

Commission on Parliamentary Reform

Your Parliament Your Voice event

6 February 2017

We asked: How useful is engaging with the Scottish Parliament when trying to influence government policy.

In group 1, you said:

- Post Smith Commission the relationship with Government has changed. There is now more positive, meaningful dialogue.
- When trying to influence policy decisions organisations tend to take mixed approach, talking with civil servants, Ministers and Parliament to achieve an outcome.
- Often groups will work with political parties to find consensus in priorities before engaging with Parliamentary Committees.
- The working relationship with Committees, including the MSPs who sit on the Committee and the Clerks who support them has improved over the lifetime of the Parliament. Committee inquiries produce a more consensual working relationship.
- Where possible organisations engage with Cross Party groups. Due to the number of Cross Party groups it is not always possible to provide support to every group due to other workload priorities. This can be especially difficult for smaller organisations that do not have the resources to engage with all the groups that have an interest in their area of work. Engaging with Cross Party groups can result in a more detailed discussion on the nuances of the different policy areas. This is not always possible in a Committee setting where there are time/workload restrictions and which are often focused on legislation.
- Due to the many different communication channels open to groups to engage with, and influence government policy, it can feel messy and hard to unpick where you directly impacted on decisions.
- When Government provide feedback on where a Bill has been altered since introduction they don't sometimes link it to the evidence that has been provided. Therefore it is difficult to see if changes have been made because of your involvement or for other reasons.
- There was a discussion regarding the merits of written versus oral evidence. It was felt that oral evidence sessions provide organisations the opportunity to explain and expand on the detail of their written evidence (which can sometimes be dry and technical) following up on points made and engaging in dialogue with the Committee MSPs.

- Providing written evidence that the Committee can then refer to and ask questions is helpful for groups to fully explain their points and challenge the detail of the policy.
- It can be challenging for certain organisations to provide answers to “political” questions which are often asked of them at Committee meetings.
- After giving evidence to a committee in person there is a lack of feedback on how you directly affected the decision of the Committee. Organisations often look through Committee reports etc. to see where they have been referenced, but this can be difficult for organisations without the knowledge or resources to undertake this task.
- Giving evidence to a Committee chaired by an opposition MSP can often be different as they can be more challenging when inquiring about Government policy.
- One of the main methods organisations have to influence Government policy is by proposing amendments at Stage 2 and 3 of the legislative process. With a minority Government it is possible there will be less legislation proposed, therefore impacting on the ability of groups to influence. .
- All agreed they take a mixed approach to influencing government policy, through both Cross-Party support and engaging with Committees.

We asked: Do you think committees undertake their scrutiny at the point of the policy process where they have the best opportunity to influence?

In group 1 you said:

- If the relationship with Committees is productive (and this is key) then groups can have conversations early in the scrutiny process. When bills are split amongst a number of committees to scrutinise this can prove challenging for organisations as they have multiple relationships to manage and it is more difficult to influence early when you are not sure who you should be influencing.
- Organisations often become involved in Government consultations before legislation has been introduced to Parliament.
- Parliament should come out and speak with groups to hear from them before legislation has been introduced. Once a bill has been introduced it can be difficult for Parliament to find the time to speak with everyone due to the time restrictions placed upon a Bill.
- Due to Committee workloads it can take a while to see a change made to legislation you want to happen.
- Committees have a balancing act to manage when setting out their priorities between pre legislative influence and post legislative scrutiny. Due to competing demands on resources they will not be able to carry out both functions sufficiently.

- Although Parliament may not have a visible post legislative process many organisations carry out significant work in monitoring the impact of legislation. How organisations can then feed this information back to Parliament isn't as clear as it could be.
- The increasing use of Ministerial Guidance to provide details and instructions to organisations on how legislation should be implemented can be troublesome. When Bills are introduced to Parliament they are increasingly focused on higher level policy, whilst secondary legislation and Ministerial Guidance are used for the details. Ministerial Guidance and secondary legislation receives comparatively little parliamentary scrutiny compared to Bills, this shift could be seen to undermine the ability of Parliament to hold the government to account.
- Externally there is a feeling that once legislation has been passed Parliament feels the job is done. Post legislative scrutiny requires both the willingness of Parliament and the space to check and monitor that legislation is working as it should be.
- There was recognition that some post legislative scrutiny is happening, with some Committees already carrying out this function.
- The discussion then moved onto the types of organisations and individuals committees' approach when scrutinising legislation. There are benefits in approaching the often referred to "Usual Suspects". They have the technical knowledge and expertise to advise Parliament on the implications of legislation and provide detailed responses to inform Committee members. Organisations such as trade unions and professional organisations represent the views and opinions of a wide range of people.
- When called to give evidence at Committees the experience of those in this group had been positive. They received sufficient support before the meeting, so they were aware what would be happening on the day. Most organisations provide support to their staff who will be attending, especially if it's their first time speaking to a Committee. During the meeting it can sometimes feel MSPs are trying to get you to say certain things on the record, and aren't actually interested in the content of what is being said. The experience was generally the same at both round table events and traditional meetings. Although at round tables the conversation can be less combative, with other witnesses providing context to the details of the policy.

We asked: In your experience how effective is providing written views or oral evidence, in influencing or informing Committee's scrutiny work and what could be improved?

In group 1 you said:

- When providing written evidence it is helpful to get clear guidance from the Clerks. This can provide a clear structure to the evidence they are going to submit. For example when Committees set out the questions they would like answered this can help to provide a more concise and focused response.
- Although most organisations are experienced in providing written evidence it could put individuals off from providing written evidence if the experience is it is treated as just one amongst many other submission. This referred back to a previous conversation about the level of feedback provided by committees. Therefore it is important Committees provide meaningful feedback to groups and individuals who take the time to submit a considered response.
- Even after submitting written evidence it can still take a substantial amount of time and conversations with Committee MSPs, Government Officials, and Ministers, to get changes put through.
- Attending a committee can be constructive even if you do not ultimately influence to the policy or Bill as it can be helpful to get the conversation out in the public domain.
- Parliament should support groups and individuals who do not have the experience and resources to see how their input has impacted policy areas. This would obviously have an effect on the clerking resources of committees.
- The workload of MSPs can have an impact on their ability to focus on every topic being discussed during committee meetings. Therefore having the opportunity to hold informal conversations with MSPs to cover technical policy areas can be productive.

We asked: What are your top recommendations?

In group 1, you said:

- More feedback –how you have influenced policy decisions after providing evidence. It would be helpful to individuals and organisations who do not have experience/expertise to look into detail how at they have influenced policy if Committees/Parliament “told a story” when writing their reports. For example, you said this, and because of this we recommended this.
- Use of secondary legislation and ministerial guidance – increasing use has impacted on the ability of Parliament and organisation to properly scrutinise and influence policy. The increased use of post legislative scrutiny could mitigate this.
- Workloads of Committees, Parliament and MSPs – with the increased responsibility and powers coming to the Parliament this will have implications on workloads. This may impact on the Parliaments ability to engage with and support different groups and people. Parliament therefore needs to re-examine how it uses its resources to better support people to influence government policy.

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We asked: How useful is engaging with the Scottish Parliament when trying to influence government policy?

In group 2, you said:

Government's role is to research, investigate, consult and then produce policy which it sends out to the wider world. It is therefore better to influence the Scottish Government during the policy formation phase than with the Scottish Parliament after the policy has been formed:

- Once the Bill is introduced into the Scottish Parliament it is difficult to change it and almost impossible after Stage 2 (amendments of a technical nature can be agreed but it is highly unlikely that any significant opposition amendments will be agreed to)
- scrutinising draft Bills is considered one way that MSPs and the Parliament could influence policy more; as is Committees undertaking pre legislative scrutiny (privately)
- also highlighted was the differing levels of resource available - with resources (such as time) front loaded (with the Scottish Government) compared with the Parliamentary scrutiny that then follows (where there are considerably less resources such as time)
- The 1st approach is to the Scottish Government (and any consultation) and then the Parliament afterwards if not successful in influencing the Scottish Government.

Some questioned the policy making capacity of the Parliament given there have only been three Committee bills.

MSPs can, under Parliament's rules, introduce up to two members bill each session although very few get passed into law:

- Some questioned whether the Non-Government Bills Unit had sufficient capacity to meet the needs of all those members;
- The new requirement for MSP support (in order for a member's proposal to proceed) was also seen as restricting the number of proposals that proceed to Bills;
- The role of members bills in taking forward challenging policy areas (such as Assisted Suicide), that Government was not likely to legislate in, was recognised.

The amount of information on policy development is limited which detrimentally impacts on the level of scrutiny especially in relation to human rights impacts and the legal advice considered by the Parliament or Scottish Government.

It can take time for advice from external organisations to reach Ministers (less time available during Parliamentary consideration)

The impact on the organisations, its members (including volunteers) is not fully recognised by the Parliament:

- one organisation had been approached by the Parliament 40 times in the last 5 years but when asked to engage they considered it is too late to influence – which is a lot of ask of organisations and their members
- it can be challenging to provide a response if the detail is not in the Bill (but left to subordinate legislation) – this limits the ability to respond as they don't know how the Bill will work
- a lot of the members of organisations don't themselves know how to engage with the Scottish Parliament but rather see the Scottish Parliament and Scottish Government as one large body
- the time commitment of volunteers in giving written and oral evidence should be recognised
- Committees can act in silos (not looking across Committees) so that organisations can get a number of requests for views at the same time
- there is very little feedback to those who provide their views – thanks you are provided but not much more. Feedback would be welcome in relation to written and oral evidence.

Another way to influence the policy was through developing good working relationships with the relevant Committee.

The role of the legislature as a guarantor of Human Rights was highlighted as was its role in scrutinising when international obligations are not being taken forward – this is an important accountability mechanism. This should be a more explicit Committee function and is an area where more work could be undertaken.

It was suggested that there should be a course for those giving evidence for the first time (although it was recognised that it would be tricky to identify, in advance, who that might be).

The importance of MSPs soft skills when working with witnesses was stressed as was the value of humanising the process.

We asked: What has worked well in influencing MSPs?

In group 2, you said:

Surveying members of the organisations has been effective in providing evidence to Committees and is seen to add the quality of the evidence.

Identifying the constituency interest was also successful as it makes it more real for the MSP. Also effective is taking the Committee to the community.

Different approaches are needed for those intimidated by the Committees 'formal' setting. Some questioned how Committees balance their time between direct engagement with those affected and formal Committee meetings.

It was considered important to meet with the people directly involved with the issue in their environment (on the ground).

Committees should invite in those who may not otherwise participate such as through Committee away days or open days.

Committee's call for views should be more accessible using clear non parliamentary language, not trying to ask questions on everything (focus on the key issues) and in different media (such as film clips or surveys etc) to attract a wider range of views. That said, it was noted that the language used ultimately has to translate into the courts in relation to legislation (where any challenges or interpretation may be considered)

Some questioned how they might challenge the Committee when the Committee has the wrong focus for their scrutiny (can you really use written or oral evidence to say this?)

It was recommended that MSPs should do more promoting of calls for views to their constituents when they meet them on other issues (such as through surgeries), highlighting issues on which the Committees or Parliament is seeking views.

We asked: What are your top recommendations?

In group 2, you said:

- engagement with Committees should be a two way process where the Committee hears the evidence it needs for scrutiny but organisations are also helped to engage better
- Committees need to get out more into the communities affected by issues
- there should be more draft Bills
- Stage 3 should be split with a delay (of a number of days) from Stage 3 amendments being taken until the debate on passing the Bill.
- There should be more post legislative scrutiny with a suggestion that there should be a dedicated Committee for this scrutiny (so that they can develop expertise and effective processes).

We asked: How useful is engaging with the Scottish Parliament when trying to influence government policy?

In group 3, you said:

Committees were seen as a good place for agenda setting and airing issues that the Government is not addressing.

Committees' work is mainly focussed on legislation so there is less time for broader inquiries.

This group was experienced enough to have a clear understanding of the distinction between Parliament and Government.

It is important that a clear distinction is made so that the Parliament can demonstrate a strong scrutiny role.

Government ministers are often seen in the Parliament building in the media. This might blur the distinction for the public in general but it was felt that it demonstrated a positive link between Parliament and Government.

There was a perception that the UK Parliament committees were more adversarial than Scottish Parliament

There appears to be a good relationship between Parliament and Government compared to other countries

We asked: Do you think committees undertake their scrutiny at the point of the policy process where they have the best opportunity to influence?

In group 3, you said:

Having a majority government in Session 4 led to less debate in committees.

All the stakeholders found their engagement experience positive.

Stakeholders normally consult with the Government before the legislative process starts. Engagement with senior civil servants is important, as well as using informal channels between Government, MSPs and stakeholders. The approach varies according to the issue. Senior civil servants engage early to help scope policy.

It is good that it is not only the lead committee that can consider a particular area.

When considering the balance between policy making and scrutiny:

- there is not enough scrutiny
- the process is too rushed

- stage 2 is not transparent
- bills teams (Government) change regularly and this has an impact on expertise

Financial scrutiny is under-developed. Scotland has a small population and therefore a small pool of expertise for committees to call upon for scrutiny

A lack of continuity in committee membership can have an impact on accountability.

Not convinced that elected conveners would make a difference as the pool of candidates is too small.

An explanatory note on Acts outlining the time spent on scrutiny would be revealing.

Stage 1 allows a good opportunity to influence and be heard but stages 2 and 3 are not transparent.

Committees should continue to develop innovative ways of engagement, always giving consideration to who they want to consult and what the best methods are in each case.

A framework to measure the success of engagement is needed.

More post-legislative scrutiny or an impact assessment is required.

It's too early to decide whether the new Public Audit and Post-legislative Scrutiny Committee can adequately address post-leg issues

Using experts rather than members for most post-leg work could be considered.

We asked: In your experience how effective is providing written views or oral evidence, in influencing or informing Committee's scrutiny work and what could be improved?

In group 3, you said:

Process of giving evidence –

- More notice is needed to give time to prepare properly and make evidence giving more effective (often only a week's notice)
- Structured questions at the start of the process would help
- Usual suspects = expertise
- In camera sessions are good for vulnerable/non-expert groups
- Evidence sessions are orchestrated and useful but not enough
- Questions are not always scripted and sometimes unexpected so difficult to give full answer

Mainstreaming

Committees and SPICe should co-ordinate witness/stakeholder lists – would be useful to widen discussions and improve scrutiny

Smaller organisations will find influence more difficult to achieve.

Feedback

- sometimes the only feedback is reading the report and it's difficult to know whether evidence was useful
- it would be good to get formal, regular feedback about how evidence has influenced decisions.
- being asked back is often seen as positive feedback
- informal feedback is useful but it often depends on who you know and larger organisations who have better networking opportunities probably benefit more than smaller organisations.
- Clerks are good at cultivating relationships, seeking advice and offering feedback. There seems to be a good handover between clerks when committees change

Round table sessions are good for broad discussions but can be unwieldy if too many involved when looking at detail

We asked: What other parliamentary checks and balances do you think could be improved and how?

In group 3, you said:

Informal sessions are useful

Parliament is poor at seeing things through to the end of a session and there are often loose ends

Too much scripting of speeches leads to uninteresting debates

Timing issues in the chamber need to be addressed to allow more flexibility

The culture of committees and parliament has become too partisan

Elected conveners are not necessarily a solution as the best conveners are often former ministers

Media coverage often encourages adversarial behaviour but recognise that the media itself has limited capacity

Some areas are much stronger in the UK Parliament, e.g. strength of conveners; members as 'parliamentarians' first; cross party approach; critical committee reports

MSPs tend to have a local rather than a national perspective

Concern expressed over lack of capacity to deal with additional powers being devolved

We asked: What are your top recommendations?

In group 3, you said:

1. Change committee culture

The group suggested setting up a role profile/framework of what is required from a good convener. A discussion on whether elected conveners would improve quality was inconclusive as some felt the pool was too small and that having former ministers as conveners had been effective. A suggestion that all conveners should be from non-government parties wasn't supported by most as it was felt the pool was too small.

2. Timing of legislative process

There should be more time given to Stages 2 and 3 of the legislative process. Stage 2 needs to be more transparent and late government amendments at Stage 3 need more time to allow full consideration by Parliament

3. Informal engagement

More informal engagement would allow MSPs to get evidence on 'life experiences', be useful and have impact. This would still need to be transparent. A bigger media role to publicise this would be good.