be adjusted, although it is good practice to change the Rules once it is clear that the expansion of a mandatory committee's remit is appropriate in the longer term, and not just to deal with a short-lived set of circumstances.

2.13 The flexibility provided by Rule 6.1.5A means that mandatory committee names do not always match those given in Rules 6.4-6.11. For example, in Session 6, only three of the mandatory committees use the names set out in their respective Rules (Standards, Procedures and Public Appointments; Public Audit; Delegated Powers and Law Reform); the other four have names that reflect "additional matters" added to their remits (Finance and Public Administration;

Constitution, Europe, External Affairs and Culture⁸; Equalities, Human Rights and Civil Justice; Citizen Participation and Public Petitions).⁹

Subject committees

2.14 Most of the other committees established at the beginning of a session are referred to as “subject committees”. (The term is defined in Rule 6.1.4 to mean any committee established to deal with a particular subject, other than a mandatory committee or a committee established only to take certain stages of a Bill.) The practice so far has been for the Bureau to propose subject committees whose remits, taken together, cover the full range of devolved issues (other than those already covered by mandatory committee remits) – and to ensure that division of topics across the subject committee remits roughly corresponds to how those same topics are allocated across ministerial portfolios, in order to simplify lines of accountability.

2.15 In practice, the allocation of devolved issues across committee remits has varied each session. But there has always been at least one committee whose remit is centred on each of the following major areas of devolved responsibility (each of which has also been the main element of a Ministerial portfolio):

- health
- education
- local government
- (criminal) justice¹⁰

⁸ As noted above, the Rules were updated (by the inclusion of a temporary Rule superseding Rule 6.8) immediately before the establishment of this Committee.

⁹ The changes to the names and remits of these three committees were set out in motion S6M-00394, agreed to on [15 June 2022](#).

¹⁰ For part of Session 1 and throughout Session 2 there were two Justice Committees with identical remits; in Session 6, the justice portfolio is split between two committees, with criminal justice covered by a subject committee and civil justice an “additional matter” added to the remit of a mandatory committee.

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- environment and/or rural affairs¹¹

2.16 There are no procedural limits on the number of subject committees that may be established, and it is always possible for a new subject committee to be established mid-session, or for an existing one to be disbanded (under Rule 6.12.3).¹² Subject committee remits may also be adjusted mid-session by means of a Bureau motion. This may be done, for example, to reflect a new issue that has recently arisen, or to ensure that a single committee can scrutinise a Bill that would not otherwise fall within its remit.

2.17 One of the challenges in relation to subject committee remits is ensuring a reasonable distribution in the likely workload. Some Ministerial portfolios tend to be associated with a large volume of legislation, and this has led to complaints that the associated subject committees have, at times, become little more than legislative “sausage machines” with little opportunity to undertake inquiry work of their own choosing. This has, in particular, been a problem in previous sessions for Justice committees, and has led to experiments with splitting that portfolio across the remits of two committees.¹³

Bill committees

2.18 Standing Orders provide for a third type of committee, distinct from the mandatory and subject committees, namely committees established for the purpose of taking certain stages of a particular Bill.¹⁴ These include:

¹¹ In Sessions 2, 3, 4 and 6, environment and rural affairs (sometimes labelled rural economy or rural development) were covered by a single committee; in Sessions 1 and 5 they were covered by separate committees.

¹² An example of a new subject committee established mid-session was the Covid-19 Committee established in April 2020 to scrutinise the Scottish Government’s response to the pandemic.

¹³ See footnote 5 to paragraph 2.15.

¹⁴ Note that this procedural category of Bill committees does not include every committee whose subject-matter is a Bill. The Scotland Bill Committees in Sessions 3 and 4 were established to scrutinise a UK Parliament Bill, and so count as ad hoc subject committees, rather than as Bill committees.

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- Committees of the Whole Parliament – in effect, all MSPs taking Stage 2 of a Bill, but subject to committee rather than normal Chamber rules of procedure (Rules 9.7.1(b) and 2)
- Private Bill Committees – established to take Preliminary and Consideration Stages of a Private Bill (Rule 9A.5.1)
- Hybrid Bill Committees – established to take Stage 1 and Stage 2 of a Hybrid Bill (Rule 9C.6.1)
- Consolidation Committees, Codification Committees, Statute Law Repeals Committees and Statute Law Revisions Committees – established to take Stages 1 and 2 of these specialised types of Bill whose purpose is to tidy up the statute book rather than change the law in substantial respects (Rules 9.18.3, 9.18A.2, 9.19.2, 9.20.2)
- committees established specifically to take Stage 1 and/or Stage 2 of a Public Bill (where it is not possible or appropriate for the Bill to be referred to an existing subject committee)¹⁵

2.19 Further information about Bill committees can be found in the separate Guidance on Public Bills, Guidance on Private Bills and Guidance on Hybrid Bills.¹⁶ The rest of this Guidance deals only with mandatory and subject committees.

Sessional and ad hoc committees

2.20 The three-way distinction between mandatory, subject and Bill committees is established in the standing orders, but another useful distinction is between sessional and ad hoc committees. A sessional committee is one established at the beginning of a Parliamentary session and that continues in existence for the duration of that session (i.e. until the Parliament is dissolved prior to the next

¹⁵ Examples include, in Session 4, the Pentland Hills Regional Park Boundary Bill Committee, established to take Stage 1 (and, if need be, Stage 2) of a Member's Bill, and the Interests of Members of the Scottish Parliament (Amendment) Bill Committee, established to take Stage 2 of a Committee Bill.

¹⁶ Available on the Parliament's website under About / How the Parliament works / [Parliament rules and guidance](#).

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election). An ad hoc committee is one established when a particular need arises and that continues only until its task has been completed.

2.21 As noted above, all mandatory committees are sessional, as are most of the subject committees (those that, together, have remits reflecting the range of Scottish Government responsibilities). But some subject committees and all Bill committees are ad hoc; in the case of Bill committees, the motion establishing them usually specifies the committee's duration as being until the Bill receives Royal Assent, falls, is rejected or is withdrawn.

2.22 No committee's duration extends beyond the end of a session. So in procedural terms, every committee established in a new session is a different committee from its predecessor in the previous session, even where its name and remit are identical. (Conversely, a committee can change name and remit mid-session and still be the same committee in procedural terms.)

Membership of committees

2.23 Each mandatory and subject committee must have at least five but not more than fifteen members (Rule 6.3.2).¹⁷ In Sessions 1, 2 and 5, most committees had seven, nine or eleven members; in Session 3, most had eight members; in Session 4, most had seven or nine. In Session 6, the mandatory committees have five or seven members and the subject committees between six and ten.

2.24 In proposing membership, the Bureau must have regard to the balance of the parties within the Parliament and to the qualifications and experience of any member expressing an interest in a particular committee (Rule 6.3.4).

2.25 In practice, the number of seats for each party on each committee is decided on a roughly proportional basis. This gives the larger parties a share of seats on each committee that matches as closely as possible their share of seats

¹⁷ This Rule also applies to Bill committees (other than Private Bill committees and Hybrid Bill committees – which have between 3 and 5 members). It was suspended to allow the establishment, in Session 4, of a 4-member committee to scrutinise the Pentland Hills Regional Park Boundary Bill.

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in the Chamber, while smaller parties may have a single seat on some committees and none on others. Where there are independent MSPs in the Parliament, the parties may agree to offer some or all of them seats on committees.¹⁸

2.26 It is primarily for each business manager to advise the Bureau which members of his or her party are to take up the committee places allocated to that party. In this way, most discussions about committee membership take place within the Bureau and, if they are resolved successfully, it may be possible to have a single, unopposed motion for Parliamentary approval. However, it is also possible for any member to propose amendments to the Bureau motion when it is taken in the Chamber.

2.27 The only procedural limitation on committee membership is Rule 6.7.2, which prohibits any Minister or junior minister from being a member of the Public Audit Committee. There is no formal bar on ministers being members of other committees, but in practice, no member appointed as a Minister or junior minister has also served as a member of a committee at the same time, and members newly appointed as Ministers or junior ministers have immediately resigned any committee memberships they hold. The Presiding Officer also does not serve on a committee, although Deputy Presiding Officers have served as committee conveners, members and substitute members.¹⁹

2.28 Given the number of committees established and the number of members needed to make them effective, it is necessary for many MSPs to be members of two (and occasionally more than two) committees at once. It is unusual for any MSP who is eligible (not being a minister, the Presiding Officer or a DPO) not to be a member of at least one committee.

¹⁸ For example, in Session 2, Dr Jean Turner (an independent MSP and former GP) was appointed a member of the Health Committee.

¹⁹ For example, Murray Tosh continued as Convener of the Procedures Committee in Session 1 after his election as a Deputy Presiding Officer.

Changes in membership

2.29 Under Rule 6.3.5, an MSP appointed to a committee serves as a member of the committee for its duration (whatever duration is decided by the Parliament) unless the committee is disbanded or the member resigns, is removed by the Parliament (on a motion of the committee) or ceases to be an MSP.

2.30 In practice, relatively few MSPs remain on the same committees for the duration of the session. Changes of committee membership usually happen when one of the parties conducts an internal re-shuffle. In particular, any Scottish Government re-shuffle is likely to involve some MSPs being appointed as ministers for the first time (and so resigning from committees), while others lose office as ministers (and so become eligible to take up the committee roles thus vacated). Similarly, opposition parties routinely rotate their members on committees after a re-shuffle – often with the aim of ensuring that newly-appointed party spokespersons are members of the committees whose remits match their portfolios, so that those spokespersons can directly contribute to holding to account the ministers they shadow.

2.31 Formally speaking, all changes of committee membership are made by the Parliament, on a motion of the Parliamentary Bureau. In practice, however, the Bureau generally allows each party to change its own distribution of members on committees as it sees fit. Accordingly, Bureau motions to change committee memberships tend to be limited to members of a single party each time. There may be one or two such motions each year, with the result that, by the end of a session, most or all of the members originally appointed to a committee will have been replaced. Changes of membership can bring benefits, injecting new ideas and fresh enthusiasm, but too much “churn” can also be disruptive and inhibit the ability of committees to build expertise and a shared sense of purpose.

2.32 An MSP resigns as a member of (or substitute for) a committee by intimating his or her resignation to the Presiding Officer, as chair of the Bureau (preferably copied to the clerk to the Bureau, the clerk to the committee and the committee convener). Such a resignation takes effect from the date intimation is received by the Presiding Officer (or any later date specified in the intimation) (Rule 17.2A).

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2.33 An MSP may be removed from a committee by the Parliament only if a motion lodged on behalf of the committee (and therefore with the support of a majority of the committee's members) is agreed to by the Parliament.

2.34 Where a committee member ceases to be an MSP (for example, by resigning, being disqualified or on death), his or her membership of the committee ceases immediately, creating a vacancy on the committee. (While that vacancy exists, a party can deploy a committee substitute: see paragraphs 2.59 and 2.60 below). A vacancy is filled by the Parliament agreeing a Bureau motion to appoint a new member. Membership of the committee is effective from the date on which the Parliament agrees the motion.

2.35 Sometimes an MSP who is a member of a committee ceases to be a member of a party (and so becomes an independent) or resigns from one party and joins another. While this will alter the party balance on the committee, there is no requirement on the MSP to resign from the committee, and some MSPs in this situation have continued their committee membership for the remainder of the session. If an MSP in that situation does resign, his or her place on the committee would normally be filled by another member nominated by the MSP's former party.

Conveners and deputy conveners

2.36 Under Rule 12.1, each committee must have a convener. The main functions of the convener are to agree the agenda for each meeting, chair the meeting, and to speak and act on behalf of the committee at other times (in particular during Chamber debates). Conveners also participate in the work of the Conveners Group (see Annex B) and may be involved in negotiations with the Parliamentary Bureau or other committees on timetabling or handling issues (for example, on the timetabling of a Bill).

Appointment

2.37 It is for the Parliament to decide, on a motion of the Bureau, the political party whose members are eligible to be the convener of each committee (or that the eligible members are those not representing any political party). The Bureau must have regard to the balance of political parties in the Parliament when making such proposals.

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2.38 In practice, the distribution of convenerships among the parties is done using a version of the “d’Hondt” formula. This is an algorithm that can be applied objectively to achieve fair distribution among parties according to their numerical strength. The first “round” allocates the first choice of convenership to the political party with the most MSPs; in the next round that party’s numerical strength is divided by 2 (i.e. the number of convenerships it has already secured +1), meaning that the second choice of a convenership is likely to go to the second-largest party, and so on. The only formal restriction is that the convener of the Public Audit Committee cannot be a member of a Scottish Government party (Rule 6.7.2).

2.39 The d’Hondt system is used for the initial distribution of convenerships on mandatory and subject committees at the beginning of a session, and the list created in this way is continued for any further subject committees established later in the session. However, where it is necessary to establish specialised committees with a largely non-political role (such as Private Bill committees), convenerships are usually allocated separately (by a new list, also using the d’Hondt system).

2.40 At its first meeting, each committee is chaired by the oldest committee member present (and willing to perform this function) until a convener is chosen (Rule 12.1.6). The choice of convener is then the first substantive item of business (after declarations of interests). Should more than one eligible member²⁰ seek the position, it would be for the committee as a whole to choose between them. But in normal circumstances, the party concerned will already have decided which of its members on the committee is to be the convener (or there will be only one eligible member on the committee), so the choice is usually a formality.²¹

2.41 Under Rule 12.1.3, the Parliament may (but need not) also decide (on a motion of the Bureau) that every committee should have a deputy convener. The

²⁰ A committee member is eligible to be chosen as convener only if the member’s party affiliation (or status as an independent MSP) matches that specified in the motion that established the committee.

²¹ Unlike in some other parliamentary systems, conveners of committees in the Scottish Parliament are not elected.

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distribution of deputy convenerships among the parties is also done on a broadly proportional basis, using the d'Hondt system, and the choice of deputy convener by each committee is usually a formality. In most cases, the convener and deputy convener are members of different parties, though this need not always be the case.

2.42 The role of the deputy convener (where there is one) is to chair meetings when the convener is unavailable and otherwise to carry out the functions of convener when the convener is unable to do so.

Impartiality

2.43 Although a convener's role in a committee is in some ways equivalent to that of the Presiding Officer in the Chamber, conveners are also members of the committee and entitled (indeed, expected) to contribute in that capacity to the same extent as other committee members. It is only while acting in the capacity of convener (for example, chairing an evidence-session with a witness; chairing a debate on the amendments lodged to a Bill) that the convener is expected to be impartial; when acting in the capacity of a member (for example, asking questions of the witness; speaking on the amendments), the convener is entitled to express his or her view (or that of his or her party) like any other member.

2.44 In any situation where a committee can't reach a decision by consensus, and a division is required, the convener has a vote like every other member. But if the result is a tie, the convener must exercise a casting vote (to ensure that the issue is resolved one way or the other). There is no established convention on the use of the casting vote and how it is used is a matter for the discretion of each convener.

Term of office

2.45 Conveners and deputy conveners hold office for the duration of the committee unless they resign (by letter to the Clerk), are removed from office by a decision of the committee or cease to be MSPs or members of the committee (otherwise than by virtue of a dissolution) (Rules 12.1.8 and 12.1.10).

2.46 As with committee memberships more generally (see paragraph 2.30 above), the most common reason for a change of convener (or deputy convener)

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is as part of a party reshuffle – for example, if the convener is a member of a Scottish Government party and is appointed a minister, or is a member of an opposition party and is moved to a new shadow portfolio. Most committees will have at least one change of convener (and deputy convener) over the course of a session.

2.47 A convener or deputy convener can only be removed from office by the committee if a motion to that effect is agreed by absolute majority. Any member of the committee may lodge such a motion and, if it is supported by at least one other committee member, it must be taken at the first meeting of the committee that is at least two days later (excluding days when the office of the Clerk is closed) (Rule 12.1.8B).

2.48 If either the convener or deputy convener ceases to hold office, the committee must choose another convener or deputy convener, subject to the same restriction on party affiliation previously agreed by the Parliament. If that is not possible (for example, because the outgoing convener or deputy convener was the only member of that party on the committee and has not been replaced), the Parliament must take a further decision about the party affiliation of the convener or deputy convener (Rule 12.1.9).

2.49 Where a committee meets to choose a new convener, the meeting is chaired by the deputy convener for that item and then by the new convener (Rule 12.1.13).

Temporary conveners

2.50 Rules 12.1.11 and 15 to 17 make provision for a committee to choose a temporary convener to carry out the functions of deputy convener in certain specific circumstances.

2.51 Temporary conveners are only required when there are deputy convener functions to be carried out and either there is no deputy convener or the deputy convener is unavailable or unable to act (Rule 12.1.11). The need for someone to carry out deputy convener functions may arise

- during a meeting – if the convener is not available or leaves the chair

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- at other times – if the convener is unable to act and the oldest member of the committee considers it necessary to have a temporary convener (Rule 12.1.15).

2.52 In the first of these circumstances, the meeting is chaired by the convener (before he or she leaves the chair) or by the oldest committee member who is willing to do so, until a temporary convener is chosen. In the second of these circumstances, the oldest committee member must convene (and then chair, if he or she is willing to do so) a meeting of the committee for the purpose of choosing a temporary convener (Rule 12.1.16). Once chosen, the temporary convener takes the chair and exercises the functions of the convener until the convener or deputy convener (if there is one) is again able to act.

Acting conveners

2.53 In 2017, the Rules were amended to allow the temporary appointment of an “acting convener” to take the place of a convener during a period of maternity leave, paternity leave, parental leave, adoption leave or shared parental leave.²² Prior to the Rule-change, such an absence could be addressed only by having the deputy convener (likely to be from a different party) stand in, or by expecting the convener to resign in favour of another member of the same party (with no guarantee of resuming the convenership once the period of leave had ended).

2.54 The new Rule (12.1A) can only be used if the convener is expected to be absent for an “extended period”; for short periods of absence – e.g. a few weeks of paternity leave – the existing deputy convener would stand in. Even for longer periods (e.g. one year), it would be appropriate to appoint an acting convener only where the convener was able and willing to resume the role after returning from leave. For example, if the absence wasn’t expected to begin until shortly before the end of the session, it would be more appropriate for the convener to resign and a new convener to be appointed.

²² Standards, Procedures and Public Appointments Committee, [2nd Report, 2017 \(Session 5\)](#), *Acting Conveners – Standing Order rule-changes*

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2.55 Where Rule 12.1A applies, the Parliament may, on a motion of the Parliamentary Bureau, appoint a “temporary committee member” to the committee, and require the committee to choose that member (or an existing member of the same party, if there is one) to be the acting convener, in each case for whatever period is specified in the motion. This ensures that the committee remains of the same size, and with the same political balance, during the period of the convener’s absence.

2.56 During the period when the acting convener is in post, that member exercises all the normal functions of a convener (including membership of the Conveners Group), and the temporary committee member has all the normal functions of a committee member. Although the convener may not attend meetings or otherwise participate in committee business during the same period, he or she continues in post and may continue to receive committee papers – so as to be in a position to resume convenership duties once the temporary period has ended.

Committee substitutes

2.57 In the first few years of the Parliament, the Rules made no provision for substitute members. This created difficulties each time members were ill or otherwise unavailable for a committee meeting, particularly if their absence coincided with an important decision on a politically contested issue. Accordingly, the Procedures Committee recommended a system of committee substitutes who would be able to step in, in limited circumstances, to help maintain the party balance on committees.²³

Appointment

2.58 Under Rule 6.3A.1, each political party which has two or more MSPs may nominate one of its members to be the party’s substitute for its members on a committee. No member can be a committee substitute for more than two committees, or for a committee of which he or she is already a member (Rule 6.3A.4). Nominations are made to the Bureau, which then proposes the

²³ Procedures Committee, [2nd Report, 2002 \(Session 1\)](#), *Substitution on committees*.

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substitutes' names to the Parliament in a motion (Rule 6.3A.3). A member's appointment as a committee substitute begins when the Parliament agrees to the Bureau motion and then lasts for the duration of the committee unless the substitute resigns, is removed by decision of the Parliament (on a motion of the committee) or ceases to be an MSP, or unless the number of MSPs the party has falls below two (Rule 6.3A.5). If a party loses its place on a particular committee (for example, because the committee is reduced in size, or the party's number of MSPs is reduced), any substitute for the party on that committee could no longer act and would be expected to resign.

Role of substitutes

2.59 The main role of the committee substitute is to stand in for a committee member of the same party if that member is unavailable for a committee meeting or is unable to act as a committee member at any other time for one of the following reasons:

- illness
- family circumstances
- adverse travel conditions beyond the member's control
- a requirement to attend to other Parliamentary business or urgent constituency business (Rule 12.2A.1).

2.60 "Other Parliamentary business" includes attendance at meetings of other Parliamentary committees (including outside Edinburgh), other committee events (such as fact-finding visits or informal briefings) and participation in external events or activities in the UK or overseas (such as the annual conference of the Commonwealth Parliamentary Association) where the member has appropriate Parliamentary approval to attend as a representative of the Parliament (and not just on behalf of a political party).²⁴

²⁴ See Procedures Committee, [6th Report, 2006 \(Session 2\)](#), *Public Bills and Substitution*, paragraph 50.

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2.61 Committee substitutes may also stand in where there is a temporary gap in the membership of a committee (for example, where a member has died or resigned, and a replacement member has not yet been appointed). In addition, a committee substitute may stand in for a committee member of the same party who is:

- excluded (by Rule 9.13A) from participating in any consideration by the committee of a Bill (or proposal) that the member is promoting
- excluded (by Rule 12.2ZA) from participating in any consideration by the Standards, Procedures and Public Appointments Committee of a conduct complaint made by, or about, that member (including consideration of any sanctions)

unless, in either case, the substitute is also excluded by the same Rule.

Participation by substitutes

2.62 It is important to note that a committee substitute is entitled to attend only where the member cannot attend for one of the reasons specified (in Rule 12.2A.1); having a member on a committee and a substitute does not give a party the right to decide which of them attends on a particular occasion. It is good practice for members to notify the convener in writing (copying in the clerk) of their intention to send a substitute, and their reason for doing so. This should prompt the member to consider why they are sending a substitute, as well as assisting the convener in the management of the meeting.

2.63 When a committee substitute attends a meeting (or other committee activity), he or she assumes the full rights of an ordinary member of the committee. In particular, the substitute can attend meetings (or parts of meetings) held in private, and can vote. However, if two or more members of that party are unavailable, the party substitute still has only a single vote. In addition, a substitute who stands in for the convener, or the deputy, temporary or acting convener, does not take on the additional functions of those offices (Rule 12.2A.5). So if the convener is unavailable for a meeting and the party substitute attends instead, the meeting would be chaired by the deputy convener rather than by that substitute.

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2.64 With two exceptions, where a committee substitute participates in a meeting (or other committee activity) in place of a committee member, the member is prevented from then participating as a member in the remainder of that meeting (or activity) (Rule 12.2A.3(a)). For example, if a substitute arrives at the start of a meeting to take the place of a committee member delayed in traffic, that member cannot take over from the substitute if he or she arrives later in the meeting. The member is, however, entitled to attend in the more limited capacity available to all MSPs (under Rule 12.2.2) – i.e. he or she may participate in public items at the discretion of the convener, but may not vote.

2.65 The two exceptions are where the substitute is taking the place of a member excluded from consideration of:

- a Bill (or proposal) under Rule 9.13A, or
- a conduct complaint made by or about the member, under Rule 12.2ZA.

In either case, the substitute may participate only while the Bill (or proposal), or the conduct complaint, is under consideration, and the member is only excluded for that item.

2.66 For example, if a committee member is also the member in charge of a Member's Bill being considered by the committee under item 2 on the agenda, he or she is excluded from participating as a member during that item, and the party's substitute can take his or her place. If item 2 is taken in private, the member must leave the meeting; if it is held in public, he or she may continue to attend, but only in another capacity – to give evidence to the committee on the Bill, to question other witnesses, or simply to observe. If there is a division during consideration of the Bill, the substitute has the right to vote but the member does not; but as soon as that item is concluded, that right reverts to the member.

2.67 Where the committee member who is excluded from consideration of a Bill (or proposal) under Rule 9.13A is an independent MSP, or the sole representative of a political party, there will be no committee substitute able to take his or her place. In these circumstances, the Bureau may nominate an MSP as a "Bill substitute" on the committee for the duration of the Bill (under Rule 6.3B). The choice of Bill substitute must not affect the Scottish Government/Opposition balance on the committee. The same MSP may be a Bill substitute for more than

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one Bill being considered by a committee, and for the same Bill on more than one committee. In terms of participation in proceedings, a Bill substitute has the same rights as a committee substitute standing in for a member excluded under Rule 9.13A – i.e. he or she has the full rights (including voting rights) of a committee member, but only for the duration of relevant items.

2.68 Substitutes are entitled to receive all committee papers, including private papers. They may, however, prefer to receive papers only for meetings they expect to attend, or only normally to receive public papers (getting private papers in addition only for meetings they expect to attend).

First meetings of committees

2.69 The agenda for the first meeting of a newly-established committee almost invariably consists of the following sequence of items:

- Declarations of interests
- Choice of convener
- Choice of deputy convener
- Decision on taking business in private (optional)
- Work programme

2.70 The meeting is chaired by the oldest member present during the items for declarations of interests (see also paragraph 5.42) and the choice of convener (see also paragraph 2.40).

2.71 The final item is usually a preliminary discussion of the new committee's work programme (see also paragraph 4.18). This gives the convener a steer as to what business should be included on future agendas. If members wish this final item to be taken in private, an additional item is needed, earlier on the agenda, to allow the relevant decision to be made.

2.72 Occasionally it may be necessary for other items of business to be included on first-meeting agendas – for example, consideration of urgent items of

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subordinate legislation. Such items would normally be included immediately prior to the work programme discussion.

Part 3: How committees work

3.1 Once a committee is established, it is primarily for the convener, supported by Parliament staff, to ensure the committee functions effectively. This Part outlines how this works in practice and some of the general options available to committees to enhance their capacity, namely by establishing sub-committees or appointing reporters or advisers.

The convener

3.2 The role of committee convener (outlined in paragraph 2.36) includes convening (calling) meetings of the committee, deciding on the agenda for each meeting and then chairing each meeting. More generally, the convener is responsible for ensuring that the committee's work programme (agreed by the committee as a whole) is delivered.

3.3 The convener is also responsible for speaking on the committee's behalf in the Chamber and in other forums (including to the media). This includes moving motions on the committee's behalf in committee debates and speaking on behalf of the committee in other Chamber proceedings (for example, in a Stage 1 debate on a Bill scrutinised by the committee). It also includes making announcements in the Chamber on behalf of the committee, for example about a new or forthcoming inquiry (see also paragraph 6.9).

3.4 Conveners are supported in their role by a clerking team, which works closely with other Parliament staff such as legal advisers, SPICe researchers, communications managers and participation specialists. All Parliament staff, as employees of the SPCB, are required to be politically impartial.

3.5 Conveners and clerks normally hold regular (often weekly) meetings to discuss agendas and papers for committee meetings, correspondence and the practicalities of other current or forthcoming committee activity. Other officials attend these meetings as required.

Working relationships with other committee members

3.6 There is no requirement for a convener to involve the deputy convener in the routine administration of the committee. However, where this is done, it can be effective in sharing the workload, and in enabling the deputy convener to be better prepared to deputise when required.

3.7 It is a matter of judgement for each convener how much to keep the committee as a whole informed about activities they undertake on the committee's behalf, and when to seek the committee's endorsement of any particular course of action. Some conveners, for example, have found it helpful to discuss in advance with their committees how media relations should be handled, and to agree the extent to which the convener has authority to speak on behalf of the committee.

3.8 Conveners are generally more successful in the role when they maintain good relationships with all other committee members and demonstrate even-handedness in the chair. They should avoid, in particular, any impression of putting the interests of their parties ahead of those of the committee when acting in the role of convener.

Clerking team

3.9 Every committee has a dedicated clerking team (although some clerking staff support more than one committee). A senior member of the team is designated as clerk to the committee (and is named as such at the bottom of the committee's minutes), but the task of clerking meetings and leading on items of committee business is often shared within the team. The allocation of clerking staff to particular committees is a matter for the Head of Committee Office and Head of Chamber Office (who together oversee clerking support to all the committees).

3.10 The clerks provide the convener (and the committee as a whole) with procedural advice and practical and administrative support. This includes arranging meetings, drafting papers and reports, managing inquiries (including receiving written evidence and arranging oral witnesses) and liaising with both internal and external contacts regarding the work of the committee.

3.11 It is good practice for conveners to keep the clerks fully involved in everything they do in the capacity of convener, separating this from any party or constituency work, in which they are supported by their own staff. In particular, any correspondence that conveners receive on committee business should be passed to the clerks, who will advise on what action is required and draft any response. It is also for the clerks to ensure that the convener takes any procedural steps required (such as lodging motions on behalf of the committee).

3.12 While in practice the clerking team works particularly closely with the convener, the team is there to support all members of the committee equally, and its primary loyalty is to the Parliament itself.

Other Parliamentary staff

3.13 Committees are routinely supported by staff of the Scottish Parliament Information Centre (SPICe). SPICe researchers with expertise in the subjects within the committee's remit regularly attend committee meetings and prepare (or contribute to) inquiry approach papers (including witness suggestions), lines of questioning, and the analysis of evidence. They also routinely advise on committee work programmes and attend committee fact-finding visits or events. Where a committee decides to appoint an adviser, SPICe will assist with the remit and identification of potential candidates.

3.14 Inquiries are likely to be more effective and credible when informed by a wide range of public views and experiences. Committees are supported in this engagement work by the staff of the Parliament's Participation and Communities Team (PACT).

3.15 The Parliament Communications Office (PCO) assists with committee communications, including news releases and media engagement, including social media.

3.16 Where committees need legal advice, they can seek this (through the clerks) from the Parliament's solicitors (Legal Services). Some committees rely on legal advice on a routine basis – particularly the Delegated Powers and Law Reform Committee in its consideration of instruments, and its scrutiny of delegated power provisions in Bills, and the Standards, Procedures and Public

Appointments Committee in its consideration of proposals for procedural change and its consideration of members' conduct issues. Legal Services sometimes works with SPICe to provide combined legal and policy briefing on an issue.

3.17 The work of all Parliament staff is governed by organisational values of stewardship, excellence, inclusion and respect. Those values define how staff support the work of elected members. In return, Members are expected to treat Parliament staff in the same way. The Parliament has a zero-tolerance approach to bullying, harassment and discrimination. Committee members are expected to treat all staff with courtesy and respect, in line with the Code of Conduct.²⁵

Sub-committees

3.18 Rule 12.5 allows a committee to establish one or more sub-committees, with the approval of the Parliament on a motion of the Bureau.²⁶

3.19 The remit and membership of a sub-committee must also be agreed by the Parliament, on a motion of the Bureau. The remit cannot extend beyond the remit of the "parent" committee (Rule 12.5.2). It is for that parent committee to propose to the Bureau which of its members (and, where appropriate, which members of other committees) are to be members of the sub-committee (Rule 12.5.3).

3.20 Sub-committees are subject to many of the same rules as other committees, including in relation to the term of office of members; the process for choosing conveners, deputy conveners, temporary conveners and acting conveners; rules on committee procedure (including on quorum and rights of attendance); the role of substitutes; rules about committee meetings (when and where they may be held, when they may be held in private); powers in relation to witnesses and documents; and the appointment of reporters (Rule 12.5.8). Sub-

²⁵ See [Section 7](#) of the Code, which is available on the Parliament's website under MSPs / Code of Conduct.

²⁶ A sub-committee of the Justice 2 Committee was established in Session 2 to consider how the justice system deals with child-sex offenders. There was also a Justice Sub-committee on Policing in Sessions 4 and 5, which reported on the operation of the Police and Fire Reform (Scotland) Act 2012 in relation to policing.

committees report to the committees which establish them (rather than directly to the Parliament) (Rule 12.5.7).

3.21 Although sub-committees have not (so far) been much used, they can be an effective means of increasing capacity, allowing distinct bits of work to be carried out in parallel. This could be appropriate, for example, where a subject committee's remit covers two largely distinct subject-matters, and it would be difficult to fit both into a single work programme, or where a committee wishes to undertake two major bits of scrutiny work at the same time. Such an approach may be preferable to establishing two separate committees, as it retains the coherence of a single committee to which the sub-committees report.

3.22 Any decision to establish a sub-committee needs to take into account the resource implications – both for MSPs (who will have additional meetings to attend) and for staff (who will have an additional committee to support). It may also be difficult to find available slots for sub-committee meetings when there is already a busy schedule of meetings in the available committee rooms at Holyrood.

Reporters

3.23 A committee may, under Rule 12.6, appoint one of its members (but not a substitute) to be a “reporter”. The role of a reporter is to report to the committee on any matter within its remit. This may be for a particular inquiry, or on a “standing” basis, for example to monitor developments on an aspect of the remit throughout the committee's duration.

3.24 Reporters should have a clear remit and timescale to work to and appointments of reporters should be agreed formally by the committee and recorded in the minutes. Reporters carry out their work on behalf of the committee and are accountable to the committee. This should always be made clear, for example, when reporters are dealing with the media.

3.25 A committee may sometimes appoint a reporter to attend meetings of another committee inquiring into a topic falling within the remits of both committees. The reporter (like any other MSP) may, with the agreement of the other committee's convener, participate in the other committee's proceedings.

Advisers

3.26 Rule 12.7 allows a committee to seek to have an adviser or advisers appointed in connection with its work, for example to assist with a particularly specialised or technical topic, where the relevant expertise or capacity is not available in SPICe. Advisers are usually appointed to assist a committee with an individual inquiry. However, committees may sometimes seek the appointment of “standing” advisers to support them in all the scrutiny work they do throughout the session that relates to a particular strand of their remit.²⁷

Role of advisers

3.27 Unlike witnesses, who will often wish to advance a particular viewpoint, advisers are appointed to provide impartial expert advice, as required. Advisers support the committee as a whole, and although they are solely responsible for the content of their advice, their contribution is normally managed in practical terms by the clerks. An adviser might, for example, be asked to help with the analysis of written evidence, to suggest witnesses to give oral evidence, to prepare lines of questioning and to draft relevant sections of committee reports, often working in conjunction with SPICe researchers.

3.28 Advisers are not permitted to participate directly in committee proceedings and cannot themselves ask questions of witnesses. It is, however, quite normal for a committee adviser to be in attendance at a committee meeting and, if requested by the convener, to provide advice to members during a meeting (both during public and private items).

Appointment process

3.29 If the Parliamentary Bureau approves a committee request to have an adviser appointed, the Parliament invites nominations or applications to fill the role. On conclusion of the period for applications, SPICe identifies potential candidates based on the person specification approved by the committee.

²⁷ An example is the standing adviser appointed in Session 6 by the Net Zero, Energy and Transport Committee, whose role includes advising that and other committees in relation to progress towards “net zero” (see also paragraph 4.11).

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Candidates are asked to declare any interests, including political activity. All candidates meeting the person specification and requirements of the post are put to the committee, which agrees an order of preference. The selection is normally made solely on the basis of written applications, although, exceptionally, candidates can be asked to make a presentation to the committee. The agenda items for this selection process would normally be taken in private, with information about candidates included in private papers.

3.30 Candidates are then approached in order of preference and offered the appointment. Appointments are made in the form of a contract with the SPCB, to provide specified services for a specified number of days (normally fifteen or fewer) at a fixed daily rate. Should a committee wish to extend an adviser's appointment, a further application to the Bureau would be required.

Part 4: What committees do

Powers and functions

4.1 Committees are, by their nature, subsidiary bodies in the sense that they only operate within the remit given to them by the Parliament, to which they are accountable. However, within the parameters set by those remits, Scottish Parliament committees have a wide range of general powers which give them the ability to set their own priorities and act with a high degree of autonomy.

4.2 The general function of a committee is to consider matters within its remit – “competent matters” – and report on them to the Parliament. Rule 6.2 sets out in more detail what this can involve. It includes:

- conducting inquiries
- scrutinising the policy and administration of the Scottish Government
- scrutinising proposed legislation
- considering the need for reform of the law, or initiating a Committee Bill
- considering the financial proposals and financial administration of the Scottish Government.

4.3 In practice, however, not all committees do all of these things. For one thing, the remits of the mandatory committees restrict them, in practice, to only some of these general functions²⁸. For the subject committees, the balance among these functions is largely a product of how much business is formally referred to them from elsewhere in the Parliament. Some subject committees find that the large majority of their time is taken up with matters referred to them

²⁸ Except to the extent that their remits have been expanded to include “additional matters” that require the exercise of these general functions. An example in Session 6 is the Equalities, Human Rights and Civil Justice Committee – a mandatory committee (under Rule 6.9) which is also responsible for scrutiny of civil justice matters (something that, in previous sessions, was part of the remit of a subject committee).

(particularly Government Bills and statutory instruments), while others can spend more of their time on inquiries of their own choosing.

4.4 In relation to most of these types of activity, the main output of a committee's work is a published report. Formally speaking, these reports are made to the Parliament or to another committee (e.g. to the lead committee, or to the "parent" committee in the case of a sub-committee report), but in practice, some or all of the recommendations may be directed primarily at the Scottish Government or at other persons or organisations. Committee reports can only recommend actions for the Parliament (or others) to take – Scottish Parliament committees are in this sense quite distinct from the committees that operate within local authorities, which are often delegated a range of "executive" (decision-making) functions.

4.5 Not all committee activity is directed towards the production of a report. Sometimes a committee may take evidence, or consider an issue, just in order to inform itself, or without seeking to reach a definite conclusion (for example, a one-off evidence session with a minister to find out about the Scottish Government's priorities for the coming year). In other cases, a committee may reach a conclusion without it being necessary, or without there being time, to express that in the form of a discursive report (i.e. with an explanation of the background and reasoning).

Competence

4.6 Where a question arises about whether it is competent for a committee to consider a particular matter – that is, whether the matter is within that committee's remit – it is for the Bureau, after consultation with the Conveners Group, to decide (Rule 6.13.1).

4.7 Where a matter falls within the remit of more than one committee, any issues as to which committee should take the lead role in considering it are normally resolved through informal discussion. However, Rule 6.13.2 allows the Parliament, on a motion of the Parliamentary Bureau, to designate one committee to be the lead committee. Before proposing such a motion, the Bureau must consult the Conveners Group. (This procedure does not apply to the designation of lead committees in relation to Bills and SSIs under Rules 9.6.1 and 10.2.2

respectively, where there is no requirement for the Bureau to consult the Conveners Group.)

Joint consideration by committees

4.8 If any matter falls within the remit of more than one committee, the committees concerned may, if they wish, seek the agreement of the Bureau to meet jointly. The Bureau must consult the Conveners Group before agreeing (Rule 6.14.1).

4.9 At joint meetings, both (or all) of the committees involved must be individually quorate, i.e. there must be at least three members from each committee in attendance (Rule 12.2.1). The meetings are chaired by one of the conveners of the committees involved (Rule 6.14.2), by agreement between the conveners concerned. A joint agenda and joint minutes are produced of any meeting held jointly, and any report that results is also published in the joint names of the committees involved (Rule 6.14.3). As an alternative to full joint meetings of two or more committees, the committees concerned may each seek to establish sub-committees in order for those sub-committees to consider a particular matter jointly (Rule 6.14.4).

4.10 Joint consideration is an alternative to having one committee designated as the lead committee (to which the others report). It is therefore appropriate when no single committee's remit gives it an obvious primacy in relation to the subject, or where there are real advantages in involving members of the different committees in questioning the same witnesses or discussing together a subject of mutual interest.²⁹

Cross-committee working

4.11 Early in Session 6, the Conveners Group identified cross-committee working as one of its strategic priorities for the session. It recognised the practical

²⁹ During part of Session 1 and throughout Session 2, there were two Justice Committees with identical remits, and their practice was to meet jointly during the annual budget scrutiny process.

challenges involved in coordinating the work of multiple committees, but also the benefits, including avoiding duplication, ensuring that issues don't fall between individual remits, and providing a more holistic perspective than might be achieved only by working in departmental "silos". The Group agreed to put a focus throughout the session on scrutiny of climate change and "net zero" (work to meet the statutory target of making Scotland carbon-neutral by 2045) and on post-EU issues (policy and legislation at UK level in consequence of the UK's departure from the European Union). It also agreed to support ad hoc scrutiny of systemic issues that span multiple committee remits (for example drug usage in Scotland, post-pandemic recovery and the National Planning Framework).

Equalities

4.12 One of the founding principles of the Scottish Parliament is recognition of the need to promote equal opportunities for all.

4.13 The Conveners Group has agreed that consideration of equalities issues should be mainstreamed into the work of all committees (and is not just the sectoral responsibility of the mandatory committee whose remit includes equalities).

4.14 This means not only that each committee is responsible for equality proofing legislation which it scrutinises, but also that equal opportunities criteria underpin the processes and mechanisms which support the committees in their other work and, in particular, in conducting inquiries. Committees, therefore, include equal opportunities considerations in matters such as identifying advisers, consultees and witnesses as well as identifying equal opportunities impacts as part of the inquiry and legislative processes.

Sustainable development

4.15 The Conveners Group has also agreed that committees should build sustainable development scrutiny into their work.

4.16 "Sustainable development" in this context means meeting our own needs without compromising the ability of future generations to meet their own needs. This involves living within environmental limits and ensuring a strong, healthy and

just society, underpinned by achieving a sustainable economy, using sound science responsibly and promoting good governance.³⁰

4.17 Committee clerking teams have access to a Sustainable Development Impact Assessment scrutiny tool, developed by SPICe, to help committees scrutinise policies and legislation through a sustainability lens.³¹

Committee work programme

4.18 Under Rule 12.3.1 it is for each committee to agree its own programme of work. In practice, most committees plan their work programmes for at least six months ahead and sometimes for twelve months ahead. Some committees have chosen to adopt a general plan or set of priorities early in the session, to provide a strategic framework for the work programme that is then agreed on a shorter-term basis.

4.19 To consider what should be included in a committee work programme, committee members often find it useful to get together informally (for example, towards the end of the summer recess), sometimes with contributions from invited external speakers. Members can make an assessment of the likely workload (both for themselves and for staff) as a result of Bills, subordinate legislation and other business expected to be referred to the committee, as well as the time needed to scrutinise the Scottish Government budget. They can also assess the time that is likely to be available to undertake committee inquiries and give consideration to possible topics for inquiries.

4.20 Topics for inquiries can be generated by committee members themselves, other MSPs, stakeholder/interest groups and members of the public, or they can arise from briefing material provided by Parliamentary staff. At the beginning of a session, new committees sometimes take ideas from their predecessors' legacy reports.

³⁰ See UK Government [guiding principles](#), also applicable to the devolved administrations.

³¹ The tool is available on the Parliament website under Chamber and committees / Research by SPICe / [Sustainable Development Scrutiny](#).

4.21 Work programmes agreed by committees in this way require to be flexible and are reviewed during the year to take account of changing priorities and the political climate. A work programme may, for example, require refinement following the First Minister's statement on the Scottish Government's legislative programme which normally occurs in September, and may need further adjustment on the introduction of a Bill, when a timetable for completion at Stage 1 and Stage 2 is agreed with the Bureau.

4.22 Although the initial discussions of committee work programmes may take place in an informal setting, work programmes need to be agreed by each committee in a committee meeting. Most committees publish their work programmes on their web pages for the information of stakeholders and the public.

Inquiry work

4.23 A committee inquiry is any structured bit of scrutiny work that a committee undertakes, either on its own initiative or because it is invited or required to do so. Inquiries can range from small, focused bits of work conducted in a single meeting to major projects on broad topics that last for many months. They may be focused on a specific proposal (e.g. a new policy or legislative change), the work of a specific organisation (e.g. a government agency), or on a topical issue, controversy or crisis.

4.24 Inquiries generally have three main phases:

- defining the terms of the inquiry – agreeing on the subject-matter, the questions to be addressed, the timescale, and how the inquiry is to be conducted
- gathering evidence and other information to inform the committee – most typically by giving external parties an opportunity to submit views in writing, by inviting some of them to give evidence orally and by gathering views and experiences through public engagement
- discussion of what has been learned, and the formation of a single committee view (by consensus so far as possible), usually expressed in the form of a committee report.

4.25 A more detailed explanation of how inquiries work is set out in Part 6.

Scrutiny of Government Bills

4.26 The majority of Bills considered by the Parliament are introduced by the Scottish Government (Government Bills).³² They are subject to a three-stage scrutiny process in which committees normally play a key part. This is briefly summarised here; for a fuller explanation see the Guidance on Public Bills.³³

Before introduction

4.27 Most Government Bills are announced well in advance of introduction; sometimes, the rationale for the Bill may be set out in a policy document or a consultation paper, perhaps with a draft Bill included. In these situations, there is an opportunity for relevant committees to undertake “pre-legislative scrutiny”. This can be an effective means to influence the shape of the legislation while the detail is still being finalised. Some committees have, however, been reluctant to get involved at this stage, either because of the additional time required, or out of concern that it would compromise their ability to provide detached scrutiny of the final Bill if they were seen as having contributed to the shaping of the policy behind it.

Stage 1

4.28 At Stage 1, the Bill is referred to a “lead committee”, which is tasked with considering and reporting on the Bill’s general principles (the principal purposes of the Bill). In doing this, the lead committee takes into account the accompanying documents published alongside the Bill (in particular, the Explanatory Notes, Policy Memorandum and Financial Memorandum) and a briefing on the Bill prepared by SPICe. The lead committee’s Stage 1 scrutiny normally amounts to a

³² In Sessions 1 to 5, an average of 78 Bills were introduced per session, of which an average of 56 (72%) were Government Bills (described as Executive Bills in Sessions 1 and 2).

³³ The [Guidance on Public Bills](#) is available on the Parliament’s website under About / How the Parliament works / Rules and guidance.

full-scale inquiry – with a call for views, oral evidence sessions, and the preparation of a substantial, discursive report (referred to as the “Stage 1 report”).

4.29 The Stage 1 report must include the lead committee’s view on the Bill’s Financial Memorandum and Policy Memorandum.

4.30 Where a Bill relates to the remit of more than one committee, the other committees may also scrutinise relevant aspects of the Bill and report to the lead committee. If the Bill includes provisions that delegate power to Ministers (particularly powers to make subordinate legislation), the Delegated Powers and Law Reform Committee considers and reports on those provisions. The Finance Committee may report to the lead committee on the Bill’s Financial Memorandum.

4.31 When the Bill is debated in the Chamber at Stage 1, the convener of the lead committee is called to speak, early in the debate, to summarise the Stage 1 report on behalf of the committee.

Stage 2

4.32 Bills that progress beyond Stage 1 are referred to a committee for Stage 2 (the main amending stage). The Stage 2 committee is usually the same committee that was the lead committee at Stage 1.³⁴ Committees can take further evidence at Stage 2, but this is rare; normally the Stage consists solely of a sequence of debates on grouped amendments to the Bill, interspersed by the moving and disposal of previously-debated amendments and formal agreement to individual provisions of the Bill. Depending on the size and subject-matter of the Bill, Stage 2 can last for just a few minutes, or many hours of proceedings spread over several weeks.

4.33 Stage 2 proceedings typically involve, in addition to committee members, MSPs who are not members of the committee but who have lodged amendments to the Bill, plus the relevant minister. These MSPs all contribute to debates on

³⁴ There can be exceptions, for example where a Bill spans the remits of two committees and the Stage 1 lead committee doesn’t have time to do Stage 2 as well. Very occasionally, Stage 2 of a Bill can be taken in the Chamber, by a “Committee of the Whole Parliament” – either because the Bill is particularly significant and so of interest to most MSPs, or because it is uncontroversial and has attracted no amendments.

amendments, but only committee members can vote on them. Anyone wishing to observe Stage 2 proceedings should ensure they have access to the Bill, the marshalled list of amendments and the groupings document, as the proceedings can be difficult to follow without them.

4.34 Annex C sets out advice for conveners on handling situations that may arise during Stage 2 where they may be seen to have a conflict of interests.

Scrutiny of Members' Bills and Committee Bills

4.35 As well as Government Bills, Public Bills can be introduced by individual MSPs (Members' Bills) and by committees (Committee Bills).³⁵

Members' Bills

4.36 An MSP wishing to introduce a Member's Bill must first lodge a draft proposal and then a final proposal. The MSP must normally consult on the draft proposal, but the alternative is to lodge a "statement of reasons" making the case why consultation is not necessary. Where that is done, the proposal and statement are referred to the relevant committee, which can consider the statement and decide whether it is satisfied with the reasons given. This would normally involve a short item on the committee's agenda, at which the MSP would attend to answer questions on the proposal.

4.37 Once introduced, Members' Bills are subject to the same 3-stage scrutiny process as Government Bills. At Stage 1, the lead committee takes evidence on the Bill both from the Scottish Government minister with responsibility for the Bill's subject-matter, and the member in charge of the Bill (normally the MSP who introduced it). At Stage 2, both these members have the right to attend and participate in the consideration of amendments. The Stage 1 report on a Member's Bill need not include a view on the Bill's Policy Memorandum.

³⁵ In Sessions 1 to 5, an average of 13 Members' Bills and 2 Committee Bills were introduced per session.

Committee Bills

4.38 Where a committee wishes to introduce a Bill, it must first conduct an inquiry on the need for legislation, and then set out its proposal for a Bill in the form of a report. Such a report is debated in the Chamber, and if the Parliament endorses the proposal, the committee convener gains the right to introduce the Bill (Rule 9.15). (For more information on initiating Committee Bills, see paragraphs 4.82 to 4.88.)

4.39 At Stage 1, there is no need for a lead committee inquiry or report (on the basis that a committee inquiry has already been carried out). The only committee scrutiny required is by the Finance Committee (on the Bill's Financial Memorandum) and by the DPLR Committee (if the Bill includes delegated powers).

4.40 At Stage 2, Committee Bills are sometimes referred to another, existing committee (if the Bill spans the remit of that committee and the committee that introduced it), or to an ad hoc committee established for the purpose.

Post-legislative scrutiny

4.41 The aim of post-legislative scrutiny is to evaluate whether an Act of the Parliament (together with any subordinate legislation made under it) has achieved its policy objectives, whether it has had any unintended consequences and whether it has secured value for money. Such scrutiny is usually best conducted at least a year or more after it has come fully into force, so there has been time for it to “bed in” and be tested in a range of situations, and for some data to be gathered about its effectiveness and cost.

4.42 Outcomes of post-legislative scrutiny can include recommendations for change in how legislation is being applied (for example, whether additional funding is needed), or adjustments to the terms of the legislation itself (for example, if particular provisions have proved to be ambiguous or difficult to implement). By comparing actual outcomes with the projections and aspirations expressed in advance, there is also an opportunity to learn lessons about how Bills are most effectively scrutinised.

Scrutiny of subordinate legislation

4.43 A large proportion of statute law is made as subordinate (or secondary) legislation – that is, legislation made by ministers, using powers delegated to them in primary legislation (an Act).³⁶ Powers are delegated in this way to allow Acts to focus on the main principles of the law, leaving the legislative detail to be added later in a form that is quicker and simpler to adjust over time.

4.44 Subordinate legislation made by a Scottish Government minister on devolved matters takes the form of a Scottish Statutory Instrument (SSI); subordinate legislation made by a UK Government minister takes the form of a Statutory Instrument (SI). SSIs and SIs usually consist of numbered regulations, orders or rules.

Types of instrument

4.45 In almost all cases, the provisions in Acts that confer power on ministers to make subordinate legislation make the exercise of that power subject to some form of parliamentary oversight. In the context of SSIs, the three main varieties³⁷ are:

- instruments subject to the affirmative procedure (or “affirmative instruments”) – which are laid in draft and can only be made (and come into force) if the Parliament approves them by resolution (i.e. by agreeing, in the Chamber, to a motion recommending their approval); occasionally, the parent Act allows for them to be made first and then laid, in which case

³⁶ In a few instances, people other than ministers are delegated the power to make subordinate legislation. For example, the Court of Session and the High Court of Justiciary have the power to make subordinate legislation that governs procedure within those courts.

³⁷ See Part 2 of the [Interpretation and Legislative Reform \(Scotland\) Act 2010](#), particularly sections 28-30. A few instruments are subject to a “super-affirmative” procedure, under which the normal procedure for an affirmative instrument must be preceded by the minister laying a consultation draft of the instrument; the consultation draft would normally be referred to the same committee that will, at the later stage, be lead committee on the instrument itself.

they only come into force (or remain in force) if approved by resolution – this is known as the made affirmative procedure

- instruments subject to the negative procedure (or “negative instruments”) – which are laid after they have been made, and are then “subject to annulment” for a period of 40 days, meaning that they can be annulled (cancelled) if the Parliament agrees, within the 40-day period, to a motion to that effect
- “laid-only instruments” – which must be laid, but are not subject to either the affirmative or negative procedure.

4.46 The affirmative procedure tends to be reserved for powers that are particularly broad in scope and that deal with substantial issues of policy, while the negative procedure is used for powers that are narrower and deal with more practical or routine matters. The laid-only procedure is used only for specific, technical matters, in particular for specifying the dates on which provisions in Acts come into force (“commencement regulations”).

Committee scrutiny of instruments

4.47 All instruments laid before the Parliament, of which there are hundreds each year, are considered by the Delegated Powers and Law Reform (DPLR) Committee and also referred to a lead committee (whose remit includes the subject-matter of the instrument).³⁸

4.48 The role of the DPLR Committee is to check the instrument against a list of technical criteria – including that it does not contain “ultra vires” provisions (that is, provisions outwith the scope of the powers delegated to ministers by the parent Act) and does not contain drafting defects (Rule 10.3.1). Advice on these issues is provided by the Parliament’s solicitors. The DPLR Committee must normally report (to the Parliament and the lead committee) within 20 days of the instrument being laid, so has only limited time to raise any concerns with the Scottish

³⁸ Referral decisions are made by the Bureau in clear-cut cases, but where the subject-matter spans the remits of two or more committees, the Parliament decides, on a Bureau motion, which one should be designated lead committee (Rule 10.2.2).

Government in correspondence, or by inviting ministers or officials to give evidence to it.

4.49 The lead committee's role is to consider and report on the substance of the instrument and its policy implications, taking into account any recommendations from the DPLR Committee.

Lead committee scrutiny of affirmative instruments

4.50 If the instrument is an affirmative instrument, the Scottish Government lodges a motion proposing that the lead committee recommend approval of the instrument (Rule 10.6). The committee then normally includes two separate items on its agenda – one for taking evidence from the minister and officials on the instrument, and one for a formal debate on the minister's motion (in which officials cannot participate). If the instrument is uncontroversial, all that is required under the second item is for the minister to move the motion and the committee to agree it. But if any member opposes the motion, it can be debated for up to 90 minutes, and the outcome is likely to be decided by division (in which the minister, not being a member of the committee, does not have a vote). Amendments to the motion may also be lodged (although it is not possible to amend the wording of the instrument by this means).

4.51 The lead committee is required to report on an affirmative instrument within 40 days of the instrument being laid (or, if the instrument is already made, but cannot remain in force beyond a stated period, by the end of that period). Reports on instruments that are not opposed can be very short.

Lead committee scrutiny of negative instruments

4.52 The majority of instruments referred to lead committees are negative instruments. Where these are uncontroversial, there is normally no need for a minister or officials to attend. However, if concerns are raised about the instrument when it first appears on the committee's agenda, the committee can engage in correspondence or invite the minister or officials to give evidence at its next meeting.

4.53 In addition, any MSP (whether or not a member of the lead committee) can lodge a motion recommending that the instrument be annulled (Rule 10.4). Any

such motion needs to be taken at a meeting of the lead committee (assuming that is still within 40 days of the instrument being laid). As with consideration of an affirmative instrument, there would normally be two agenda items: one to allow evidence-taking on the instrument from the minister and officials, and one to allow for the motion to be moved and debated (for up to 90 minutes). The MSP who lodged the motion (if not a member of the committee) and the minister are entitled to participate in the debate, but only committee members can vote in any division.

4.54 The lead committee must report the outcome of any such debate to the Parliament, and do so within 40 days of the instrument being laid.³⁹ If there is no such debate (i.e. where no motion recommending annulment is lodged), there is no requirement to report, although it is always open to the committee to report if it chooses (for example, if it initially had concerns but obtained assurances from the Scottish Government).

4.55 If a negative instrument is to come into force less than 28 days after it is laid, an explanation must be provided to the Presiding Officer. The lead committee must consider the explanation and may comment on it in its report.

Lead committee scrutiny of laid-only instruments

4.56 Instruments that are not subject to either the affirmative or negative procedure are referred to lead committees, but there is normally no expectation that lead committees will scrutinise them (i.e. by including an item on the agenda at which the instruments can be considered). However, if such an instrument comes into force before it is laid, the Scottish Government must provide an explanation to the Presiding Officer. The lead committee is then required to consider the explanation, and may report its view to the Parliament (Rule 10.3A).

³⁹ If the outcome is a recommendation that the instrument be annulled, the committee must in practice report earlier, to allow time, within the 40-day period, for the Parliament to make the final decision (that is, to decide whether or not to annul the instrument).

Scrutiny of legislative consent memorandums

The Sewel Convention and the procedure for lodging LCMs

4.57 Under the Scotland Act 1998, the UK Parliament retains the power to legislate for Scotland, including on those matters that the Act devolves to the Scottish Parliament. However, the UK Government acknowledged, at the time the Bill for the 1998 Act was being considered in Westminster, that there would need to be a convention that the UK Parliament would not normally legislate on devolved matters without the Scottish Parliament's consent. This became known as the Sewel Convention, after the minister who first articulated it.⁴⁰ The convention has subsequently been expanded to cover UK Parliament Bills that alter the legislative competence of the Parliament or the executive competence of Scottish Ministers.⁴¹

4.58 Under Rule 9B.3.1, the Scottish Government must lodge a "legislative consent memorandum" (LCM) each time a UK Government Bill is introduced at Westminster that makes "relevant provision" – that is, provision engaging the Sewel Convention.⁴² The LCM, which should normally be lodged within two weeks of the Bill's introduction, must outline what the Bill as a whole does, what sort of relevant provision it contains, and explain why, in the Scottish Government's view, the Scottish Parliament should give or withhold its consent (under the Convention). If the Scottish Government intends to seek the Parliament's consent, the LCM must contain a draft of the relevant motion (a legislative consent motion) (Rule 9B.3.3).

4.59 The Scottish Government is also required to lodge a LCM (again, normally within two weeks) if a Private Member's Bill still includes relevant provision after the first amending stage in the House in which it was introduced; or if

⁴⁰ Lord Sewel, then a Scottish Office minister in the House of Lords.

⁴¹ Executive competence includes powers conferred on Scottish Government ministers, for example to make subordinate legislation or to appoint people to public office, that relate to matters about which the Parliament cannot legislate.

⁴² On average, in Sessions 1 to 5, there were 41 UK Parliament Bills per session that triggered the lodging of at least one LCM.

amendments are tabled by the UK Government, or otherwise agreed to, that would add relevant provision to any Westminster Bill, either for the first time, or beyond the limits of any legislative consent motion previously agreed.

4.60 In this way, the body of LCMs lodged by the Scottish Government should alert the Parliament to any situation where the UK Parliament looks likely to legislate in ways that engage the Convention (i.e. where the Parliament's consent would normally be required). To ensure the Parliament can always choose, any MSP may lodge a LCM making the case for giving consent (and including a draft motion), normally after the Scottish Government has lodged its own LCM (Rule 9B.3.2) – for example, where the Scottish Government opposes the UK Parliament Bill, but an opposition party supports it.

Role of committees in scrutinising LCMs

4.61 Every LCM lodged is referred to a lead committee to consider and report on it. (If the LCM relates to the remit of more than one committee, the others may also scrutinise it and report to the lead committee.) The lead committee is normally an existing subject committee, but there is also precedent for establishing an ad hoc committee to take on this scrutiny function.⁴³

4.62 A key issue for the lead committee is establishing how long it has to undertake scrutiny, which depends on the Westminster legislative timetable. Under the Convention, the Parliament should normally make its decision, on whether to give or withhold consent, before the final amending stage⁴⁴ in the first House at Westminster – or, at the latest, before the final amending stage in either House (so that, if consent is refused or given only on a qualified basis, there is time for relevant provisions to be removed from the Bill or amended). In addition, a legislative consent motion cannot normally be taken in the Chamber until at least five days after publication of the lead committee report. Scrutiny timescales are likely to be particularly tight if the UK Parliament Bill is made subject to an

⁴³ The Scotland Bill Committee, established late in Session 3 to scrutinise LCMs relating to the Bill that became the Scotland Act 2012, and re-established for the first part of Session 4.

⁴⁴ The final amending stage is taken to mean Report Stage in the House of Commons or Third Reading in the House of Lords.

expedited timescale, or if the relevant provisions are only added at a relatively late stage by amendment (rather than being included when the Bill is first introduced).

4.63 Lead committee scrutiny is also complicated by the context. The lead committee needs to understand in general terms what the UK Parliament Bill does, and the policy behind it, but its focus needs to be on those provisions that engage the Sewel Convention (which may be minor elements of the whole Bill). It needs to consider not just the merit of those provisions, but whether a UK Parliament Bill is the right vehicle for them, which in turn may depend on what alternatives there might be. Another complicating factor is that the UK Government ministers and officials responsible for the Bill are primarily accountable to the UK Parliament, and arranging for them to give evidence to the lead committee can present practical difficulties.

4.64 Subject to these constraints, scrutiny of LCMs is similar to most other types of scrutiny. At a minimum, it can consist of brief consideration at a single meeting, followed by publication of a short report, but can also extend to a full-scale inquiry, over several months, involving substantial volumes of evidence and a detailed report. In its report, the lead committee may (but need not) make a recommendation to the Parliament as to whether the Parliament should give or withhold consent.

4.65 Occasionally, the same Bill may need LCM scrutiny on more than one occasion during its passage – for example, if the Parliament consents to relevant provisions included in the Bill on introduction, but new provisions that also require the Scottish Parliament’s consent are added later, by amendment, and go beyond the terms of the consent already given.

4.66 Where the UK Parliament Bill includes provisions giving Scottish Ministers powers to make subordinate legislation (thus altering their executive competence), the DPLR Committee must consider those provisions and may, if it chooses, report on them to the lead committee.

Scrutiny of Public Bodies Act consent memorandums

4.67 The Public Bodies Act 2011 allows UK Ministers, by order, to abolish certain public bodies, merge them, modify their constitutional or funding

arrangements, or modify or transfer the functions of their office-holders. Where such an order contains provision within the legislative competence of the Parliament, or that alters the powers of Scottish Ministers, the Parliament's consent is required.

4.68 Orders under the 2011 Act can only be made in relation to public bodies listed in the relevant Schedule, and section 12 provided for all the original entries (included in the Act on Royal Assent) to expire after 5 years. New entries can be added, but the lists of bodies in the Schedules are significantly shorter than they were originally. Eleven Public Bodies Act consent memorandums were lodged during Session 4 (2011-2016), but none were lodged in Session 5 (2016-2021) and it is possible that there will be no further such orders requiring committee scrutiny.

4.69 The process for obtaining the Parliament's consent is set out in Chapter 9BA of the standing orders, and is closely modelled on the process for legislative consent to UK Parliament Bills (Chapter 9B).

4.70 Should a draft order under the 2011 Act that requires the Parliament's consent be laid before the UK Parliament, the Scottish Government would have to lodge a memorandum, normally within a week. The memorandum would be referred to a lead committee for policy scrutiny, and to the Delegated Powers and Law Reform Committee for technical scrutiny.

Scrutiny of the Scottish Government's Budget

4.71 In 2018, the Parliament adopted a new approach to budget scrutiny based on the recommendations of an official-level Budget Process Review Group⁴⁵, which was followed by an agreement⁴⁶ between the Scottish Government and the Finance Committee. The aim was to introduce a more strategic year-round approach, with more emphasis on what spending is achieving.

⁴⁵ Further information about the [Budget Process Review Group](#) is available on the Parliament's website.

⁴⁶ The [Budget Process Session 6 Agreement](#) is available on the Parliament's website.

4.72 Under this process, the role of the Parliament's committees (the sessional subject committees and relevant mandatory committees) is to evaluate public spending and seek to influence the formulation of future spending proposals. They do this by considering relevant Scottish Government and public body performance plans and reports, alongside other available evidence on the intended impact of policies and public spending and the effect these are having.

Annual cycle

4.73 The Scottish Government publishes a medium-term financial statement (MTFS) setting out its expectations and broad financial plans and projections for at least five years ahead on a rolling basis. The MTFS follows the UK Government's Spring Statement and is normally published at least four weeks prior to the summer recess. It includes forecasts for revenue and expenditure that are generated by the Scottish Fiscal Commission.

4.74 The Scottish Government also publishes a Fiscal Framework Outturn Report in September, which includes information about Scottish tax revenues; payments into and withdrawals from the Scotland Reserve; and a statement on borrowing.

4.75 The Scottish Government's Budget is normally published in December, no more than three working weeks after publication of the UK Government's Autumn Budget, which is normally in November, and the week before the Budget Bill is introduced.

Pre-Budget scrutiny

4.76 Each committee is expected to take evidence from relevant portfolio Ministers and publish a "pre-budget report", informed by the MTFS, in the autumn (at least six weeks ahead of the Scottish Budget). Pre-budget reports should include each committee's findings on the impact of spending on outcomes and the implications of these findings for future spending plans, including any suggested changes to policy priorities or allocation of resources. Rule 5.8.1(a) requires time to be set aside for a Chamber debate on these pre-budget reports, prior to the Stage 1 debate on the Budget Bill.

Spending Reviews

4.77 As part of its Budget preparations, the Scottish Government carries out a Spending Review, linked to the equivalent UK Government Spending Review. At the outset of this process, it publishes a framework document setting out the economic and political context, the criteria which will govern the assessment of budgets and the process and timetable for review. This gives committees an opportunity, through scrutiny and dialogue with stakeholders, to influence the outcome of the Spending Review.

Budget Bill and detailed revenue and spending proposals

4.78 The Budget document includes a summary of how scrutiny by the Parliament's committees has influenced the formulation of the Budget. Ministers then provide a more detailed response to individual committees after publication of the Budget. This allows committees to consider whether they are content with the Scottish Government's response, and whether to put forward alternative revenue and spending proposals when the Budget Bill is debated at Stage 1. Budget Bills are subject to a truncated scrutiny process compared with other Government Bills, and the Scottish Government aims to have them passed by the end of February, ahead of the new financial year beginning in April.

Scrutiny of petitions

4.79 Any person (other than an MSP) or organisation may lodge a petition with the Parliament, subject to meeting various criteria of admissibility (set out in Rule 15.5). Every petition is considered by the Public Petitions Committee⁴⁷, which has a range of options available to it, including referring the petition to the Scottish Government or to another committee, reporting on the petition itself, or closing the petition (Rule 15.6.2). In some previous sessions, many petitions were referred to other (mainly subject) committees for detailed scrutiny; more recently, the normal practice has been for the Public Petitions Committee itself to undertake scrutiny of

⁴⁷ For Session 6, this committee has been renamed as the Citizen Participation and Public Petitions Committee.

most petitions. As a result, petitions no longer feature regularly on most committee agendas.

4.80 Where a petition is referred to another committee, it is for that committee to decide what action to take – which could include conducting a full inquiry on the issues raised, seeking further information on those issues through correspondence or research, or closing the petition. Consideration of petitions is sometimes amalgamated with other scrutiny work – for example, consideration of a Bill that relates to the same subject-matter as the petition.

Initiating Committee Bills

4.81 As noted above (paragraph 4.38), any committee can initiate a Committee Bill by first publishing a report that includes a proposal for such a Bill (Rule 9.15).

4.82 When a committee first identifies the need for legislative change (perhaps in the course of an existing inquiry, or on the basis of a draft proposal made to it by any MSP), it should consult the Parliament's Non-Government Bills Unit (NGBU) for advice on the procedural and practical implications. NGBU's role is to support committees (and individual MSPs) seeking to introduce legislation, including by carrying out policy development work, obtaining legal advice and securing the services of professional Bill-drafters. While NGBU, working in close conjunction with the committee's own clerking team, can provide significant support, the process of initiating a Committee Bill is likely to involve a major time and resource commitment for the convener and other committee members.

4.83 The proposal report needs to include a reasonably detailed outline of what the proposed legislation would do, and why it is considered necessary. The report may include a draft of the proposed Bill, but in practice drafting is not normally instructed until after the committee has secured Parliamentary agreement to its proposal.

4.84 Once the report is published, the committee needs to request time in the Chamber for a debate on a motion (lodged by the convener) seeking the Parliament's agreement to the proposal. In the debate, the convener speaks first to move the motion on behalf of the committee; other committee members and

party spokespersons contribute; and the minister with responsibility for the proposed Bill's subject-matter gives the Scottish Government's view.

4.85 If the motion is agreed to, the convener obtains the right to introduce a Bill a minimum of five sitting days later – unless, during that five-day period, the Scottish Government blocks the proposal by making a written statement that it will initiate legislation to give effect to the proposal within two years (or by the end of the same session, if sooner). Such a statement must then be repeated orally in the Chamber, and the committee convener has a right to ask questions about it (Rule 9.15.7 to 7B). The effect of such a statement is that the proposal falls, preventing a Committee Bill from being introduced.

4.86 Where (as is normally the case) no Scottish Government statement is made, the convener obtains the right to introduce a Bill to give effect to the proposal as soon as the five-day period has ended, and retains that right until the end of the session. In practice, it is likely to take at least a few months before the convener is in a position to introduce a Bill. Further detailed policy work is usually required before drafting instructions can be prepared. Accompanying documents also need to be drafted (normally by NGBU, in conjunction with the committee's clerking team). As at the proposal stage, the committee convener and other committee members need to be fully engaged in this process to ensure that the Bill reflects their agreed policy and that they are equipped to explain and defend the Bill as it progresses through the scrutiny process.

4.87 In the Parliament's first five sessions, ten Committee Bills were introduced, most of which either established commissioners (accountable to the SPCB) and/or dealt with matters of Parliamentary process (such as members' interests and payments to opposition parties). Most were introduced either by ad hoc committees or by the Standards, Procedures and Public Appointments Committee.⁴⁸

⁴⁸ Examples include the Commissioner for Children and Young People (Scotland) Bill, introduced in Session 1 by the Education, Culture and Sport Committee; the Scottish Parliamentary Pensions Bill, introduced in Session 3 by an ad hoc committee established to review MSPs' pensions; and the Scottish Parliament (Assistance for Political Parties) Bill, introduced in Session 5 by the SPPA Committee.

Other committee work

4.88 While inquiries and scrutiny of Bills, subordinate legislation, LCMs and petitions make up the bulk of committee work, there are other things that sometimes feature on all committee agendas, including:

- procedural items (declaration of interests by new committee members, choice of convener and deputy convener, appointment of reporters)
- periodic consideration of the committee's work programme
- one-off evidence sessions (not as part of an inquiry) – for example, to hear from the relevant minister about the Scottish Government's priorities for the coming year
- consideration of committee annual reports (summarising the committee's activities over the previous Parliamentary year) or legacy reports (summarising activity over a whole session and making recommendations for a successor committee).

Committee work specific to certain mandatory committees

4.89 Some of the mandatory committees have, by virtue of their remits, specific functions to perform that don't fit the standard model of inquiry work, legislative scrutiny etc. These are outlined below.

Standards, Procedures and Public Appointments Committee

4.90 Anyone can raise with the SPPA Committee an issue relating to the Parliament's standing orders, or procedures more generally, for the SPPA Committee to consider. Such referrals sometimes come from the Parliamentary Bureau, the Conveners Group, another committee, or an individual MSP, and sometimes from Parliamentary officials. The Committee's consideration is informed principally by advice from clerks and legal advisers, although the Committee can also seek views from stakeholders within the Parliament or beyond. Where the outcome of the inquiry is a recommendation to change the standing orders, the report includes an annex listing the proposed changes. After the report is published, time is allocated for a Chamber debate on a motion

inviting the Parliament to agree the standing order changes by a date specified in the motion. Assuming that is agreed to, the SPPA clerks then re-publish the standing orders in amended form.

4.91 A similar process is followed in relation to inquiries about proposed changes to the Code of Conduct for MSPs.

4.92 The SPPA Committee has a general role in considering whether an MSP's conduct is in accordance with the Standing Orders, the Code of Conduct and other relevant provisions⁴⁹. Where a complaint about an MSP's conduct is made, it is for the Ethical Standards Commissioner to decide whether such a complaint is admissible and, if so, to conduct an investigation; the SPPA Committee's role is to consider the Commissioner's report and recommend any sanctions to the Parliament. Committee consideration of complaints is normally conducted in private.

4.93 Finally, the Committee is directly responsible for considering certain complaints about cross-party groups and any complaints which are referred to it by the Presiding Officer, the SPCB or a committee convener under Section 9 of the Code of Conduct.

Finance Committee

4.94 The Finance Committee⁵⁰ has a major role in the Parliament's annual scrutiny of the Scottish Government's Budget (outlined in paragraphs 4.72 to 4.79). It oversees the process, supporting the scrutiny work of the subject committees (and relevant mandatory committees) and liaising with the Scottish Government, for example about Budget timetabling and improving the content of budget documentation. It also reports on the Budget and is responsible for taking Stage 2 of the Budget Bill.

⁴⁹ Including those in the [Interests of Members of the Scottish Parliament Act 2006](#).

⁵⁰ For Session 6, this committee is renamed Finance and Public Administration. The public administration element is separate from the "mandatory" part of the committee's remit described here.

Public Audit Committee

4.95 The Public Audit Committee has a particular role in considering reports by the Auditor General for Scotland. This includes reports under section 22 of the Public Finance and Accountability (Scotland) Act 2002, which flag up issues of concern or interest that have arisen from the auditing of the accounts of a public body, and reports under section 23, which examine the economy, efficiency and effectiveness of public bodies (sometimes referred to as ‘performance audits’ or ‘value for money reports’). The Auditor General also refers other online outputs such as briefings and blogs to the committee, and these are sometimes considered as part of the committee’s work programme.

4.96 To fulfil its role, the Public Audit Committee has a close relationship with, and regularly takes evidence from, the Auditor General and Audit Scotland officials.

Public Petitions Committee

4.97 As outlined above (paragraph 4.80), the main role of the Public Petitions Committee⁵¹ is to consider petitions lodged with the Parliament, deciding (in cases of dispute) whether the petitions are admissible and then conducting scrutiny on them itself, referring them elsewhere for consideration, or closing them.

Delegated Powers and Law Reform Committee

4.98 One of the DPLR Committee’s main roles is technical scrutiny of statutory instruments (as outlined in paragraph 4.48); another is to consider at Stage 1 every Bill that includes delegated power provisions, and report on those provisions to the lead committee (see paragraph 4.30).

4.99 Where a Bill is introduced to implement a report by the Scottish Law Commission (a statutory body tasked with recommending reform of the law), and it complies with certain criteria determined by the Presiding Officer, it is considered (at Stage 1 and Stage 2) by the DPLR Committee (Rule 9.17A). The

⁵¹ For Session 6, this committee is renamed Citizen Participation and Public Petitions. The citizen participation element is separate from the “mandatory” part of the committee’s remit described here.

Guidance on Committees

Part 4: What committees do

DPLR Committee may also be required to scrutinise a Consolidation Bill, a Codification Bill, a Statute Law Repeals Bill or a Statute Law Revision Bill, in each case as an alternative to establishing an ad hoc committee for the purpose of considering the Bill (Rules 9.18 to 9.20). These types of Bills are, in various ways, aimed at tidying up the statute book without making substantive policy changes, and are introduced only rarely.

Part 5: Committee meetings

Timing of meetings

5.1 Under Rule 12.3.1, it is for a committee to decide the dates and times of its meetings. Committees can meet on any day, whether a sitting day or not, although standing orders (Rule 12.3.3) provide that committee meetings shall “not normally” be held in the Parliamentary recesses. In practice, it is very unusual for committee meetings to be held during Parliamentary recesses.

5.2 Committees cannot normally meet when the Parliament is meeting, although they can meet when Chamber business is suspended or has been adjourned (for example, for a lunch break). This does not happen frequently but can be useful if a short additional meeting is needed, for example to finalise a report when time is of the essence. It is still necessary to comply with the formalities of publishing the agenda in the Business Bulletin.

5.3 If a committee needs to meet at the same time as the Parliament (i.e. when the Parliament is not suspended or adjourned), this requires the Parliament’s advance agreement (to a motion lodged on behalf of the Parliamentary Bureau); in practice, this normally requires the committee to seek permission at least a few days in advance.

5.4 Committees normally meet weekly, occasionally fortnightly, on Tuesday, Wednesday and Thursday mornings. Officials prepare an outline timetable of meetings, allocating each committee a regular half-day slot. The outline timetable takes account of members’ other commitments such as membership of the Scottish Parliamentary Corporate Body (SPCB) or the Parliamentary Bureau or membership of more than one committee.

5.5 Within this framework, committees can, if need be, schedule additional meetings when required, for example, to meet the timetable agreed with the Parliamentary Bureau for consideration of Stage 1 or Stage 2 of a Bill, although regard must be had to the availability of accommodation and resources.

Meeting location

5.6 Committees normally meet in one of the six committee rooms at Holyrood, either with all members physically present, or with some participating remotely (by video link). Committees can also meet wholly remotely, on a platform provided for the purpose.⁵²

5.7 If a committee wishes to meet (wholly or partly in person, rather than wholly remotely) at a location other than a Holyrood committee room, it needs the approval of the Parliamentary Bureau and the Conveners Group (Rule 12.3.2). Meetings outside Edinburgh provide a valuable opportunity for people from different parts of Scotland to attend parliamentary proceedings. Members find it particularly useful to hold meetings outside Edinburgh where topics under consideration have a local interest.⁵³ See also Annex D (external meetings policy).

5.8 Committees cannot hold meetings at locations outside Scotland. Members of committees may, in certain circumstances, travel to other parts of the UK or abroad in connection with the work of the committees but these visits are for the purpose of fact finding or to undertake case studies. As these visits do not count as committee meetings, and do not form part of the proceedings of the Parliament, the provisions of section 41 of the Scotland Act 1998 (protection against actions for defamation) do not apply (see also paragraphs 5.54 to 5.57).

In-person and hybrid meetings

5.9 Before the Covid-19 pandemic, all committee meetings were held in person (with committee members and staff all physically present in the same room), and with only some witnesses participating remotely. During the pandemic, most

⁵² Before the Covid-19 pandemic, it was not possible for committees to meet remotely, or for members to participate remotely (except as witnesses) in a meeting held in a committee room.

⁵³ For example, the Session 4 Rural Affairs, Climate Change and Environment Committee met in Kirkwall (Orkney), Portree (Skye) and Dumfries prior to and during its Stage 1 inquiry on the Land Reform (Scotland) Bill 2015.

meetings were either held entirely virtually or on a hybrid basis (with some members in a committee room and others participating by video-link).

5.10 An inquiry by the Standards, Procedures and Public Appointments (SPPA) Committee in early 2022 gathered evidence from MSPs and others on the experience of conducting committee business at hybrid meetings. The evidence was that being able to participate remotely has advantages for some members, particularly those with caring responsibilities or disabilities. It also has advantages for some witnesses, particularly those from remote parts of Scotland who might not be able to spare the time required to travel to Edinburgh, and those who can find the formal setting of a committee room intimidating. Providing the option of remote participation (including by providing equipment or facilities to those who don't already have it) can increase witness diversity, reducing the risk of over-reliance on a few well-resourced organisations based close to Edinburgh; it is also cheaper and has a lower environmental impact.

5.11 The SPPA Committee's conclusion was that hybrid business should continue to be an option for committees, although on the presumption that most members would continue to participate in person most of the time. It agreed with the Conveners Group view that a hybrid format worked best when committees were in information-gathering mode, and was less suitable for Stage 2 proceedings on Bills, private consideration of draft reports, evidence-taking that involved holding witnesses to account, or for engagement with Ministers.⁵⁴

Committee agendas

5.12 The agenda for each meeting is set by the convener with the assistance of the clerk, who notifies members by publishing the agenda in the Business Bulletin. In general, agendas are available the preceding Thursday for committees meeting on a Tuesday, the preceding Friday for committees meeting on a Wednesday and the preceding Monday for committees meeting on a Thursday. The committee

⁵⁴ SPPA Committee, [6th Report, 2022 \(Session 6\)](#), *Future Parliamentary procedures and practices*.

clerks also e-mail copies of the agenda and papers to members of the committee concerned.

5.13 The agenda gives the start-time and venue of the meeting. Under Rule 5.5.1, the agenda published in the Bulletin must give details of the business to be considered. As a result, any changes to the agenda can only be made if there is still time available to publish an amended agenda.

5.14 To ensure that both committee members and members of the public get proper notice of the business to be considered, items on agendas are specific about the business to be taken and items such as “matters arising” and “any other business” do not appear.

5.15 The Business Bulletin and committee web pages also contain information about forthcoming business expected to be taken at subsequent meetings of committees.

Taking business in private

5.16 Committee meetings must be held in public except where a committee decides to hold all or part of a meeting in private (Rules 12.3.4 and 5). However, a committee cannot meet in private when it is considering proposals for legislation (whether before the Scottish or UK Parliament) or EU legislation, international conventions or proposals for law reform – although committees can decide to take evidence in connection with these matters, if appropriate, in private. In addition, committees can (and routinely do) consider draft Stage 1 reports on Bills in private.⁵⁵

5.17 It is good practice not to leave a decision to meet in private to the day on which the item is scheduled to be taken. Taking such a decision in advance allows proper notice to be given to all interested parties and avoids members of the public turning up to hear an item, only to find the committee agreeing to take it in private. If a decision has been taken at an earlier meeting, then the agenda item

⁵⁵ Ruling by the Presiding Officer, 4 September 2002 (see Procedures Committee, [3rd Report, 2003 \(Session 1\)](#), *The Founding Principles of the Scottish Parliament*, Volume 5, pages 423-425).

for the business concerned will clearly indicate that the agenda item will be taken in private.

5.18 When a committee is considering an item of business in private, the only people who can remain in the room are committee members and any substitutes acting as members (in which case the members whose places they are taking are excluded); support staff; and any witnesses from whom evidence is being taken in private.⁵⁶ Everyone else, including other MSPs who are not members of the committee, will be asked to leave. However, Rule 12.2.3 provides an exception in relation to the situation where a committee is taking evidence in private on a Bill when the member in charge of the Bill and, for non-Government Bills, the relevant minister may also attend and participate.

5.19 When a committee is meeting in private, its proceedings are not broadcast and, unless the Parliament has directed otherwise, there is no *Official Report* of its deliberations (Rule 16.5.2). However, the committee minutes record the business taken and any decisions reached during the private as well as the public items.

5.20 A committee decision to take an item in private does not necessarily mean that any papers for that item need to be private papers. Publishing a paper setting out background information, and explaining options available to the committee, need not undermine the reasons for having a private discussion about those options but it could be useful to those following the committee's business, helping them to understand the decision that is made. In other cases, there may be good reasons why the background papers need to be kept private. Where papers are private, they are clearly marked as such.

5.21 Where committee business is taken in private, private papers considered and the detail of the committee discussions remain confidential and are covered by section 7, paragraphs 12-14, of the Code of Conduct for Members. It is a breach of the Code for any member to circulate, show or transmit any such material to any other person or body, including to other MSPs who are not members of the committee or to the Scottish Government.

⁵⁶ In the context of a meeting held wholly or partly remotely, "remaining in the room" means remaining connected to the virtual platform.

5.22 Committees have taken items in private where they wish to discuss confidential material in connection with a third party (for example individual claims for witness expenses or shortlists of committee advisers). Committees have also met in private to take oral evidence or to consider written evidence of a particularly sensitive nature (for example evidence involving commercial confidentiality or evidence from vulnerable or intimidated people). Committees routinely meet in private to discuss draft reports on the basis that this facilitates the achievement of consensus and prevents media focus on preliminary conclusions which may not feature in the final report. Each decision to meet in private, however, has to be based on the facts and circumstances of the particular item of business.

Participation in committee meetings

5.23 Only MSPs (and the Law Officers) have the right to participate in the proceedings of the Parliament, which includes proceedings in committees.

5.24 Any MSP who is not a member of a committee may attend the committee's meetings (or items on the agenda) that are held in public; with the convener's permission, they may participate but not vote. This does not happen often but when it does, conveners normally allow non-committee members to participate, although they would typically be called to speak only after committee members, and where time permits.

5.25 When a committee is considering a Bill, Rule 12.2.3 gives the member in charge of the Bill and, in the case of a non-Government Bill, the relevant minister or deputy minister the right to participate in committee proceedings, but not to vote.

5.26 Anyone may be invited by the committee to attend its meetings as a witness – that is, for the purpose of giving evidence (Rule 12.4.1) – but a witness who is not an MSP (including a civil servant accompanying a Minister) cannot participate in the meeting in any other way (e.g. by contributing to formal debates or decision-making).

Staff at committee meetings

5.27 Those who attend committee meetings include – in addition to committee members and substitutes, other MSPs and witnesses – Parliament staff in a range of roles, and advisers.

Clerks

5.28 Each committee is supported by a clerking team. A senior member of the team is designated “clerk to the committee” and is named at the bottom of the minutes, although other members of the team sometimes clerk meetings (or items). The clerking team is responsible for ensuring the preparation of all meeting papers (including draft reports); and providing procedural advice to the convener and committee members during the meeting, and preparing the minutes of the meeting.

5.29 At least one member of the clerking team will be in attendance at a committee meeting and will be seated next to the convener. A committee cannot meet without a clerk in attendance to ensure that procedures are followed and to record decisions in the committee minutes.

5.30 Although clerks cannot participate directly in a committee’s consideration of any item of business and do not normally speak while the committee is meeting in public, they can be called upon by the convener to give oral advice on procedural matters, and to contribute to practical discussions (for example about the committee’s work programme) while the committee is meeting in private. Clerks may also give conveners procedural advice, privately, during committee meetings.

Official reporters

5.31 Members of the staff of the Official Report may attend public committee meetings and sit at the committee table, normally next to the clerks, for the purposes of preparing the report. This may include passing notes to committee members and witnesses seeking clarification of things said. (See also paragraphs 5.73 and 5.74.)

Broadcasters

5.32 A member of broadcasting staff is present at each committee meeting to operate the sound and broadcasting system, including operating the microphones. Members and witnesses do not have to press the “request to speak” button before contributing, as members do in the Chamber.

Scottish Parliament Information Centre (SPICe) staff

5.33 Researchers from the Parliament’s information centre (SPICe) routinely attend committee meetings. They sometimes sit at the committee table during public items, and may be called upon to speak when the committee is meeting in private.

Participation and communications staff

5.34 Staff from the Participation and Communities Team (PACT) and the Parliament Communications Office (PCO) may also attend committee meetings, and may sometimes be invited to contribute during private items. PACT’s role is to advise the committee on public engagement, while PCO’s role is to assist with the committee’s engagement with the media (including social media).

Legal advisers

5.35 Solicitors from the Parliament’s Legal Services office may be in attendance, particularly at meetings of the Delegated Powers and Law Reform Committee or the Standards, Procedures and Public Appointments Committee. Legal advisers usually sit at the committee table, by the clerks, and provide advice if asked to do so by the convener.

Security staff

5.36 Members of the Parliament’s security staff are present during all public meetings. Their role is to assist with public access and any issues relating to the security and safety of the building and its occupants. They do not sit at the table.

Advisers

5.37 Any adviser appointed to assist the committee (see paragraphs 3.26 to 3.30) may be present at a committee meeting and may be seated at the table. The

convener may invite the adviser to provide advice or clarification during the committee meeting. An adviser cannot, however, participate directly in committee meetings by questioning witnesses.

The role of the convener in meetings

5.38 The convener is responsible for ensuring that the committee works through the agenda in the time available and in accordance with procedures and good practice, for keeping order and for calling members and witnesses to speak. Conveners facilitate debate in the committee, ensuring that all members have a fair opportunity to contribute, and aim, where possible, to allow the committee to reach a consensus view or, if that is not possible, to make a clear decision.

5.39 Conveners are assisted during meetings by the clerks, who normally provide a written briefing document in advance, and are on hand throughout to provide support and advice.

5.40 The convener also has a role as a full member of the committee and, on occasions, may be the sole representative of his or her party on the committee. Accordingly, in addition to chairing the meeting conveners also participate fully in committee meetings by, for example, asking questions of witnesses, expressing opinions on matters under discussion and voting as an individual in the event of a division.

Declaration of interests

5.41 Each member of a committee who has a declarable interest in a matter must make a declaration of that interest before taking part in any committee business relating to that matter.⁵⁷ If a member is uncertain as to whether a

⁵⁷ Section 13 of the [Interests of Members of the Scottish Parliament Act 2006](#). See also Section 3 of the Code of Conduct which, together with guidance on the Code, is available on the Parliament's website under MSPs / [Code of Conduct](#).

declaration is required, he or she can consult the clerks⁵⁸. Responsibility for complying with the rules on declarations of interest, however, lies with the individual member.

5.42 It is good practice for members (including substitutes) to declare interests relevant to the remit of a committee at the first meeting they attend, irrespective of the business before the committee at that meeting. Thereafter, a member must make a declaration of interest at each committee meeting where the member has interests relevant to an item on the agenda and participates, other than by simply attending or voting, in consideration of that item.

5.43 The declaration should be made at the start of the relevant agenda item (or as soon as possible thereafter) and, in any event, before participating in the proceedings. A declaration should be brief but sufficiently informative to enable a listener to understand the nature of the member's interest. It is not necessary to rehearse all the details recorded in the Register of Interests if this is more than is required to explain the nature of the interest. Good practice is to say "I declare an interest", briefly explain the interest, and then move on to the business in hand.

5.44 A declaration must be made whether the item is taken in public or in private. It is good practice to make a declaration during the public part of a meeting, even if it is also made during a private item. It is also good practice to repeat a declaration if that ensures that everyone at the meeting is aware of it – for example, if further witnesses arrive to give evidence after the declaration was first made.

5.45 Also, as a matter of good practice, members should declare any business or personal relationships they have with witnesses or advisers to a committee. In the case of a witness, this should be done before the witness gives evidence. In the case of an adviser, the member should advise the clerk to the committee at the stage that the person concerned is being considered for appointment, so that this can be drawn to the attention of other members. If the committee

⁵⁸ Either the committees own clerking team, or the "standards clerks" (i.e. the clerking team that supports the Standards, Procedures and Public Appointments Committee, whose role also includes advising all MSPs on their obligations under the Code of Conduct and in relation to matters of conduct).

subsequently decides to appoint the person as an adviser, there is no need to make a further declaration.

Quorum

5.46 Under Rule 12.2.1, a committee shall not commence consideration of any business or vote if the number of committee members present, including the convener, is fewer than three. (In the context of a meeting held wholly or partly remotely, a member participating by video-link counts as being “present”, and so counts towards the quorum.) Accordingly, if attendance falls below three members during the course of a meeting, the committee can conclude the item of business under consideration, but cannot vote on that item and cannot commence another item of business.

Conduct during committee meetings

5.47 Although proceedings in committees tend to be less formal than in the Chamber, it is important that order is maintained not only out of respect for the Parliament but also to ensure that an accurate *Official Report* can be produced of the proceedings and that committee members, witnesses and the public gallery can keep track of the proceedings.

5.48 Members are required to conduct themselves in a courteous and respectful manner and to respect the authority of the convener (Rules 7.3.1, 7.8). Any complaint about a member’s conduct in a committee meeting is referred to the convener; a complaint about the convener’s conduct is referred to the Presiding Officer (Code of Conduct, paragraph 9.6(a)).

5.49 Under Rule 7.2, a member should speak only when called upon to do so by the convener. A member who has been called upon to speak should not be interrupted by any other committee member except the convener. The convener is entitled to enforce time limits on members’ speeches, although this is relatively unusual as committee meetings rarely involve formal debates.

5.50 During committee meetings, the convener is generally referred to by title although he or she can be addressed by name if he or she wishes. Members normally address each other by name rather than by their title. It is not uncommon

in committee meetings for members to use first names. However, when that happens it is helpful if a member's full name can be used on at least the first occasion, to help identification by all present, particularly those with sight disabilities or listening to a sound broadcast. Members and witnesses remain seated during committee proceedings (unlike in the Chamber where members stand to speak).

5.51 If the convener considers that business is being disrupted by the behaviour or conduct of a member, the convener will ask the member to desist. Ultimately, the convener has the authority under Rule 7.3.3 to order a member to leave the meeting and to exclude him or her for the rest of that meeting (or any other meeting held on the next following sitting day).

5.52 The convener cannot exclude a member from subsequent meetings of the committee although this can occur if a decision is taken by the Parliament on a motion of the Parliamentary Bureau.

Sub judice

5.53 Under Rule 7.5, an MSP may not make reference in a committee meeting to any matter in which legal proceedings are active (as defined in section 2 of the Contempt of Court Act 1981), except to the extent permitted by the Presiding Officer. Even where such permission is given, the MSP must ensure that anything said about the case respects the law on contempt of court. If a member raises an issue without the Presiding Officer's permission which, in the view of the convener, is or may be sub judice, the convener may order the member to stop. In some contexts, the application of this power may have the effect of bringing a committee discussion to an end. However, if the committee is considering legislation, the convener must ensure that application of the sub judice rule does not prevent that business being completed.

Privilege

5.54 In the Scottish Parliament, any “privilege” is conferred by or under the Scotland Act 1998.⁵⁹

5.55 Section 41 of the Scotland Act 1998 provides that, for the purposes of the law of defamation, any statement made in “proceedings of the Parliament” (which includes proceedings of the committees), and the publication under the authority of the Parliament of any statement, is absolutely privileged. This means that such statements cannot form the basis of an action for defamation. “Statement” in this context means “words, pictures, visual images, gestures or any other method of signifying meaning”.

5.56 Accordingly, this protection applies to any statements made in public or private meetings of a committee and any committee reports, including written evidence published in or as an annex to a committee report. Privilege does not attach to statements made when a member is (for example) participating in a fact-finding visit or an informal engagement exercise (neither of which counts as part of the committee’s proceedings). It also means that written material published on a committee’s webpage, such as written evidence, is not covered by privilege, which is why all submissions are checked before publication for any potentially defamatory material.

5.57 It is also important to note that the protection provided by section 41 relates only to the law of defamation. It does not shield members from the operation of the law in relation to other matters, such as data protection or the need to comply with court orders.

Decisions and voting

5.58 In general, under Rule 11.8.1, it is for the convener to decide the time at which members will take a decision on any item of business. The exception to this is in connection with amendments to Bills where the convener is obliged to put the

⁵⁹ The Presiding Officer issued [guidance on privilege](#) in August 1999, which is accessible via the Scottish Parliament website.

question immediately after the amendment is debated (or immediately after the amendment has been moved, if the amendment has already been debated) (see Rule 11.8.2).

5.59 In practice, committees take many decisions by consensus without the need for a division. Where consensus is not arrived at and a division is necessary, members normally vote by show of hands, but a roll-call vote or an electronic voting system can also be used (at the convener's discretion) (Rule 11.8.3).

5.60 In the event of a division:

- only members of the committee (including substitutes attending in that capacity) may vote
- members may only vote once on any question
- members may vote yes, no, or to abstain, although they do not have to vote
- the convener may vote as an individual and must also exercise a casting vote in the event of a tie.

5.61 In a vote by show of hands (or using an electronic voting system), the convener will first invite members who wish to vote in favour to do so, then those wishing to vote against, and then any wishing to abstain. In a roll call vote, the convener or the committee clerk will call the names of the committee members in alphabetical order and each member may answer "yes", "no", "abstain", or not vote.

5.62 Decisions are taken by a simple majority unless there is express provision in the Standing Orders or an enactment that an alternative threshold applies (Rule 11.11). A simple majority means that more committee members present vote in favour than vote against (with no account taken of members who abstain). An absolute majority means that the number of committee members voting in favour is more than half the membership of the committee (as opposed to more than half of those present at the time).

Suspension and closure of meeting

5.63 A committee meeting continues until suspended or closed by the convener (Rule 7.4).

5.64 A meeting is normally closed after the committee completes its consideration of all the agenda items. In exceptional circumstances, a committee can agree to defer business to a future date, but this should be avoided in order to minimise disruption to members, witnesses and the public.

5.65 A convener can suspend a committee meeting (under Rule 7.4.1 as applied by Rule 7.8.1) in the following circumstances:

- if an emergency occurs which would place members attending the meeting at risk
- if a disturbance interferes with the conduct of business
- if items of business have been timetabled, where a particular item has concluded before the time set for commencement of the next item
- for a meal or other break.

5.66 If the convener suspends in the event of a disturbance, the meeting is suspended when the convener leaves the chair after ordering the person or persons causing the disturbance to stop (Rule 7.4.2).

5.67 Where the meeting is suspended because of an emergency or a disturbance, the convener can reconvene the meeting at any later time the same day. If proceedings are suspended as a result of timetabling issues or for a meal or other break, the convener can specify a time at which the proceedings will be reconvened. A suspended meeting which is not reconvened at a time later in the same day is deemed to have been closed at the time when it was suspended (Rule 7.4.3).

Procedural issues

Suspension/variation of Standing Orders

5.68 Proceedings in committees are regulated by Standing Orders. A committee cannot take a decision to suspend or vary Standing Orders. Any decision to suspend or vary Standing Orders for the purposes of a committee meeting or part of a committee meeting or for any item of business taken in a committee meeting must be taken by the Parliament on a motion of the Parliamentary Bureau (Rule 17.2).

Points of order

5.69 During the course of committee meetings, members may ask for clarification of the provisions of Standing Orders or guidance on practice and procedure in committees. Where these arise, they may be answered by the convener, or the convener may ask the clerk to respond. However, such requests for clarification are not “points of order” in terms of Standing Orders. The provisions of Rule 8.17 do not apply to committees and points of order can only be made in the Chamber and can be answered only by the Presiding Officer.

Access to information about committee proceedings

The public gallery

5.70 When a committee is meeting in public (and not wholly remotely), proceedings can be viewed from the public gallery, free of charge but subject to availability. Seats are bookable in advance via the Parliament’s Visitor Services team.

5.71 When attending a committee meeting, members of the public must comply with conditions determined by the Presiding Officer under Rule 15.2⁶⁰ as well as to instructions from the committee convener. In particular, committee conveners

⁶⁰ The current conditions are available on the Parliament’s website under Visit / Planning your visit / [Visitor code of conduct](#).

have agreed that they consider it disruptive for notes to be passed from the public gallery to anyone seated at the committee table⁶¹.

Minutes of committee meeting

5.72 Minutes of each committee meeting are prepared by the clerk (Rule 16.1). The minutes record all the items of business dealt with at the meeting and the results of any decisions taken and of any divisions which took place. This includes items taken in private, though in such cases it may be necessary (depending on the circumstances) for the minutes to record decisions in such a way as not to reveal the details of private discussions. The minutes are published on the committee webpage as soon as possible after conclusion of proceedings and normally within 24 hours.

Official Report

5.73 The Official Report (OR) produces a “substantially verbatim” transcript of what is said during public committee meetings. This can involve official reporters sitting at the committee table (next to the clerks) in order to “log” the proceedings (although the transcript is prepared from a digital audio system). The *Official Report* is published in draft on the Parliament’s website within a few days and – other than in exceptional circumstances – before the next meeting of the committee.⁶²

5.74 During a committee meeting, Official Report staff may need to clarify what has been said, either by passing a note to a member or witness in the room, or by sending an electronic message to a member or witness participating remotely. Once the draft *Official Report* is published, a link is sent to witnesses giving them the opportunity to request corrections to how their evidence has been reported.

⁶¹ This does not prevent individuals who are attending in support of a witness, but not themselves sitting at the committee table, from passing notes discreetly to the witness.

⁶² Where it is not possible to publish all committee Official Reports ahead of the committees’ next meetings, reports are prioritised in the following order: Stage 2 proceedings on Bills (Government Bills, then non-Government Bills), Consideration Stage proceedings on Private Bills, evidence in major inquiries, Stage 1 evidence-taking (Government Bills, then non-Government Bills), Preliminary Stage evidence-taking (Private Bills), other evidence-taking.

This cannot, however, be used by witnesses to alter the meaning of what they said or add additional information.⁶³ The final archive version is normally available on the Parliament's website within a few weeks of the meeting.

Broadcasting

5.75 Committee proceedings are broadcast live within the Parliament building and webcast live on the Parliament's website. Meetings can also be viewed later via the Parliament website.⁶⁴

Committee annual reports

5.76 Rule 12.9.1 requires each mandatory and subject committee, as soon as practicable after the end of each Parliamentary year, to report to the Parliament on the committee's activities during that year including details of its meetings and the number of times that it has met in private. In the case of the parliamentary year ending on the dissolution of the Parliament before a general election, each committee is required to report before the Parliament is dissolved. A summary of committee activity is also included in the Parliament's published annual report.⁶⁵

The Parliament's website

5.77 The Parliament's website is a useful source of information about the committees. Each committee has its own web page which gives information about membership as well as providing access to committee agendas and public papers. Official Reports of committee meetings can be accessed through the committee web pages, as can minutes of meetings and committee reports.

⁶³ Further information on [corrections to the Official Report](#) is available on the Parliament's website.

⁶⁴ Go to Chamber and committees / What's on and watch live / [Parliament TV](#).

⁶⁵ Available on the Parliament's website under About / Annual report and accounts / [Scottish Parliament Annual Report](#).

Part 6: Committee inquiries

Planning an inquiry

Issues of competence and cooperation

6.1 Any topic that a committee chooses for an inquiry must fall within the committee's remit. Where the topic engages other committees' remits, the other committees should be informed, as a courtesy. There may then be a case for ongoing liaison between the conveners and the clerking teams involved. This can avoid duplication of effort, allow the committees to consider cooperating in the inquiry and avoid witnesses being called to two committees on the same topic.

6.2 If there is a dispute about which committee remits are engaged by the inquiry topic, it is for the Parliamentary Bureau to decide, after consulting the Conveners Group. If the Bureau decides the topic falls within two or more remits, it may recommend to the Parliament, by motion, that one of the committees be appointed the lead committee (Rule 6.13).

6.3 More likely is that the committees will wish to decide among themselves how to handle an inquiry in which they have a joint interest. One option is for the committees to seek the agreement of the Parliamentary Bureau (which must consult the Conveners Group) to consider the topic jointly (Rule 6.14; see paragraphs 4.8 to 4.10). An alternative would be for the other committees to appoint members as reporters to attend meetings of the committee running the inquiry, to participate in relevant evidence-taking and to report back on progress with the inquiry (see paragraphs 3.23 to 3.25).

Defining the terms of the inquiry

6.4 When the committee has reached formal agreement to include an inquiry in its work programme, the next stage is for the committee to consider the scope of the inquiry and how it will be conducted. This usually involves the committee meeting in private to consider an "approach paper" prepared by Parliamentary staff (principally clerks, SPICe researchers and legal advisers).

6.5 It is important to consider the scope of the inquiry carefully, ensuring that it covers the key issues without being too vague or ambitious. Without this, there is

a risk that, as the evidence starts to come in, there is pressure to adjust or extend the remit, leading to confusion among stakeholders and a general lack of clarity. Committees also need to be realistic about the timescales for inquiries, recognising that any inquiry will need to be progressed alongside other work, and building in sufficient time for evidence-gathering, research and the preparation of a draft report. In doing so, the workload implications both for members and staff need to be taken into account.

6.6 A committee will also wish to consider, at an early stage, whether to seek the appointment of an adviser, and whether the inquiry lends itself to fact-finding visits (including overseas), commissioning external research or holding meetings outside Edinburgh. All of these types of activity require advance planning; adviser appointments require the approval of the Parliamentary Bureau, while overseas fact-finding visits and meetings outside Edinburgh require approval from both the Bureau and the Conveners Group.

6.7 The committee should also give preliminary consideration (usually based on suggestions from SPICe) to the people and organisations from whom to invite evidence. This allows the clerks to contact them in good time to discuss their availability, and to give them longer to prepare. It should also consider what, if any, engagement activity it should undertake, to facilitate participation by a wider range of stakeholders and interested parties than can normally be achieved through evidence-taking in formal committee meetings. The Parliament's Participation and Communities Team (PACT) should be involved in early discussion on engagement options. In some cases, the committee may issue an early statement on the approach it intends to take – for example to outline any special measures it is taking to facilitate participation from vulnerable witnesses or for handling particularly sensitive evidence.

Launching the inquiry

6.8 Most committees launch their inquiries with a news release and publicity on the Parliament's website. Depending on the topic, targeted information may be sent to key stakeholders and to relevant media (e.g. specialist magazines or websites). Publicity of this kind is important at the start of an inquiry to ensure that all individuals and groups who have an interest in the topic and who might want to

contribute their views to the committee are made aware that the inquiry is under way and of how they can make their views known to the committee.

6.9 Another option is for the convener to announce the launch of the inquiry in the Chamber.⁶⁶ An opportunity to make committee announcements is normally provided each Tuesday, shortly before Decision Time⁶⁷. The convener should contact the Presiding Officer's office by noon on the preceding Friday with the subject-matter of the proposed announcement. Up to three minutes is allowed for each announcement.

Call for views

6.10 The launch of a committee inquiry usually coincides with the issue of a "general call for views" which invites any organisation or individual with an interest to make a written submission to the committee. In addition, some key organisations and individuals may also be sent information alerting them directly to the inquiry and encouraging them to submit evidence.

6.11 A call for views usually consists of a list of questions that witnesses are invited to answer. Such a list can help to focus evidence on key issues the committee wishes to address. It also makes it easier to compare the views of different witnesses and facilitates the preparation (usually by SPICe researchers or advisers) of evidence summaries. However, witnesses should not feel overly constrained by these questions, and can include in their submissions anything relevant to the inquiry as a whole.

6.12 Committees usually ask for written evidence to be submitted by a particular date. To comply with established principles of good consultation, "adequate time"

⁶⁶ Announcements can also be used for other purposes – for example, to draw attention to the conclusions of an inquiry or a bit of scrutiny work, as an alternative to seeking a Chamber debate.

⁶⁷ The Bureau is required to make time available for committee announcements by Rule 5.6.1(d). This Rule was added in 2019 – see Standards, Procedures and Public Appointments Committee's [12th Report, 2019 \(Session 5\)](#), *Standing order rule-changes*, following an earlier trial.

must be allowed – but what counts as adequate will vary according to context⁶⁸. The Conveners Group agreed in Session 5 (see Annex E) that, wherever possible, a period of eight to ten weeks should be allowed between the launch of a call for views and the deadline for written submissions – while recognising that shorter timescales were sometimes necessary, and that allowance should be made for holiday periods (particularly Christmas). Any consultation timescale needs to acknowledge that consultees often have competing priorities, that good quality evidence takes time to prepare and that some external organisations may need to follow their own internal consultation and clearance process before submissions can be issued in their name.

6.13 Setting a deadline for submissions helps ensure that the committee has access to the evidence it needs at a relatively early stage in the inquiry and can take it fully into account in the questioning of oral witnesses and in formulating its conclusions. Meeting the deadline therefore generally benefits both witnesses and the committee. However, there can be good reasons why some witnesses are unable to submit evidence until after the deadline. On occasion, therefore, committee clerks may accept late submissions, and circulate them to committee members, up until the point at which the committee has reached a concluded view on the points at issue.

6.14 Ideally, a committee would gather all the written evidence first, and only then finalise who is to be invited to give oral evidence, so that those whose written submissions seem particularly relevant or interesting can be included among the invitees. Timing constraints usually prevent this, however, and in practice the period for submitting written evidence usually overlaps with the period when oral evidence is being taken. It is usually clear from the outset who some of the witnesses are going to be and they can be invited to give their oral evidence first, while written evidence is still coming in.

6.15 Individuals and organisations who follow the work of particular committees can plan ahead by monitoring the committee web pages and, in particular, by taking into account the published work programmes of committees which will give

⁶⁸ The need to allow adequate time for responses is one of four “Gunning principles” that public sector consultations are expected to comply with.

an indication of inquiries “in the pipeline”. It is also possible for stakeholders and interested parties to contact the committee clerks, whose details can be found on the website, to discuss possible timescales.

Submitting written evidence

6.16 An online tool (Citizen Space) is provided to facilitate the making of written submissions electronically. This is usually the most efficient process both for witnesses and for the committee clerks, and prospective witnesses are encouraged to use it wherever possible, although submissions can be accepted in other formats (e.g. by e-mail or in hard copy).

6.17 Committees often receive a substantial volume of written material during an inquiry and it is helpful if submissions are normally no more than around 3,000 words in length (roughly six pages of A4). Committees recognise that longer submissions are sometimes needed if complex issues are to be fully explained, but MSPs have many competing demands on their time and may not always be able to read large volumes of material in advance of committee meetings. Witnesses should also bear in mind that MSPs won't always have prior knowledge of or experience in every topic under consideration, and that evidence also needs to be understood by members of the public. Accordingly, specialised concepts and technical terms should be explained, and jargon avoided so far as possible.

6.18 Written evidence is normally published in full, in the interests of transparency, but there have been instances where only a summary or a sample of submissions has been published. Individual submissions may need to be redacted in some cases – for example if they include any potentially defamatory statements, contain obscene or offensive material or give rise to issues under data protection legislation. Committees also reserve the right not to publish submissions which are irrelevant, frivolous, incoherent or repetitive. Where a large number of identical or similar responses is received (prompted, for example, by a campaign group), the normal practice is to publish the text only once, along with an indication of how many such responses were received.

6.19 Despite the general presumption of openness, witnesses can request that their submissions be published anonymously or treated as confidential – i.e. circulated to committee members but not published – if, for example, they contain

sensitive personal testimony. The committee clerks can advise prospective witnesses on their options in such cases; it is ultimately for the committee to decide whether to grant a request for anonymity or confidentiality, and for the witness to decide whether to go ahead with a submission if the request is refused.

6.20 The Parliament is subject to data protection law and calls for views are always linked to the relevant privacy notice (which explains how any submission made will be handled). The Parliament is also subject to freedom of information law, which means that even where committees agree to a request not to publish a witness's name or the content of a submission, the Parliament may be required to disclose that information in response to a request by a third party.

Oral evidence

6.21 In addition to considering written evidence, committees will normally invite witnesses to attend their meetings, either in person or remotely, to give oral evidence.

Choice of witnesses

6.22 It is important to note that whereas any individual or group can submit written material to a committee, there is no right to give oral evidence. It is entirely a matter for the committee to decide from whom it wishes to hear. In choosing oral witnesses, the aim should be to gather a range of views from all the main stakeholders – those with first-hand experience of the topic or who represent those who do, those responsible for how things currently work or who have formulated proposals for change, those who would have to implement any change or who may be adversely affected, and those with detached expertise (such as academics). In most instances, the relevant minister will be invited, often as the final witness, to give the Scottish Government perspective – particularly if the inquiry is directly about a government policy or about the performance of a department or agency.

6.23 Committees will normally agree their initial selection of witnesses to give oral evidence at the start of the inquiry. However, this list can be added to as the inquiry progresses and the committee's knowledge develops. It may well be expanded after a committee has considered the written evidence. Early

identification of witnesses allows witnesses to prepare for their appearance before the committee and to consider what further papers they wish to provide to the committee by way of background information.

6.24 Where an invitation is issued to an organisation, the committee will normally leave it to the organisation to decide who is best placed to represent it – although the committee may sometimes express a preference (e.g. for the chief executive or accountable officer to attend). Organisations may sometimes wish to field a small team, led by someone with appropriate seniority, backed by those with more specialist knowledge or relevant first-hand experience. In such cases, organisations are encouraged to consider diversity when deciding who the team is to include. The size of any team may need to be discussed in advance with the committee clerks, as there may be practical limits on the number of witnesses that can be accommodated in the committee room.

Oral evidence sessions

6.25 Oral evidence sessions are scheduled as items on committee meeting agendas and usually involve panels of invited witnesses sitting at the end of the committee table, being questioned by committee members. Witnesses are typically included in the same panel according to the topic, so that people from a range of perspectives can be questioned together about a particular aspect of the subject-matter, or in stakeholder groups, for example with one panel for bodies responsible for delivering a service and another panel for service users. Sometimes different witnesses are invited to sit among the members in a “round-table” format, where the emphasis is more on promoting discussion among witnesses rather than between witnesses and committee members.

6.26 Witnesses sometimes give evidence by video-link instead of attending in person. This happened only rarely before the Covid-19 pandemic, during which the rapid adoption of new technology and changes in procedure made it, for a while, normal practice. Video evidence continues to be useful for witnesses who might otherwise find it difficult to contribute because of their location (including overseas witnesses), or because of health issues or caring or work commitments. It also reduces cost to the Parliament in witness expenses, and can have environmental benefits. Before agreeing to give evidence remotely, witnesses should ensure they have a robust and reliable internet connection. The

Parliament's Participation and Communities Team (PACT) can provide support to witnesses who would prefer to give evidence remotely but lack the facilities or technical skills.

6.27 Committees can also consider evidence submitted by non-interactive technology (e.g. a pre-recorded video) although this has its drawbacks in that members are not given the opportunity to challenge or question witnesses. Where a non-interactive format is the only option available, a transcript should be provided for the assistance of the Official Report and the content must be authenticated to the committee's satisfaction.

6.28 Wherever possible, committee agendas give the full names and designations of all the witnesses who will be giving evidence. This is important for people who are trying to keep track of committee proceedings and should be departed from only in exceptional circumstances (e.g. a last-minute substitution of a witness representing a particular organisation). Committee meetings are not appropriate forums for direct public engagement, for example by inviting contributions from the gallery, nor is it normally appropriate for those present at a meeting in support of invited witnesses, but not themselves listed on the agenda, to be called upon to speak. Parliamentary staff who attend meetings as part of their roles should also not normally be invited to speak on the record without prior notice.

6.29 There is a general expectation that oral evidence will be supported by a written submission to the committee. This should be submitted well in advance and no later than three working days before the meeting to allow it to be circulated to the members for the meeting at which the oral evidence is to be taken.

Opening statements

6.30 Conveners may invite witnesses to make an opening statement. However, this is not invariably the practice and will depend on the preferences of members as well as on the time available to the committee. Witnesses can find it helpful to discuss in advance with the clerks whether they wish, or will be expected, to make an opening statement. If permitted, an opening statement should normally be short (usually no more than five minutes) and should be used to emphasise key issues. In particular, there is no need for witnesses to read aloud their written submissions so as to get them "onto the record".

Lines of questioning

6.31 Some committees find it helpful to use “lines of questioning” (usually prepared by SPICe and clerking staff) as a means to ensure that key topics are covered; to facilitate this, the committee may have a short private discussion before the meeting begins to agree which members are going to lead on which topics and in what order. Other committees prefer a more informal approach, in which it is left to individual members to indicate to the convener as the session unfolds that they wish to contribute, and there is no coordination among them of the questions asked. This can be more flexible and allow more opportunities to members with a particular interest in the topic to pursue issues in depth, but there may be a risk that the discussion meanders back and forth with some aspects getting more attention than necessary while other aspects are overlooked.

6.32 Witnesses may find it helpful to make contact with the committee clerk in advance of the meeting to discuss the structure of the session. The clerks will be able to provide some general advice and briefing, including briefing on the possible areas that questioning might cover. Witnesses, should, however, bear in mind that committee members are always free to ask any questions that they consider relevant, and hence that lines of questioning can never be fully anticipated in advance.

Management of questioning

6.33 It is for the convener to manage any oral evidence session, including (typically) by inviting the witnesses to make a short opening statement, asking the initial question or two, and then opening up questions to other committee members (and, if time permits, to any other MSPs who are present and wish to participate). It is good practice for conveners to give each member who asks a question an opportunity to respond to the initial answer with one or more follow-up questions; and to give witnesses an opportunity at the end to make any additional points that they weren’t able to get across in their answers to the questions asked.

6.34 In most contexts, where the principal aim is to gather information to inform the committee about a topic, members usually find it most effective to ask fairly short and open questions, and then to home in on more specific issues in any follow-up questions, depending on the witness’s initial answer. In some contexts, where the aim is to hold someone to account for something that has gone wrong,

a more interrogatory approach to questioning may be appropriate. It is part of the convener's role to oversee the questioning of witnesses, including by discouraging long-winded or leading questions, and protecting witnesses from unfair or inappropriate lines of questioning.

6.35 Witnesses should normally answer the member who has asked the question and there is no need to answer each question through the chair. Witnesses should refer to the convener by that title, and to other members by the names which appear on the name plates in front of them.

6.36 The length of each evidence session varies according to the complexity of the topic and the number of other items on the committee agenda. In general, each panel of witnesses tends to be at the table for around 45 minutes to one hour. A "round table" session normally takes longer than an hour, depending on the topic and the number of witnesses.

Privilege

6.37 Committee meetings are regulated by the Parliament's Standing Orders and constitute "proceedings of the Parliament". Accordingly, under section 41 of the Scotland Act 1998, any statements made at a committee meeting are absolutely privileged for the purposes of the law of defamation. This provides witnesses, as well as members, with a defence of privilege in the event that an action for defamation is brought arising from statements made during the meeting. Committees may, however, be reluctant to provide a platform to allow potentially defamatory comments to be made and it is a matter for the convener to decide whether to allow a witness (or member) to continue to make such remarks.

6.38 It is important to distinguish between meetings of the committee which are part of the proceedings of the Parliament and other informal information-gathering exercises by committee members which are not regulated by Standing Orders and which do not constitute part of the proceedings of the Parliament. If a witness is in any doubt about the status of the event, he or she should obtain clarification from the clerk beforehand.

Evidence-taking in private; protecting anonymity

6.39 Oral evidence sessions usually take place in public, but may occasionally be held in private, or with other measures in place to protect the anonymity of witnesses, if the committee wishes to hear sensitive personal information, to take evidence from a vulnerable witness or to maintain commercial confidentiality. Any witness who would prefer to give evidence in private, or with his or her identity protected, should contact the committee clerks well in advance to discuss the matter. The decision is, however, one for the committee and not for the witness. Normally, there is no *Official Report* of evidence taken in private.

Power to require witnesses to attend or provide documents

6.40 In the vast majority of cases, witnesses are invited to attend, and willingly give up their time to contribute to an inquiry. A committee does, however, have the power (under section 23 of the Scotland Act 1998) to require witnesses to give oral evidence (or to provide documents) on any matter within its remit for which the Scottish Government has general responsibility (subject to some limitations).⁶⁹ Any such requirement would be issued in writing by the Clerk of the Parliament, and anyone refusing, without reasonable excuse, to comply with it could be prosecuted (potentially facing a fine of up to £5,000 or imprisonment for up to three months). While the section 23 power is almost never used⁷⁰, it may occasionally be necessary to remind reluctant witnesses of it if they do not make themselves available when invited.

⁶⁹ Committees cannot require a judge or tribunal member to give evidence and a person is not obliged to answer questions or produce documents if he or she would be entitled to refuse to do so in proceedings in a court in Scotland. A procurator fiscal is not obliged to answer questions or produce documents concerning a criminal prosecution if the Lord Advocate considers that to do so would prejudice criminal proceedings or would be contrary to the public interest.

⁷⁰ The power was invoked, for the first time, by the Session 5 Committee on the Scottish Government's Handling of Harassment Complaints, which issued four notices to require production of documents by the Crown Office and Procurator Fiscal Service.

Evidence under oath

6.41 Under section 26(1) of the Scotland Act 1998 and Rule 12.4.2, witnesses may be required to give evidence under oath or having made a solemn affirmation.⁷¹ In practice, this is done only in exceptional circumstances.⁷²

Witness expenses

6.42 The Parliament has agreed (under Rule 12.4.3) a witness expenses scheme which allows a committee to agree to pay expenses to witnesses whom it has invited to produce documents or attend one of its meetings to give oral evidence. If a committee has required a witness to produce documents or attend a meeting, then the committee must pay claims for expenses under the scheme if these are submitted. The amounts payable under the scheme are updated each year in line with inflation.

Other information gathering

6.43 In addition to considering written evidence and hearing oral evidence from witnesses in formal committee proceedings, committees use a range of other methods to gather information relevant to their inquiries. The methods adopted by committees vary depending on the time available to them and the nature of the topic under inquiry. The Parliament's Participation and Communities Team (PACT) is available to assist committees in deciding whether public engagement is appropriate and, if so, to prepare a suitable engagement plan.

External research

6.44 One of the services provided to committees by the Parliament's information centre (SPICe) is to identify any recent published research relevant to the inquiry topic. Where this doesn't exist, a committee may wish to commission external

⁷¹ The Scotland Act refers only to oaths, but the Oaths Act 1978 allows for a solemn affirmation to be made as an alternative to an oath in any situation where an oath is required. In either case, the substance is a binding commitment to tell the truth, the whole truth and nothing but the truth.

⁷² The Session 5 Committee on the Scottish Government's Handling of Harassment Complaints required all its oral witnesses to give evidence on oath.

research to be carried out on its behalf, drawing on a budget held by SPICe for this purpose.

6.45 An example is research commissioned for the Session 6 Economy and Fair Work Committee's inquiry into town centres and retail, which provided detailed case studies of individual towns.⁷³ Research can also be commissioned to gauge public attitudes and views on the topic under inquiry. In 2002, the Justice 1 Committee commissioned research into *Public Attitudes Towards Sentencing and Alternatives to Custody*.⁷⁴ This research used a range of techniques including focus groups to establish public attitudes toward sentencing. Commissioned research can also be used to support post-legislative scrutiny and work on cross-cutting issues, where one piece of research could be useful to several committees.

6.46 Because of the lead-times involved in commissioning research, conducting it and writing up the results, any decision to commission research needs to be made well in advance of when it is likely to be needed.

6.47 SPICe also maintains links with a wide range of academics, whose expertise can be harnessed by committees in other ways.

Engagement events and fact-finding visits

6.48 Committees may also decide to run events that help them engage with a wide range of stakeholder groups, experts and individual citizens. Depending on the nature of the inquiry, these events may be targeted to bring together groups with a particular interest in the subject under consideration. On other occasions, the events can be used simply to allow people to engage with members in an informal setting, if a topic is of particular local interest. Sometimes, the focus of the event may be to bring together both experts and non-experts in a forum where topics can be considered by a wide range of participants. The Head of Committee Office holds a budget to cover the costs of such events.

⁷³ The [Economy and Fair Work Committee's research report](#) is available on the Parliament's website.

⁷⁴ The [Justice 1 Committee's research report](#) is available on the Parliament's archive website.

6.49 The Parliament's Participation and Communities Team (PACT) should be closely involved in the planning and delivery of an engagement event. Where the event involves a sensitive topic or potentially vulnerable people, including under 18s, it is part of PACT's role to ensure that the engagement is appropriately designed (for example, with regard to child protection or trauma-informed working).

6.50 The following are examples of recent successful engagement events:

- The Criminal Justice Committee used an online platform to gather “for and against” views from thousands of members of the public about the proposals in the Fireworks and Pyrotechnic Articles (Scotland) Bill.
- The Social Justice and Social Security Committee, when looking at low income and debt, established a panel of “experts by experience”, which was supported to produce its own solutions and recommendations to inform the Committee's conclusions.
- Five committees with an interest in the cross-cutting issue of health inequalities held joint online focus groups; partner organisations hosted breakout rooms where members could discuss the issues from different perspectives and draw on people's lived experience.
- In Session 5, the Covid-19 Committee ran a citizens' panel over four weekends, where 20 randomly selected members of the public considered a range of evidence about possible pathways out of Covid restrictions and made recommendations to the Committee.

6.51 Committees, in addition, regularly undertake fact-finding visits to enable committee members to put evidence in context and to meet people who are affected by the topic or policy under scrutiny. Approval for a fact-finding visit in the UK requires to be obtained from the Conveners Group. Approval for travel outside the UK requires to be obtained from the Bureau and the Conveners Group under Rule 12.10.

6.52 The following are examples of previous fact-finding visits:

- the Session 5 Culture, Tourism, Europe and External Affairs Committee undertook fact-finding visits to Brussels and London as part of its inquiry work on the impacts of Brexit on Scotland⁷⁵
- in Session 4, members of the Rural Affairs, Environment and Climate Change Committee, as part of Stage 1 scrutiny of the Land Reform (Scotland) Bill, visited third sector organisations in Falkland and Kinghorn in Fife, farms and businesses in the islands of Islay and Jura, and estate tenants in the Scottish Borders; they also visited the Registers of Scotland in Edinburgh⁷⁶

6.53 With any engagement event, fact-finding visit or other informal committee information-gathering exercise, it is important to ensure that an appropriate record is kept of the event and the main points arising from it. Depending on the circumstances, notes can be prepared by clerks, PACT or SPICe staff, by committee advisers, or by external facilitators contracted to run the event. With some events, it may be possible to arrange for Official Report staff to prepare a full transcript of the discussion. Where the aim has been to hear from vulnerable people or to consider sensitive topics, it may be necessary to omit the names of participants (and any details that might reveal their identities), and otherwise to ensure that any ground-rules agreed at the time are respected. Notes or transcripts should be circulated to the committee and published on the committee's web pages.

Drawing conclusions and reporting

6.54 The final phase of any inquiry involves committee members reflecting on the oral and written evidence received, and other information that has been gathered, in order to reach a collective view, usually expressed in the form of a report.

⁷⁵ More information about these [visits](#) is available on the Parliament's website.

⁷⁶ Rural Affairs, Environment and Climate Change Committee, [10th Report, 2015 \(Session 4\), Stage 1 Report on the Land Reform \(Scotland\) Bill](#), paragraphs 25-33.

6.55 With short inquiries, or in cases of urgency, conclusions are sometimes expressed instead in a letter to the relevant minister. While this can have a more immediate impact, it is generally more satisfactory to conclude an inquiry with a report. Reports form part of the long-term record of Parliamentary activity, they are protected by privilege, and they are covered by the protocol with the Scottish Government, giving committees more expectation of a prompt response.

6.56 Reports are normally addressed to the Parliament. However, sub-committees report to their parent committee, and where one committee has been designated lead committee on a topic, any other committee reports its views on that topic to the lead committee.

6.57 Committees sometimes find it helpful to hold a private discussion on the main issues raised in an inquiry before they first consider a draft report. As well as assisting members in formulating their own collective view, this gives the clerks a steer on how the committee is likely to want its report conclusions to be expressed, making it more likely that a draft report can be agreed to with minimal change.

6.58 It can be helpful at this stage for the committee to have access to a summary of the main points made in evidence, particularly where there is a large volume of evidence or the evidence has been gathered over a longer timescale. The aim of such a summary, normally prepared by the Parliament's information centre (SPICe), is to draw out key themes and arguments, taking account both of oral and written evidence, and views expressed through other channels (such as engagement events). As a good quality summary can take many weeks to prepare, it should be commissioned early in the inquiry so that work on it can begin while the evidence is still being gathered.

6.59 Committee members are expected to be informed by the evidence and to take it into account, but they are not bound by it, and it is for each member to decide how much weight to attach to the different views received. Even where the majority of expert opinion supports a particular conclusion, committee members, as elected representatives, are entitled to factor in their personal and political views and the established policies of their parties.

Consideration of draft reports

6.60 Committee reports are drafted by the committee clerking team, sometimes with assistance from SPICe researchers or a committee adviser. Draft reports are normally circulated as private papers and committee members should not disclose their contents to third parties (including MSPs who are not members of the committee).⁷⁷

6.61 There is no fixed template for draft reports, but they will typically include:

- an outline of the inquiry process
- relevant background information about the topic
- an explanation of the key issues considered by the committee
- a summary of the main views expressed by witnesses
- the committee's own conclusions on the key issues, together with an explanation of how those conclusions were arrived at (particularly if there was a strong division of opinion among witnesses)
- any specific recommendations (e.g. for changes of Scottish Government policy or calls for legislative change).

6.62 Larger reports usually include an executive summary, or a summary of recommendations (particularly if these are scattered throughout the main report). In appropriate cases, reports may include additional information (e.g. a glossary of key terms, a timeline of events, notes of visits and events undertaken).

6.63 Although reports are drafted by officials, the committee as a whole is responsible for the final wording. The normal practice is for the draft to be considered in private, page by page or paragraph by paragraph. This would

⁷⁷ Very occasionally, draft reports have been included among the published papers for a committee meeting, if the reports are factual and uncontentious (e.g. drafts of committee annual reports).

normally include any executive summary or summary of recommendations, but need not include ancillary material if it is factual or uncontentious.

6.64 It is quite common for draft reports to be agreed unanimously. This has the advantage of adding weight to the conclusions, and the likelihood of their being accepted more widely.

6.65 Where a particular paragraph or conclusion cannot be agreed unanimously, there may be compromise options that can still be agreed by consensus (without the need for a division):

- a compromise form of words that removes or avoids the point of particular controversy
- qualifying the text to make clear it is the view of a majority only
- setting out the majority view in the main text, but including a footnote recording the dissent of named members.

6.66 If text cannot be agreed by consensus, then there will be a division (vote) and the majority view will prevail. Where that occurs, the final report will include a “record of division in private”, setting out the text or proposal voted on, and the outcome (numbers and names of those voting for, against and to abstain), in the interests of transparency and accountability.

6.67 There have also been situations where committees have agreed (by consensus or through a vote) to allow the minority to set out alternative conclusions more fully in an annex to the report. Where this is agreed by the committee, the clerks can assist with the preparation of the annex. This may be preferable to a situation where the minority publicly distances itself from the report as a whole or publishes its own view independently of the committee’s.

6.68 In many cases, reports can be agreed at a single meeting, but large reports or reports on more controversial topics may need to be brought back, in amended form, to a later meeting. Sometimes a committee will agree only in general terms what it wishes to say on a particular point, and it will be left to the clerks to prepare, after the meeting, a suitable form of words to include in a revised draft. If the point at issue is less controversial, a committee can delegate to the convener

responsibility for signing off on the revised wording, to avoid the need to defer publication of the report until a revised draft can be considered at a later meeting.

Finalising reports for publication

6.69 Once a committee has finalised the text of its report, the clerks prepare the document for publication.

6.70 That will normally include adding an annex that gives access to the evidence and other information that informed the report's conclusions. This should include a list of oral evidence sessions (with links to Official Reports), a list of written evidence received (with links to published submissions), and links to published correspondence, notes of fact-finding visits, commissioned research etc. It should also include extracts from the minutes of the committee showing the decisions taken during the inquiry.

6.71 The software used to generate committee reports ensures that basic information about the committee (remit, membership and membership changes during the inquiry) is included in the published version.

6.72 Until the final report is published, the agreed text remains confidential and any member who discloses the content of the report is in breach of section 7.4 of the Code of Conduct.⁷⁸

Publication of reports

6.73 Finalised reports are published on the Parliament's website. Notice of publication is given in the Business Bulletin. With more substantial reports, this may be accompanied by a news release, and sometimes other media activity, usually led by the convener. As a courtesy, the clerks normally notify relevant witnesses and stakeholders that the report has been published.

6.74 Under the terms of the protocol agreed with the Scottish Government, advance embargoed copies of committee reports are provided to the Scottish Government. This enables the Government to consider the conclusions ahead of

⁷⁸ This only applies if (as is almost always the case) the draft report was circulated as a private paper. See also previous footnote.

publication, so it is in a position to comment publicly as soon as the embargo expires.

6.75 As well as reports, committees have sometimes also published short leaflets containing a brief overview of the inquiry and a summary of the conclusions and recommendations, often in more accessible language. This can be particularly useful where there has been widespread interest in the inquiry and where the report is to be debated by the Parliament, or where the subject-matter makes it of particular interest to people who might find a formal report off-putting. It is important to ensure that the text of any leaflet is cleared by the whole committee or, at least, by the convener (if the committee has agreed to delegate that responsibility). This is because any edited or simplified version of conclusions might inadvertently convey a different meaning from the original, or upset a carefully negotiated consensus position.

Follow-up to reports

6.76 Committees normally report to the Parliament, so in principle the next step after publication of a committee report is for the Parliament to consider the report and decide what, if anything, to do in response. In practice, given the large number of reports published and the shortage of Chamber time available, only a limited number of reports are debated.⁷⁹

Finding time for debates on reports

6.77 As with other aspects of the Parliament's business programme, it is primarily for the Bureau to decide when time can be made available for a debate on a committee report. The Bureau is required to give priority to the business of committees during 12 half sitting days in each Parliamentary year (Rule 5.6.1(a)), and most of these are allocated to committees for debates on their reports. In practice, the Bureau usually leaves it to the Conveners Group to decide which committee (or committees) should be allocated the next available slot.

⁷⁹ An alternative to seeking a debate is for the convener to make an announcement in the Chamber outlining the main conclusions – see paragraph 6.9.

Structure of debates

6.78 It is normally the committee convener who opens any Chamber debate on a committee report, and the deputy convener who closes for the committee. In doing so, they are generally expected to present the agreed view of the committee, although they may also make clear where their personal or party view differs from that of the majority. Committee members from other parties, as well as MSPs who are not members of the committee, are also likely to speak. The relevant Cabinet Secretary or minister contributes to the debate (usually with both an opening and a closing speech) on behalf of the Scottish Government.

6.79 Debates on committee reports often take place on a neutral motion, inviting the Parliament to note the contents of the report, with the expectation that, even if there are points of disagreement in the debate, the motion can be agreed to by consensus (i.e. without a division). However, this does not apply to reports which include proposals for Committee Bills, where the agreement of the Parliament is required to allow a Bill to be introduced (Rule 9.15.7) or reports by the Standards, Procedures and Public Appointments Committee which propose changes to Standing Orders or the Code of Conduct, where the agreement of the Parliament is required to bring these into effect (Rules 17.1, 1.6). Aside from these special cases, it is an option for the convener (with the agreement of the committee) to lodge a motion calling on the Parliament to endorse a report's recommendations. Depending on the context, such a motion may attract amendments and may be opposed at Decision Time.

Scottish Government responses to reports

6.80 Under the protocol agreed with the Parliament, the Scottish Government is committed to responding to any committee report in writing within two months of publication – or, if the report is to be debated earlier than two months after publication, at least a week ahead of the debate. If it cannot meet this timescale, it should write to the committee to explain why, indicating when the response can be expected.

6.81 The Government's response (normally in the form of a letter from minister to convener) should comment specifically on conclusions or recommendations directed to the Scottish Government, or on matters within the Government's general responsibilities. When the committee receives a Scottish Government

response, it is normally published on the committee web pages, so that MSPs have access to it before any Chamber debate (or, if there is not to be such a debate, so that it can be considered at a meeting of the committee).

6.82 Committees cannot require the Scottish Government (or any other external party) to take action on or accept their recommendations. If a committee is dissatisfied with the Government's response, it can pursue matters through correspondence, by inviting the minister to a meeting to discuss the response, or by undertaking a follow-up inquiry at a later date.

Reports by secondary committees

6.83 Reports to a lead committee by other committees are normally sent in unpublished form to the lead committee, and then published by the lead committee as annexes to that committee's report. In most instances, the other committees' reports are not publicly available at all in the period between their being agreed and their publication by the lead committee. There may, however, be circumstances in which it is appropriate for the secondary committee to publish its report separately in advance of the lead committee. This might, for example, be done where there is likely to be a long gap between publication of the two reports; where the lead committee would be assisted by public debate on the secondary committee's report or where the public availability of the secondary committee's report would assist the lead committee in questioning witnesses. Separate publication is also the normal practice for DPLR Committee reports on delegated power provisions in Bills.

Annex A: List of key terms

absolute majority – a voting threshold requiring more than half of the total number of members to vote in favour (see paragraph 5.62)

adviser – an expert non-MSP appointed to assist a committee (see paragraphs 3.26-3.30)

Bill committee – a committee established to take particular stages of a Bill (see paragraph 2.18)

Business Bulletin – a document published on each sitting day (and less frequently during recess) outlining the current and future business of the Parliament and committees, and listing new and current items of business; accessible on the Parliament’s website under Chamber and committees / What’s On

clerks – Parliament officials (not civil servants) who provide procedural advice and practical support to the Chamber and committees

Code of Conduct – a code adopted under Rule 1.6 to govern the conduct of MSPs; the code is available on the Parliament’s website under MSPs / Code of Conduct

convener – the MSP who convenes (calls) and chairs meetings of a committee

Conveners Group – a Parliamentary body (not itself a committee) consisting of the conveners of all the mandatory and subject committees and chaired by one of the Presiding Officers (see Annex B)

committee substitute – an MSP entitled to participate in the work of a committee in place of a member of the committee from the same party who is unavailable for one of a limited number of reasons (see paragraph 2.59)

days when the office of the Clerk is open – the term used in the Standing Orders for days when items of Parliamentary business may be lodged. The office of the Clerk is closed at weekends, on public holidays and some days during recesses (as decided by the Parliament under Rule 2.1.3) (see also “sitting days”)

delegated powers – powers conferred on Ministers by an Act, including powers to make subordinate legislation

division – a decision-making process that involves members voting, used where consensus cannot be achieved

DPLR Committee – the Delegated Powers and Law Reform Committee

LCM – a legislative consent memorandum (see paragraph 4.58)

mandatory committee – a committee that the Parliament is required to establish each session under Rule 6.1.5 (see paragraph 2.9)

minister – an MSP appointed as a “Minister” (under section 47 of the Scotland Act) or as a “junior Scottish Minister” (under section 49). Since Session 3, Ministers have been known as Cabinet Secretaries and junior Scottish ministers as Ministers. Only Cabinet Secretaries, together with the First Minister and the Scottish Law Officers, qualify as “members of the Scottish Government” (also known collectively as “the Scottish Ministers”)

motion – a written statement by which an MSP invites the Parliament (or a committee) to express a particular view or agree to a course of action; a motion agreed to in the Chamber becomes a resolution of the Parliament

MSP – member of the Scottish Parliament

PACT – the Parliament’s Participation and Communities Team, which facilitates engagement and public participation in the work of the committees

Parliamentary Bureau – the body within the Parliament responsible under Standing Orders (Chapter 5) for proposing the business of the Parliament, recommending the establishment of committees, and other related functions. It consists of the Presiding Officer (chair), a representative of each party that has five or more MSPs, and a representative of any group of five or more smaller-party members or independents. There is a system of weighted voting according to party strength. Information about the Bureau is available on the Parliament’s website under About / How the Parliament works / Parliament organisations, groups and people / [Parliamentary Bureau](#)

Parliamentary year – a period, normally 12 months, beginning on the date of the first meeting of the Parliament following a general election, or on an anniversary of that date within the same session

Protocol between the Parliament and the Scottish Government on the handling of committee business – available on the Parliament website under About / How the Parliament works / Rules and guidance / [Protocol on the handling of committee business](#)

recess – a period during which there is no Parliamentary business (in the Chamber), as decided by the Parliament under Rule 2.3, and when committees normally do not meet (Rule 12.3.3). The Parliament is typically in recess for a week in February, two weeks at Easter, in October and at Christmas, and for all of July and August. Dates of recess, and days on which the office of the Clerk is open, are listed on the Parliament’s website, under About / [Recess dates](#).

reporter – a committee member appointed by the committee to consider particular matters on its behalf (see paragraphs 3.23-3.25)

Rule – an individual provision of the Parliament’s standing orders

Scottish Law Officers – the Lord Advocate and the Solicitor General for Scotland, the Scottish Government’s principal legal advisers; where (as is normally the case) they are not MSPs, they have the right to participate in proceedings, but not vote, under section 27 of the Scotland Act 1998

session – the period from when the Parliament first meets after a general election to when the Parliament is dissolved prior to the next election; originally four years, more recently five years in duration (by contrast with a session of the UK Parliament, which is normally around a year in duration). The sessions so far: Session 1 (1999-2003), Session 2 (2003-2007), Session 3 (2007-2011), Session 4 (2011-2016), Session 5 (2016-2021), Session 6 (2021-date)

simple majority – the default voting threshold, which requires that more members vote for than vote against (see paragraph 5.62)

sitting day – “any day when the office of the Clerk is open but not when the Parliament is in recess or dissolved” (Rule 2.1.3). In practice, this means most weekdays during a session, other than days of recess or public holidays. Dates of

recess, and days on which the office of the Clerk is open, are listed on the Parliament's website, under About / [Recess dates](#).

SPCB – the Scottish Parliamentary Corporate Body, the legal entity responsible for employing the Parliament's staff and managing its facilities and budget. It consists of the Presiding Officer (chair) and at least four MSPs elected by the Parliament. Information about the SPCB is available on the Parliament's website under About / How the Parliament works / Parliament organisations, groups and people / [Scottish Parliamentary Corporate Body](#)

SPICe – the Scottish Parliament Information Centre, which provides impartial information and research to support Parliamentary business

SPPA Committee – the Standards, Procedures and Public Appointments Committee

SSI – Scottish statutory instrument, an item of subordinate legislation made by the Scottish Ministers (see paragraph 4.44)

standing orders – the Parliament's rules of procedure, available on the Parliament's website under About / How the Parliament works / Rules and guidance / [Standing Orders](#)

subject committee – a committee established to consider a particular subject (not being a mandatory committee or a Bill committee) (see paragraph 2.14)

subordinate legislation – a type of legislation made by Ministers under powers delegated to them in an Act (primary legislation) (see paragraph 4.43)

Annex B: The Conveners Group

1. The Conveners Group comprises the Presiding Officer and the conveners (or acting conveners) of the mandatory and subject committees (Rule 6A.1). This includes the convener of any ad hoc subject committee, but not the conveners of Bill committees.
2. The Deputy Presiding Officers may attend and participate (Rule 6A.3.6) but are not members of the Group. The Group is not a committee for the purposes of Standing Orders (Rule 6A.2.2).
3. The functions of the Group are set out in Rule 6A.2 and include:
 - making recommendations in connection with the operation of committees
 - being consulted by the Parliamentary Bureau on questions regarding competence (under Rule 6.13) or applications by committees to consider matters jointly (under Rule 6.14)
 - deciding, with the Parliamentary Bureau, applications by committees to meet at locations in Scotland (other than in the Parliament) (Rule 12.3.2) and applications by committee members to travel outwith the United Kingdom (Rule 12.10)⁸⁰
 - referring matters to the Parliamentary Bureau, a committee or the Parliamentary corporation where it considers it appropriate to do so.
4. The Group also prioritises the use of budgets for fact finding trips within the United Kingdom and committee events. The Group has published occasional reports, including “legacy reports” at the end of a session.
5. Under Rule 6A.3.7, the Group can invite MSPs who are not members of the Group to participate in its meetings. This has been used since Session 4 to

⁸⁰ The Bureau, in either case, may require the Group to make a decision within a specified period (and if no decision has been made by the deadline, the Bureau alone can decide); if the Conveners Group and Bureau reach different views, it is for the Parliamentary corporation (the SPCB) to decide.

hold public evidence sessions with the First Minister, once or twice a year, on the Scottish Government's legislative programme and priorities. These provide a useful opportunity for conveners to raise issues, on behalf of their committees, arising from the committees' scrutiny of Bills and from their inquiry work.

6. Under Rule 6A.3, the Presiding Officer convenes and chairs meetings of the Group. In practice, the Presiding Officer usually delegates this function to one of the Deputy Presiding Officers. However, when chairing the Group, a deputy Presiding Officer does not take on the Presiding Officer's role as a member of the Group. Accordingly, a deputy Presiding Officer chairing the meeting does not count toward the quorum of the Group which requires five conveners from three or more political parties to be present (Rule 6A.3.3). Where the membership of the Group is drawn from three or fewer political parties and any of those political parties has only one member of the Group, the quorum is reduced to five conveners from two or more political parties (Rule 6A.3.3A).

7. The Group can decide when and how frequently it meets. In practice, it normally meets once a month at lunchtime in one of the Parliament's committee rooms. Rule 6A.3.2 provides that the Group shall normally meet in private and that has been the practice (except for when the Group is taking evidence from the First Minister).

8. There is no provision in the Rules for voting and, under Rule 6A.3.4, decisions require agreement from all members present, which is achieved by reaching a consensus view.

9. Agendas and papers for Group meetings, together with transcripts of meetings with the First Minister, and minutes of Group meetings, are published on the Parliament's website.⁸¹

⁸¹ Under About / How the Parliament works / Parliament organisations, groups and people / [Conveners Group](#).

Annex C: Role of Convener during Stage 2 proceedings

1. The convener of the Stage 2 committee, like any other MSP, is entitled to lodge and move amendments at Stage 2 of a Bill, and to play an active part (like other committee members) in debating and deciding on all the amendments that are moved. However, this can present some practical difficulties and potential conflicts of interest.

Decisions on admissibility

2. The convener of the Stage 2 committee is responsible, under Rule 9.10.4, for “determining any dispute” in relation to the admissibility of amendments lodged for that Stage. Such disputes arise only rarely, where the MSP who seeks to lodge the amendment doesn’t accept the advice of the Legislation Team clerks (who draft amendments on behalf of members and advise on their admissibility). The role of the convener in determining disputes about admissibility always has the potential for controversy. For example, if the amendment seeks to remove a provision from a Government Bill that has been publicly criticised by opposition parties, then any decision by a Government-party convener to reject the amendment as inadmissible may be criticised as politically motivated, whether or not that is a fair criticism. (And the converse could apply if it was a decision by an opposition-party convener to deem the amendment admissible.)

3. Conveners cannot avoid these risks entirely, since they are required in such situations to decide, and there may in some cases be a potential for criticism whichever decision they take. Sometimes the most that conveners can do is ensure that whatever admissibility decisions they take are consistent with each other – avoiding, in particular, any perception that amendments lodged by MSPs of the convener’s own party are more likely to be deemed admissible than amendments lodged by MSPs of other parties. One option may be always to uphold the advice of the clerks, except where the clerks themselves consider it a genuinely borderline case.

4. However tempting it may be, it is also generally advisable for conveners not to give detailed and specific reasons for individual admissibility decisions, as any reasons cited may be seen as precedents for future decisions, even though the circumstances may be different. It would also open conveners (and the

Presiding Officer, at Stage 3) to increasing pressure to give reasons for every such decision, generally undermining their authority.

5. Should a convener find the admissibility of one of his or her own amendments disputed, any decision to determine the dispute in his or her own favour would almost inevitably open the convener to criticism (even if the convener would have reached the same view had any other MSP tried to lodge the same amendment). Some conveners avoid this situation by not lodging amendments themselves. Others take the view that, if the admissibility of their amendments is disputed, they will consider themselves “unable” to act and ask the deputy convener to determine the dispute.

Casting vote on amendments

6. Similar issues may arise if a division in a committee on a Stage 2 amendment results in a tie. In any such situation, the convener is required to exercise a casting vote. Practice varies among conveners, and there is no agreed convention on the use of the casting vote in committees.

7. Again, it is not advisable for conveners to give detailed explanations each time the casting vote is used, but it can protect a convener from criticism on particular occasions if he or she announces from the outset that a general policy on the use of the casting vote (such as always using it against any amendment, whoever has lodged it) will be followed. There may be particular advantages to such an approach if the convener is among those who have lodged amendments, as an insurance policy against a situation where there is a tie on one of his or her own amendments.

Chairing proceedings and participating in debates

8. A more general, practical challenge for conveners is to chair Stage 2 proceedings effectively (and be seen to do so fairly) while also participating fully in debates on amendments, particularly if some of them are his or her own. That can require constant switching between three different roles – that of impartial chair, that of committee member (with a view on the merits of the Bill, and a reactive role in deciding on changes to it proposed by others) and that of mover of amendments (actively promoting particular changes to the Bill). However, there is

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Annex C: Role of Convener during Stage 2 proceedings

nothing procedurally inappropriate in doing all three, and the briefing that is provided by the clerks is designed to steer conveners through the process, ensuring that debates on amendments are structured and managed on a consistent basis, whoever the amendments are lodged by.

Annex D: External Meetings Policy

1. Committees recognise that as a matter of principle they should seek to meet outwith Edinburgh from time to time to allow interested members of the public from different parts of Scotland to attend their meetings. In particular, where a subject under consideration is relevant to a particular location, committees will take this into account in their forward planning.
2. Committees recognise the importance of forward planning. Committees will plan external meetings and fact-finding visits as far in advance as possible, taking account of the timescales involved in planning these events and obtaining Bureau and Conveners Group approval.
3. When planning an external meeting, a committee should ensure full liaison with all the required support services. In selecting a date and time for an external meeting, a committee must have regard to the impact on the support services and, in particular, the impact on their ability to provide facilities for other committee meetings.
4. As far as possible external meetings should be held entirely in public.
5. Committees recognise the importance of being seen to be involving people throughout Scotland and (without prejudice to the general principle that they will meet in locations to consider matters of local interest) will seek to achieve an appropriate geographic spread when undertaking fact-finding visits or case studies.
6. Committees also recognise the need to engage with communities that are disadvantaged – socially, economically or by location – and will take this into account in planning meetings or visits outwith Edinburgh.
7. Committees will seek to be cost-effective in undertaking their external meetings, but this should not be at the expense of proper preparation to ensure successful meetings.
8. Committees also recognise that meetings in more remote areas are likely to be more costly. They will not exclude consideration of these opportunities solely

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Annex D: External Meetings Policy

on the grounds of expense, but will make a judgement on the relative costs and benefits.

9. Committees will seek to meet in public venues in general, but will not exclude the possibility of meeting on private premises, provided that no appearance of partiality is given by so doing.

10. In general committees will seek to meet their own costs through Parliamentary budgets, and not accept hospitality or free services where these might appear to undermine their impartiality. They will be transparent in all their arrangements.

11. All venues for external public meetings of the committees must meet the Parliament's criteria for access for the public, including those with disabilities. The Committees will seek to utilise venues that maximise access for the public.

12. Committees will seek to encourage public attendance at their external meetings through pre-publicity, interviews etc. Committees will liaise with the Parliamentary Communications Office, and notify it one month in advance of meetings. They will also seek to work where possible with schools etc to encourage attendance and understanding of their activities.

Annex E: Guidance on timescales for committee consultations

Introduction

1. Committees will often seek written views from individuals and organisations that may have an interest in a particular piece of committee business. This guidance has been agreed by the Conveners Group and sets out how committees should approach setting the timescale for any call for evidence.

Setting consultation timescales

2. Committees should always try to give a reasonable timescale for the submission of written material. Wherever possible, a minimum of 8-10 weeks should be allowed between the launch of any call for evidence and the deadline for written submissions.

3. Committees should, where possible, allow for a longer period if the consultation will fall over a holiday period, particularly Christmas.

4. However, there are circumstances in which it may be necessary for the consultation period to be shorter than 8-10 weeks. There are a number of factors which may result in a shorter consultation period. For example, shorter consultation periods will be necessary in relation to subordinate legislation (where committees are required to report within a certain timeframe; typically within 20-40 days). When seeking written views on a Bill at Stage 1, the consultation period may be shorter depending on the date the Bill is introduced and the proposed Stage 1 deadline. Other demands on a committee's workload, or unplanned changes to a committee's business, may also result in a shorter consultation period.

5. Where a consultation period will be less than the recommended 8-10 weeks, committees should explain the reasons for this when issuing the call for evidence.

6. Individuals and organisations with an interest in the Committee's work can contact the committee clerks to discuss timescales for upcoming work in advance

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Annex E: Guidance on timescales for committee consultations

of the launch of any call for views. If this would prove useful, clerks may also wish to consider discussing proposed timescales with interested parties before any deadline is set.