



*The Royal Society  
of Edinburgh*

KNOWLEDGE MADE USEFUL

## Commission on Parliamentary Reform Royal Society of Edinburgh Response

### Introduction

1. The Royal Society of Edinburgh (RSE) welcomes the decision by the Scottish Parliament's Presiding Officer to establish the Commission on Parliamentary Reform. We look forward to engaging productively with the Commission in order to help inform its recommendations on how best to improve the efficiency, effectiveness and image of the Scottish Parliament.
2. Since the Scottish Parliament convened in May 1999, Holyrood has served as the focal point for political life in Scotland, proved itself to be one of the most accessible legislatures in the world and overwhelmingly been embraced by the Scottish people. In its short lifespan the Scottish Parliament has legitimised the devolution of power to Scotland. Data compiled by the Scottish Social Attitudes Survey shows that trust in Holyrood decision makers to work in the best interest of Scotland has been higher than for their Westminster counterparts in every year it has existed.<sup>1</sup>
3. However, with the significant new fiscal powers that have been, and are scheduled to be, transferred to Holyrood, there is a pressing need to examine whether the scrutiny currently taking place in the Parliament is of the highly robust standard needed.
4. This response was prepared using the expertise of a Working Group of RSE Fellows from a wide range of institutions and with diverse backgrounds. The Advice Paper has been approved by the General Secretary of the RSE.

### Summary

#### ENGAGEMENT

5. *The Scottish Parliament has succeeded in being one of the most accessible and open legislatures in the world, and we would encourage Holyrood to build on this success to reach out even further to the most underrepresented sections of the public.*

<sup>1</sup> <http://natcen.ac.uk/media/1123186/ssa-15-attitudes-to-government-nhs-economy-and-standard-of-living.pdf>

6. *Phrases such as 'participation', 'consultation', 'engagement' and 'outreach' are often used almost interchangeably in discussing the work of parliament. It is important that these different approaches and concepts are well defined and understood.*
7. *There is an opportunity for a greater level involvement from civic society with parliament on what should be a cross-sectoral basis.*

#### DISTINCT IDENTITY

8. *It should be acknowledged that the Government will inevitably set the political agenda and feature most prominently in the headlines. A distinct and positive identity for the Parliament can be furthered through effective scrutiny in the chamber and in independently-minded committees.*
9. *The nature of party politics means there will always be adversarial debate. However, the policies proposed by parties and the policymaking process behind them can be more evidence based.*
10. *Culture change takes time. We endorse the induction and personal development programmes offered by the Parliament to MSPs, which encourage them to engage on policy development and offers them opportunities to do so through SPICe and the Scotland's Futures Forum.*

#### CHECKS AND BALANCES

11. *In the absence of a Second Chamber the need for independent committees to robustly scrutinise government policy is vital. With the increased fiscal powers that will bring both spending and revenue raising under the remit of the Scottish Government, effective scrutiny around the budget is of paramount importance.*
12. *The increase in powers to the Scottish Parliament has put a strain on its ability to fulfil key functions. In future it may be necessary to re-evaluate both the number of Members serving at Holyrood and/or the length of the parliamentary week in order to ameliorate this.*

### **Principles Underpinning the Scottish Parliament**

13. The report published by the Consultative Steering Group (CSG) in 1997, *Shaping Scotland's Parliament*<sup>2</sup>, identified four key principles for the Parliament:
  - Accountability;
  - Openness and encouragement of participation;
  - Power sharing;
  - Equal opportunities.<sup>3</sup>

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[http://www.parliament.scot/PublicInformationdocuments/Report\\_of\\_the\\_Consultative\\_Steering\\_Group.pdf](http://www.parliament.scot/PublicInformationdocuments/Report_of_the_Consultative_Steering_Group.pdf)

14. In evaluating the evidence it receives, the Commission may wish to reflect on whether these principles have been met, and whether they need re-evaluated.

### **Political Culture**

15. The Scottish Parliament was, in part, designed with a view to moving away from the more adversarial politics of Westminster and towards a more consensual model. The realities of establishing this 'new democracy', including the genuine political divides between parties, mean this has not been fully achieved. Despite the CSG reviewing practice and procedure in European legislatures, and the Holyrood Chamber being built in the round, the only political culture to which many of the parliamentarians entering Holyrood had exposure was that of Westminster. It was expected that coalition government would lead to greater consensus. However, hindsight has shown this expectation to be optimistic, as genuine and deep political differences – not least around constitutional issues - do not facilitate a move away from adversarial politics. Majority government between 2011 and 2016 also served to limit the need for the Executive to find compromise across the Parliament.
16. It should be acknowledged that parliamentarians are politicians and thus face competition and elections, which underlies adversarial political behaviour. However, measures could be examined that might encourage MSPs to strike a better balance between their parliamentary and party responsibilities which have become too skewed towards the latter. The party list aspect of the electoral system, and in particular the use of 'closed lists' which do not allow voters to select the order of the candidates, serves to encourage party loyalty over parliamentary responsibility. The power of party whips and business managers to decide the make-up of committees and the order of chamber speaking priority exacerbates this problem.
17. It was originally considered that the Additional Member System would decrease the likelihood of a single political party ever gaining an absolute majority in Holyrood. However, the Scottish National Party achieved such a majority in 2011. This has had an impact on the independence of parliamentary committees. Initial hopes that committees would operate in a manner similar to those in Scandinavian legislatures, with negotiation around bills being undertaken at this level, have not been fulfilled to any great extent.
18. In Europe, it is common for politicians to move in both directions, between devolved and national legislatures. In Scotland, apart from the initial 1999 intake of Members, the direction has been from Holyrood to Westminster. This serves to reduce the supply of talent to the Scottish Parliament and suggests that Holyrood is regarded as secondary to Westminster.
19. The role of backbench MSPs should not be merely to cheer on their party to the next election. Strong and capable opposition parties are the greatest driver of a powerful parliament which effectively holds government to account. While it may be difficult to

change the adversarial nature of party politics, effective opposition can still be undertaken in an evidence-based and analytical manner. A more strategic approach to policy development within parties – one that is not based around party conferences or immediate reactions to media coverage – is needed.

### Scrutiny

20. There is a lack of effective post-legislative scrutiny in the Scottish Parliament. The responsibility for undertaking such work has been largely assigned to what was, in the last term, the Public Audit Committee, rather than individual committees taking on the responsibility for their area of policy. Since 2009/10 only one Committee Bill has been initiated<sup>4</sup> and there are very few cases of post-legislative scrutiny.
21. At present, there appears little desire for a Second Chamber or Upper House to serve the function of scrutinising the legislation moving through Holyrood. Thus, the scrutiny function of committees – in addition to holding inquiries into their policy areas, making recommendations to government, and initiating legislation – is a role which must be enhanced.

#### FISCAL SCRUTINY

22. The model under which the Scottish Parliament and its committees operate was not devised to reflect the considerable additional fiscal powers for which Holyrood is now responsible. Despite the creation of the Scottish Fiscal Commission (SFC) - and the eventual decision to allow it to produce forecasts - Scotland lacks the financial institutions available at a UK level to analyse the sustainability of the Budget. As the Scottish Parliament's responsibilities move from simply spending money to also raising it, so the importance of genuine and robust scrutiny carried out at committee level increases.
23. It is important to stress that inadequate fiscal scrutiny can be hugely costly, both financially and politically. It should also be clear why this scrutiny is taking place. This purpose differs depending on whether it is occurring before spending occurs or after spending occurs.
24. Scrutiny before the event concerns setting the direction for fiscal policy, given the current economic context. By the time the budget has reached parliament, it is too late to make significant change. Bargaining at the time that the budget occurs should be avoided. The role of the Finance Committee is extremely important in setting this forward-looking agenda and trying to influence the fiscal strategy. This work may have to take a selective focus on broad, but important, issues, for example areas of inequality, demographic change, productivity, preventative spending. A process must be in place which allows such investigations by the Finance Committee to be effectively aired in parliament and elsewhere. This would increase the likelihood that the Committee could influence Scottish Government strategy. *Ex post* interrogations of ministers in committee may not exert sufficient pressure to cause ministers to change course.

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<sup>4</sup> <http://www.parliament.scot/abouttheparliament/46935.aspx>

25. In setting a forward-looking agenda, the Parliament will be able to call on independent information from the Scottish Fiscal Commission. The RSE reiterates the concern we expressed - in our Advice Paper to the Finance Committee during passage of the Scottish Fiscal Commission (Scotland) Bill in 2015<sup>5</sup> - over whether the SFC has the quantity and quality of resources necessary do its job effectively.
26. Scrutiny after the event should be part of the workings of the Audit Committee. (There may be scope for this work to be undertaken in conjunction with Audit Scotland.) The Audit Committee should work to clarify that the money has been spent legally, in the way that parliament mandated, and effectively. The subject committees must be willing to be involved in these processes, so it is essential that there is effective liaison between each committee and the Audit Committee, and that resources from the Scottish Parliament Information Centre (SPICe) are available to aid this work. A stronger working relationship between individual subject committees and the Finance Committee must also be fostered. While committees do take evidence for their policy area during the annual budget round, it is not clear that this is the most appropriate point at which to engage them with financial issues.

#### ROLLING REFORM

27. Since it convened, the Scottish Parliament has always been open to reform. Holyrood has not been afraid of adapting and altering procedures to improve the functions of parliament, and this openness and flexibility is to be commended.
28. We endorse the reforms carried out during the tenure of former Presiding Officer Tricia Marwick, including the increased amount of time allowed for First Minister's Questions, with additional opportunities for backbench MSPs to interrogate the First Minister. The previous session of parliament also saw changes to its sitting pattern which allowed further time for chamber debate, and the introduction of Topical Questions which enables Members to question Government Ministers on priority issues at short notice. These changes are welcome and indicate the willingness of parliament to adopt modest reforms. However, we note that other changes proposed, including a reduction in the number of committees (and subsequent increase in the number of Members sitting on each committee), increased resources for committees, and elected conveners, could not be agreed upon.

#### ELECTED CONVENERNS

29. The RSE considers that elected convenorships would be a positive step in strengthening the independence of, and in lessening partisanship in, committees. This action would take conveners out of the gift of party management and, to some extent, free them from government. A vital aspect of winning election to a convenorship would be the support of Members outside of the individual's own party. This would incentivise independence from party front benches.
30. At Westminster, elections for Chair of various committees have been carried out by secret ballot of the entire House of Commons since 2010 with notable success. The RSE considers that the Scottish Parliament has now achieved a level of maturity where it must not be afraid to replicate ideas from Westminster that have proved successful.

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<sup>5</sup> [https://www.rse.org.uk/wp-content/uploads/2016/09/AP15\\_23.pdf](https://www.rse.org.uk/wp-content/uploads/2016/09/AP15_23.pdf)

31. Holyrood's new fiscal and welfare powers (plus, possibly, additional powers, post-Brexit) may well lead in time to questions over whether a parliament of 129 members (minus those ineligible through office) provides the required depth of independent and high-quality candidates for the election of conveners.
32. Increasing the profile, independence and importance of conveners and committees would create a much-needed option for career progression for Members other than seeking ministerial office. The Chairs of committees at Westminster, as well as at the Welsh and Northern Irish assemblies, receive additional pay. Providing an increased salary and additional staffing allowance for conveners could play a role in further enhancing the prominence of these positions.
33. Of perhaps greatest importance is that conveners at Holyrood have access to independent expert information, including legal advice. There is currently little in the way of resource for conveners to undertake research. Bills before committees are often technical and may be above the understanding or expertise of the average Member. The quality of legislation put in front of committees should also be addressed, to avoid the common position in which hundreds of minor technical amendments are required. Bills being presented to committee in a more coherent manner would allow precious committee time to be spent in more valuable ways.

#### MORE INFORMED SCRUTINY

34. There is a need for greater focus on addressing 'big picture' issues: major policy considerations that will outlast the parliamentary session and have enormous implications for the country. Such work should look beyond current party political issues and look towards a rolling programme of reform. This may further incentivise committees to work in a more cooperative and consensual manner. Whether current capacity would allow committees to take on such a function is uncertain, however, and it may be that providing more resource and prominence to an organisation such as the Scotland's Futures Forum – which already undertakes important work in this area - is a more viable option.
35. Committees are entitled to appoint independent rapporteurs to consider issues and report back to Members. This facility could be used to a greater extent.
36. The RSE praises the work of the Scotland's Futures Forum in the blue-sky thinking it undertakes around major issues facing society. We highlight our willingness to participate and engage with the Forum.
37. The RSE notes the practice undertaken by political parties in other countries of holding retreats during parliamentary recess. These breaks allow parliamentarians working in specific policy areas to spend significant time together formulating policy proposals away from the spotlight. Parliamentary Committees at Holyrood already hold 'away days' at the beginning of sessions to bring Committee Members together outside of the confines of parliament. This is a practice that could be expanded.
38. While casework in local surgeries and face-to-face contact with constituents is an important part of an MSP's role, the capacity of parliament could be boosted through Members delegating some of this work to trusted staff. This would serve to free up their time to focus on policy issues and on their primary role of scrutinising government.

Adequate resourcing and intelligent recruitment are vital to ensuring staff can address the needs of constituents.

#### EXTERNAL EVALUATION

39. The RSE notes the excellent work undertaken by SPICe in providing much-needed information and analysis on the work of government. We similarly welcome the effective independent scrutiny being undertaken by Audit Scotland and the Auditor General for Scotland.

### **Capacity**

40. There is a strong argument that the Scottish Parliament simply does not have the capacity to hold the Government to account effectively. Once ministers, the Presiding Officer, and the Deputy Presiding Officers are removed from the pool, there is an insufficient number of MSPs to fill committee positions adequately.
41. The CSG envisaged a committee system at Holyrood in which the majority of Members would serve a complete parliamentary session on the same committee. This would have allowed MSPs to build up much-needed expertise and experience in specific policy areas, allowing for more informed consideration and scrutiny. The *status quo* of many Members sitting on several committees is not conducive to building up this knowledge. Furthermore, ministerial reshuffles inevitably produce changes in committee membership.

#### NUMBER OF MSPS AND THE PARLIAMENTARY WEEK

42. Given the significant new powers that have been, and are due to be, devolved to the Scottish Parliament - in addition to the aforementioned restrictions that lack of capacity places on committees - a serious debate must take place over whether a 129 member chamber is truly sufficient for Holyrood to undertake all of the functions the Scottish people require of it. Similarly, consideration will have to be given to whether the current parliamentary week provides enough opportunity for debate and scrutiny.

### **Engagement, Outreach and Participation**

43. Any discussion around participation, engagement, or outreach should be careful not to use these terms interchangeably as they have significantly different meanings and connotations. Participation, as considered in the CSG report, was interpreted as giving civic society a direct role in decision making. The Scottish Parliament has predominantly engaged the public through a process of consultation whereby input from interested parties is received and considered, before a decision is ultimately made by elected representatives. Outreach is working proactively to reach and gather the views of groups which might otherwise be overlooked or unlikely to contribute. The RSE highlights the importance of accurate and well-defined terminology.

44. The RSE commends the Scottish Parliament for living up to the CSG's hope that Holyrood would be "*accessible, open [and] responsive*".<sup>6</sup> We highlight events such as the Festival of Politics and the use of the parliament building to host exhibits, including the unveiling of the Great Tapestry of Scotland, that have succeeded in bringing the public into Holyrood. The open door policy has proved a huge success with the Parliament receiving 300,000 visitors in 2014/15 and hosting 258 primary and 134 secondary schools through its School Visits Programme.<sup>7</sup> These opportunities have provided not only a chance for the public to connect with the parliament building, but also served to facilitate political discussion and thought.
45. However, more must be done by parliament to avoid consistently taking evidence from 'the usual suspects'. While academics and industry experts remain a valuable resource and provide important insight, it is vital that Holyrood reaches those with first-hand experience who would otherwise never consider putting themselves forward to contribute. We welcome the move to assign outreach teams to committees and note the important work undertaken for the Parliament in identifying and connecting with voices that would not usually be heard.
46. There is an opportunity for a greater level involvement from civic society with parliament, on what should be a cross-sectoral basis. Lobbying from interest groups and organisations on, often silo-ed, specific issues does not effectively allow for full discussion around and formation of long-term, sustainable policy.
47. There should continue to be a role for academia and academic networks in informing policymaking and scrutiny. Indeed, this role should be enhanced. There is potential for engagement between academia and parliamentarians to reach beyond the group of academics who frequently provide evidence to committees, and draw from a far larger and more diverse pool of academic expertise.
48. It is important to acknowledge that an inherent tension exists between different forms of representation and participation. While public participation is a vital part of a healthy democracy, so too is accountability. The system must allow those who make decisions ultimately to be held responsible for them. The difficulty in reaching out beyond the conventional experts while striking the correct balance over accountability is illustrated by the cessation of the Scottish Civic Forum after only six years.
49. We note that activities undertaken by parliamentarians such as holding constituency surgeries and attending community events are important forms of public engagement.
50. The Commission may also wish to consider whether a public petitions model similar to that used at Westminster could facilitate greater political engagement at Holyrood. Under this scheme any public petition which receives 10,000 signatures receives a response from government, while petitions with 100,000 signatures are considered for debate. In the current Westminster parliamentary term since July 2015, the UK

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[http://www.parliament.scot/PublicInformationdocuments/Report\\_of\\_the\\_Consultative\\_Steering\\_Group.pdf](http://www.parliament.scot/PublicInformationdocuments/Report_of_the_Consultative_Steering_Group.pdf)

<sup>7</sup> <http://www.parliament.scot/SPStats/SPStats2014-15.pdf>

Government has responded to 374 petitions, with 47 being debated in the House of Commons.<sup>8</sup>

### **The RSE and Parliament**

51. The RSE has a Fellowship of 1600 Fellows from a wide range of disciplines – including science and technology, arts, humanities, social science, business, and public service. We actively engage with MSPs, Parliamentary Committees, the Government, the Civil Service, and other public bodies on a diverse range of issues. In the last year the RSE has published more than 35 Advice and Briefing Papers. More than two-thirds of these papers were in response to consultations by, or aimed toward, the Scottish Parliament or Scottish Government. The RSE enthusiastically welcomes any opportunity to help inform the discussion around policy issues facing Scotland and encourages Members of the Scottish Parliament to use the diverse knowledge of our Fellowship as a valuable resource.

### **Additional Information**

This Advice Paper has been signed off by the General Secretary of the RSE.

Any enquiries about this response should be addressed to Craig Denham, Policy Advice Officer ([cdenham@these.org.uk](mailto:cdenham@these.org.uk)).

All responses are published on the RSE website ([www.rse.org.uk](http://www.rse.org.uk)).

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<sup>8</sup> <https://petition.parliament.uk/>