Commission on Parliamentary Reform | **Coimisean air Ath-leasachadh Pàrlamaideach**

Your Parliament Your Voice | *Do Phàrlamaid Do Ghuth*

Agenda

1ˢᵗ Meeting

Monday 7 November 2016

The Commission will meet at 1.00 pm in Q1.03 at the Scottish Parliament.

1.   Welcome from John McCormick, Chair of the Commission on Parliamentary Reform.

2.   Overview of the establishment and procedures of the Scottish Parliament (in private) from:

Ken Hughes, Assistant Chief Executive, and Judith Morrison, Group Head of Legal Services, Procurement and Audit, the Scottish Parliament.

Paper CPR/1/1 (public paper) – Overview of the Scottish Parliament

3.   The Commission will consider its working practices (in private).

Paper CPR/1/2 (private paper) – Commission working practices

4.   The Commission will consider its forward work programme (in private).

Paper CPR/1/3 (private paper) – Commission work programme

Commission on Parliamentary Reform

1st Meeting, Monday 7 November 2016

Summary of Parliamentary procedure and engagement

Introduction

1. This briefing paper summarises some of the key areas of Parliamentary procedure and engagement that Commission members are anticipated to hear views on. It is not intended to be an exhaustive or comprehensive summary of all the procedures or activities that are relevant to the Scottish Parliament's work. Where appropriate links to more detailed guidance, rules or briefing are provided and Commission members are invited to review these as and when they consider necessary.

2. It is anticipated that this briefing can act as an aide memoire over the duration of the Commission's work.

Establishment of the Scottish Parliament

3. A summary of the history of the Parliament since its first mention in 1235 can be found here: http://external.parliament.scot/EducationandCommunityPartnershipsresources/TimelineEnglishSept_2013.pdf

4. On 19 November 1998 the Scotland Act (which had been agreed to by the UK Parliament) received **Royal Assent** (Royal Assent means that it became law). This Act established the Scottish Parliament and the then Scottish Executive (now called the Scottish Government). In December that year the **Consultative Steering Group** on the Scottish Parliament (sometimes referred to as the **CSG**) presented its report, "Shaping Scotland's Parliament - http://external.parliament.scot/PublicInformationdocuments/Report_of_the_Consultative_Steering_Group.pdf". This report proposed four key principles which should underpin the Parliament's work and suggested how the Scottish Parliament should work. Those four principles are:

- the Scottish Parliament should embody and reflect the sharing of power between the people of Scotland, the legislators and the Scottish Executive;
- the Scottish Executive should be accountable to the Scottish Parliament and the Parliament; and Executive should be accountable to the people of Scotland;
- the Scottish Parliament should be accessible, open, responsive, and develop procedures which make possible a participative approach to the development, consideration and scrutiny of policy and legislation;
- the Scottish Parliament in its operation and its appointments should recognise the need to promote equal opportunities for all.

5. On 6 May 1999 the first Scottish General election was held and 129 Members of the Scottish Parliament (MSPs) were elected. Of the 129 MSPs elected after

each Scottish general election, 73 are **constituency members** (that is one MSP for each of the 73 Scottish Parliament constituencies elected by the first past the post system) whilst 56 are **regional MSPs** (that is 7 regional MSPs for each of the eight Scottish Parliament region as across Scotland, each regional MSP is elected using the proportional representation system). Therefore each person in Scotland has 8 elected MSPs who represent them (1 Constituency MSP and 7 regional MSPs).

6. Scottish Parliament elections are normally held every 4 but can be every 5 years (to avoid Scottish Parliament elections being held in the same year as UK General Elections). The term used to refer to the period between each Scottish Parliament election is a Parliamentary **Session**.

7. The **Presiding Officer** (sometimes referred to as the **PO**), supported by one or more Deputy Presiding Officers (usually two), chairs the proceedings in the chamber, the Scottish Parliamentary Corporate Body and the Parliamentary Bureau. The Presiding Officer also represents the Scottish Parliament at home and abroad. More information on the Presiding Officer, Deputy Presiding Officers can be found here: http://external.parliament.scot/abouttheparliament/presiding-officer.aspx

8. The Scottish Parliament can pass laws on **devolved matters** – in general, those affecting most aspects of day-to-day life in Scotland.

9. The UK Parliament at Westminster can pass laws on **reserved matters** – in general, those with a UK-wide or international impact. The UK Parliament could also pass laws on devolved matters

10. The policy areas reserved to the UK Parliament were set out in Schedule 5 of the 1998 Act and broadly relate to the constitution, foreign affairs and defence, tax, immigration and welfare. Policy areas devolved to Scotland include agriculture, forestry and fisheries, education and training, environment, health and social services, housing, law and order, local government, sport and the arts, tourism and economic development and many aspects of transport.

11. Further powers were devolved to the Scottish Parliament in the Scotland Act 2012 and in the Scotland Act 2016 such as some aspects of taxation, social security and elections. Further information on the 2012 and 2016 Act, and the further powers that have been devolved, can be found at: http://external.parliament.scot/visitandlearn/12506.aspx

Key documents

12. There are a number of key documents which govern the Parliament's work or which enable members and interested people to understand the workings of the Scottish Parliament:

Standing Orders – these are the rules of the Parliament. They include rules on procedures for considering business and the powers that Committees, the Presiding Officer and other post holders have.

The Code of Conduct for members of the Scottish Parliament – this sets out the conduct required of members in undertaking their Parliamentary duties. This document also describes the procedures for considering complaints (and by whom) and the sanctions applicable for different types of breaches of the Code of Conduct.

Business Bulletin – this document is published each working day during term time and weekly during **recess** (recess refers those weeks each year when the Parliament and Committees do not usually meet). It generally sets out the main business for the coming week in the Parliament in detail and in summary for the week after that. It also sets out some business which has taken place the preceding day such as documents formally provided to the Parliament (sometimes referred to as '**laid'** in the Parliament).

13. There are also a number of agreements between the Parliament and the Scottish Government that govern how they will work with each other. Three important ones are:
    a. **Protocol between the Scottish Parliament and the Scottish Government in relation to the handling of Committee business** – this written agreement sets out how the Government and Parliament will work together in relation to managing Committee business such as the timescales and response expectations.
    b. **Written agreements with the Finance Committee**: The Committee has written agreements on the budget process with the Scottish Government, the Scottish Parliamentary Corporate Body and the Scottish Commission for Public Audit. These documents set out an understanding between the Finance Committee and the respective bodies on the administrative arrangements relating to the scrutiny of the annual draft budget. A **Budget Review Woking Group** was recently established "To carry out a fundamental review of the Scottish Parliament's budget process following the devolution of further powers in the Scotland Act 2012 and Scotland Act 2016."
    c. **Intergovernmental relations – written agreement between the Scottish Parliament and the Scottish Government.** This agreement represents the agreed position of the Scottish Parliament and Scottish Government on the information that the Scottish Government will, where appropriate, provide the Scottish Parliament with regard to its own participation in formal, ministerial level inter-governmental meetings, concordats, agreements and memorandums of understanding.

The role of Committees

14. The Scottish Parliament is required under Standing Orders to establish some Committees shortly after a Scottish parliamentary election – those Committees are called **mandatory committees** and in Session 5 those Committees are—
Standards, Procedures and Public Appointments Committee
Finance and Constitution Committee
Public Audit and Post-legislative Scrutiny Committee
Culture, Tourism, Europe and External Affairs Committee

Public Petitions Committee
Equalities and Human Rights Committee
Delegated Powers and Law Reform Committee

15. The Scottish Parliament can also choose to establish **subject committees** to consider a particular policy area. The tendency in the previous Sessions has been that the remit of each subject Committee broadly matches the policy areas of a corresponding Scottish Minister (although this is not an exact match).

16. In Session 5 the subject committees agreed to by the Scottish Parliament are—
Economy, Jobs and Fair Work Committee
Education and Skills Committee
Environment, Climate Change and Land Reform Committee
Health and Sport Committee
Justice Committee
Local Government and Communities Committee
Rural Economy and Connectivity Committee
Social Security Committee

17. Committees can also set up a **sub-committee**, to consider a particular issue; the Justice Sub-Committee on Policing is the only sub-committee established so far in Session 5.

18. **Ad hoc committees** can also be established to allow the Scottish Parliament to scrutinise a particular issue or bill where the Parliamentary Bureau considers it would not be appropriate for an existing committee to do so.

19. The number of members on Session 5 committees ranges from 5 to 11 members. Only MSPs can be a member of a committee. Each committee elects a **Convener** and **Deputy Convener** at its first meeting (and thereafter when the position becomes vacant) and the political makeup of members and conveners proposed for each Committee is determined by using the D'Hondt method. Any MSP can attend a committee meeting, but only a MSP who is a member of that committee can vote or take part in any private discussions. Parties can designate a **committee substitute** who can attend and vote in certain circumstances. The Parliament agrees the membership (including substitutes) and party of the Convener and Deputy Convener for each Committee.

20. The **Conveners' Group** is made up of all committee conveners and chaired by the Presiding Officer or a Deputy Presiding Officer. It usually which meets once a month in private to discuss strategic and common issues relating to the operation of committees.

21. Committees usually meet on a weekly or fortnightly basis and the Standing Orders set out that the presumption is that a committee will meet in public, unless it agrees otherwise. The Committee publishes its agenda on the Scottish Parliament website in advance of its meetings (and the in Business Bulletin); members are also usually sent briefings and papers to inform some agenda items which may, or may not, be public papers.

22. The range of business that Committees may consider includes—
    - **Bills**, known as primary legislation;
    - **Subordinate legislation**, known as delegated or secondary legislation;
    - **Inquiries** into a particular issue;
    - **Public petitions**, referred to them by the Public Petitions Committee; and
    - One-off evidence sessions on a particular issue.

23. Further information can be found in:
    Guidance on committees
    Appearing before a Scottish Parliament committee (public information leaflet)
    Guidance for Conveners

Public Petitions

24. Members of the public can petition the Scottish Parliament to raise awareness of a particular campaign or seek action on issues which might not otherwise be considered by the Parliament or Scottish Government.

25. Anyone can lodge a petition, in any language, and only one signature is required. To be admissible, a petition must relate to a devolved policy area. A petition cannot relate to a specific decision or an operational matter of a public body but it can ask for the Scottish Government to review wider national policies and guidance which govern the actions of public bodies.

26. The Public Petitions Committee (PPC) considers all admissible petitions. The PPC can seek further information on a petition through oral and written evidence and can refer a petition to a subject committee for further consideration. The PPC also has the option to bid for parliamentary time in order for the petition to be debated in the Chamber. Following consideration, the PPC, or subject committee where a petition has been referred, will consider whether to close the petition or not.

27. Further information—
    How to submit a public petition (369KB pdf)
    What is a petition? (animated guide on YouTube)

Committee Inquiries

28. A committee can hold an inquiry on any area of concern or interest within the committee's remit. Inquiries can vary in length from a few weeks to several months. They may also consider issues on which the Committee or Parliament itself could not legislate but on which it can reach its own views.

29. Regardless of subject or length, most inquiries follow a similar process:

Planning
30. At the start the Committee will consider the areas of the issue or subject that the inquiry should seek to address – the **remit** of the inquiry. The scope of the inquiry might be influenced by the overall workload of the committee, the time available or may reflect legislation that the Committee expects it may have to

consider at a later date. Inquiries can also look at topical or emerging areas of interest or may consider policies or issues identified in previous inquiries, but where time or other circumstances did not permit a fuller examination.

31.　At the planning stage a committee may decide to appoint **Advisers** who have specialist knowledge to assist the Committee in considering the written and oral information it receives. Committees can also commission **research**.

Information gathering
32.　When a committee launches an inquiry there is a '**call for evidence**' inviting any individual and organisation who is interested to submit a **written submission** (also referred to as **written evidence**). Committees will usually also contact key organisations and individuals to alert them to the call for evidence.

33.　The committee will also invite **witnesses** to attend a committee meeting to give **oral evidence**.

34.　Committees may also decide to gather evidence in other ways such as going on **fact finding visits** to meet people or organisations affected by or who work in the area relevant to the issue. The committee may decide to hold a Committee meeting outside Parliament in that community (for example if an issue affects a particular community) which can also encourage local participation in its work. These external meetings can be anywhere in Scotland and may be formal or informal depending on the nature of the inquiry.

Reporting
35.　At the end of the evidence taking (written and oral) and any other information gathering activities a committee will publish a report to Parliament. The report could include the Committee's views on a particular issue and/or recommendations about what action the Scottish Government or other organisations should take.

36.　Committees usually aim to get agreement of all the Committee members to the report and the recommendations contained therein. If this is not achieved the report will identify where disagreement arose which resulted in diverging views, a vote or in some rare circumstances a separate report in an annexe to the report which represents the views of the minority of members (sometimes referred to as a 'minority report').

37.　The report will also include annexes listing the written and oral evidence received.

38.　Under the protocol agreement between the Scottish Parliament and the Scottish Government, the Scottish Government should normally provide a written response to the relevant recommendations in the report not later than two months after the report is published.

Meetings of the Parliament

The Parliamentary Bureau

39. One of the roles of the Parliamentary Bureau is to propose the business programme (in a motion) for chamber business to Parliament for consideration and a decision. The Bureau consists of: The Presiding Officer and a representative of each political party (who have 5 or more members).

40. Parliament meets within the Chamber (unless otherwise agreed) and usually at the following times:

   > Tuesday – Start 14:00, Decision Time 17:00

   > Wednesday - Start 14:00, Decision Time 17:00

   > Thursday – Start 11:40, Decision Time 17:00

41. Chamber business can include the following types of:

   > Time for Reflection, which takes place every week the Parliament meets and is a short address from an invited speaker.

   > Debates on a variety of issues, usually based on a motion. This also includes Members Business (which is not voted on).

   > debates on bills and subordinate legislation;

   > Ministerial statements and follow up questions. Where a member of the Scottish Government or junior Scottish Minister wishes to make a statement to a meeting of the Parliament notice must be given to the Presiding Officer. The Presiding Officer shall then notify the Parliamentary Bureau who shall include the notice of the ministerial notice in the business programme. If the request is for the statement to be made on that day, and the opinion of the Presiding Officer is that it is sufficiently urgent, any necessary alterations to the daily business list will be made. Members will then be notified.

   > On a weekly basis there are different types of Question Time where MSP's get the opportunity to question the Scottish Government on a variety of topics; these can include First Minister's Questions (FMQs), Topical Questions, General Question time and more rarely, Emergency questions.

42. The **Presiding Officer** (or **PO**) is supported by two **Deputy Presiding Officers** (or **DPO**), each of whom take turns in chairing meetings in the Debating Chamber and ensuring debates are held I accordance with rules. When chairing meetings, the Presiding Officer and Deputy Presiding Officers must act impartially and they are responsible for inviting members to speak.

43. During the course of a meeting in the chamber a Member can ask the Presiding Officer whether proper procedures have been followed, this is referred to as a "**Point of Order**".

Motions
44. When an MSP wishes to hold a debate, or propose a course of action they can lodge a Motion. Motions can be lodged for debate in Parliament as part of parliamentary business; for debate as part of Members' Business; to propose that legislation is agreed to, amended, or not agreed; or to generate support on a topic or issue.

45. Amendments to motions lodged by MSPs allow alternative points of view to be discussed and debated.

   - For further information on motions read the guidance here.
   - Details of all lodged motions and amendments can be found in the Business Bulletin.

Questions to the Scottish Government
46. Parliamentary questions can be asked by an MSP (except for those with Ministerial portfolios within Government) to the Scottish Government. The questions provide a means for MSPs to obtain factual and statistical from the Scottish Government and the Scottish Parliamentary Corporate Body (SPCB).

47. Parliamentary questions can be in oral or written form. Oral questions are answered during the various Question Times held in the chamber. Written questions are answered in the Written Answers Report.

   - Details of all lodged questions can be found in the Business Bulletin.
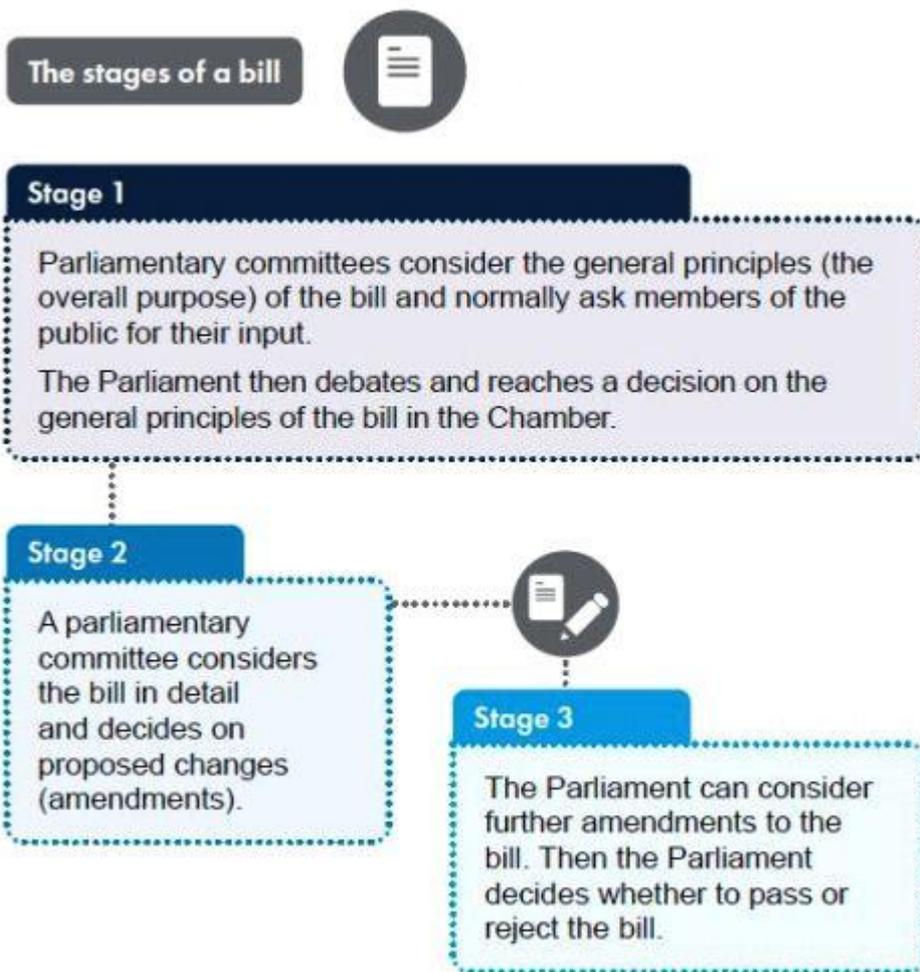   - For further information on Questions please see the guidance.

Legislation

How does the Scottish Parliament make laws?
   - The Scottish Parliament makes laws on matters it has been given responsibility for by the UK Parliament at Westminster (known as devolved matters).
   - If a new law is proposed on one of these matters, or an existing law needs to be changed, a bill will be introduced to the Scottish Parliament. A bill is a proposal to change the law.
   - There are a number of different people who can introduce a bill, from the Government to individual MSP's. For more information see here.
   - There are three main types of bill: public bills, private bills and hybrid bills.

How are bills scrutinised?
   - Before a bill can become law it has to pass through three main stages in the Parliament.

The stages of a bill

Stage 1

Parliamentary committees consider the general principles (the overall purpose) of the bill and normally ask members of the public for their input.

The Parliament then debates and reaches a decision on the general principles of the bill in the Chamber.

Stage 2

A parliamentary committee considers the bill in detail and decides on proposed changes (amendments).

Stage 3

The Parliament can consider further amendments to the bill. Then the Parliament decides whether to pass or reject the bill.

- For more information on the Stage 1 process, see here.
- For more information on the Stage 2 process, see here.
- For more information on the Stage 3 process, see here.

How the bill comes into force
- After the Parliament has agreed to pass the bill, there is then a four week period when the bill can be challenged by **Law Officers** on the issue of whether or not the Parliament has the power to make the law on the subjects covered by the bill (that is – is the Bill within the legislative competence of Parliament).
- After this 4 weeks, if there is no challenge, the Presiding Officer submits the bill to the Queen for **Royal Assent**.
- Once the bill receives Royal Assent, it becomes an Act of the Scottish Parliament and is part of the law of Scotland.
- When the Act is actually implemented can vary, and different parts of the Bill may be implemented at different times. For more information see here.

Subordinate Legislation

48. Although most major changes in the law pass through the Parliament in the form of bills, the vast majority of legislation considered by the Parliament is in the form

of secondary legislation, most commonly Scottish Statutory Instruments, commonly known as SSIs - also sometimes referred to as **secondary legislation** or **delegated legislation**.

49. SSIs are just as much part of the law as an Act of Parliament and can cover very significant matters. There are three different types of SSI, the two most frequent types are set out below. SSIs must be considered quickly as the Standing Orders give 40 days from when they are laid in Parliament for their consideration and a final decision.

50. An Act of Parliament – referred to as primary legislation or the parent act – may provide that Scottish Ministers can set out further detailed matters at a later date by way of SSIs. As this further detailed policy could not be scrutinised during the three stage legislative process, there are procedures in place to allow Parliament to scrutinise the SSI after it has been laid in Parliament.

51. After it has been laid, all SSIs will be referred to the Delegated Powers and Law Reform Committee, which will consider the technical aspects, and a lead committee, which will consider the policy detail.

Affirmative SSIs
52. An affirmative SSI requires parliamentary agreement before it can come into effect. A draft SSI is laid in Parliament and, following consideration by a lead committee (which will include a debate on the SSI with a Scottish Minister), the Parliament will decide whether to approve the instrument.

Negative SSIs
53. A negative instrument comes into effect unless the Parliament agrees that it should not. An instrument is laid and, following consideration by a lead committee (which does not usually include taking evidence from a Scottish Minister), the lead committee will decide whether it is content with the instrument. Where a lead committee is content with the instrument, nothing further needs to be done.

54. Where any member of Parliament does not agree with a negative instrument, they can lodge a motion to ask the lead committee to recommend that Parliament **annuls** (or stops) the instrument. If the lead committee agrees, it can recommend that the Parliament that it annuls (or stops) the instrument. The Parliament must then consider and decide whether to do this.

Further information—
[Understanding secondary legislation](#) (infographic) (.38MB pdf)
[Guide to Scottish statutory instruments](#) (157KB pdf)
[Flow chart illustrating the process for affirmative instruments](#) (16.6KB pdf)
[Flow chart illustrating the process for negative instruments](#) (18.5KB pdf)

Public engagement

Events and Exhibitions
The Events and Exhibitions Team is responsible for the delivery of the SPCB Major Events programme which includes events such as the Festival of Politics and the International Culture Summit. The team also manages the delivery of MSP sponsored receptions and events, providing support to Members, event hosts and other external organisations.

This team also manages the Parliament's permanent exhibition in the Main Hall which is due for a refresh in February 2017 as well as temporary exhibitions which are open to the public and free of charge such as the current Harry Benson photography exhibition (until 3rd December) and the Great Tapestry of Scotland.

Outreach Services
The Outreach Services team develops and delivers a range of educational services. These support MSPs and enable the people of Scotland to engage with the Parliament. Services are delivered at the Parliament building at Holyrood and in local venues across Scotland. This includes:

Education Services – a wide ranging programme of visits and events for young people and teachers, as well as educational resources.

Community Outreach – working with community groups and the committees to encourage wider participation in parliamentary business.

Gaelic Service
The Gaelic Service is responsible for developing and delivering the SPCB Gaelic Language Plan.

Public Information and Publications
The Public Information and Publications deals with enquiries from the public and manages leaflets and guides about the Parliament

Visitor Services
The Visitor Services team deliver a programme of free tours for the public. They also take bookings for tickets for meetings of Committees and Chamber business.