

## Written views from the Parliamentary Counsel Office, Scottish Government

PCO is the Scottish Government's legislative drafting office. Chief Parliamentary Counsel leads a team of lawyers, called "parliamentary counsel", who specialise in legislative drafting.

PCO drafts clear, effective and accessible legislation which delivers the Scottish Government's policy and secures its reputation, and that of the Scottish Parliament, for making high quality law which serves the people of Scotland well.

PCO's key responsibilities is to—

- draft all Scottish Government Bills, draft amendments and related motions and advise on legislative matters and parliamentary procedure
- help plan and deliver the Scottish Government's legislative programme
- draft or review significant subordinate legislation (including Scotland Act orders, public service reform orders, ECHR compliance orders and any regulations which amend primary legislation)

### Scotland's centre of legislative excellence

PCO's experience and expertise means that it is uniquely positioned to help ensure that the overall quality of all Scottish primary legislation is of a high standard. As Scotland's Centre of Legislative Excellence, PCO is committed to—

- improving the overall quality of Scotland's law
- continuously improving and sharing our legislative skills and knowledge
- providing leadership, within government and beyond, to others who use or participate in making Scotland's law

PCO's internal guidance on drafting legislation, [Drafting Matters!](#), was published last year in line with the First Minister's commitment to leading the most open and accessible government ever. Publication gives some insight into how PCO goes about drafting Bills and will help PCO to engage with others involved in making law, and with end-users, and continue to develop a modern drafting style which is easy to use and understand.

PCO is leading a multi-party project to create digital tools to improve how Scottish and UK legislation is prepared and made publically available which has potential to enhance transparency and ease of participating in the legislative process.

PCO provides an independent drafting service to the UK Government, to the Scottish Law Commission and to the Parliament's Non-Government Bills Unit with a view to ensuring that the overall statute book is robust, cohesive, principled and drafted to the high standard required to maintain a civilised, well-governed society.

### How we work

1. Chief Parliamentary Counsel, in collaboration with legal and policy colleagues, is involved in work to plan the Scottish Government's annual legislative programmes.
2. Drafters usually work in teams. Chief Parliamentary Counsel allocates Bills to drafting teams according to their workload and the expected demands of the Bill.

Each team is responsible for a number of Bills and no drafter specialises in any particular area of law.

3. Bills are drafted from written instructions prepared by the Scottish Government Legal Directorate following on from policy instructions prepared by policy officials. The drafter's main role is to find the right words and the best legislative structure to deliver the policy intention in the clearest possible way.

4. The way in which Bills are prepared has evolved and, in practice, now tends to be much more collaborative than the somewhat linear instruction process might suggest with drafters increasingly engaging more directly with policy colleagues and end-users as part of the process. There is no "one size fits all" method that would work perfectly for every Bill, but close collaboration and clear communication among all involved and interested helps ensure that provisions are clear, effective and accessible.

5. Legislative drafting is a highly specialist and scarce skill which is nearly always fully committed. PCO invests significantly in training and developing legislative drafters to ensure it has sufficient capacity to continue to provide the high quality, sustainable and efficient drafting service it needs to continue to produce legislation to the high standards required.

### **Relationships**

6. As well as working collaboratively with Ministers and policy and legal colleagues across all Scottish Government portfolios, PCO works closely with the Parliament's legislation, clerking and legal teams, both as a conduit on individual Bills and in relation to development of the Parliament's processes and procedures. A legislation team clerk is currently on secondment in PCO to help implement some of the Standards, Procedures and Public Appointments Committee's recommendations for improving the legislative process.

7. Key external partners also include the Scottish Law Commission, the Judiciary, drafters in the Lord President's private office, the Crown Office, legal academics and, ultimately, everyone who uses or participates in making Scotland's law. We have a series of events planned to engage with some of these key partners and to obtain feedback from them on the drafting of Scottish legislation.

8. Chief Parliamentary Counsel has regular meetings with the Heads of the London, Belfast and Cardiff drafting offices and the Queen's Printer for Scotland, recurring topics of mutual interest being the accessibility of up to date legislation and the effect of devolution on the overall UK statute book.

9. We are currently engaged in a one year exchange programme with the New Zealand Parliamentary Counsel Office and have previously seconded PCO counsel to drafting offices in Australia, Cardiff, Belfast and Dublin. By sharing expertise and experience with drafting specialists elsewhere, PCO aims to ensure that the Scottish Parliament produces Acts which are at least a match with international best practice and, hopefully, set a standard against which other legislatures will wish to benchmark.