

S c o t t i s h  
E n v i r o n m e n t**LINK**

## **Response to the Commission on Parliamentary Reform by the Scottish Environment LINK Governance Group**

**March 2017**

### **Introduction**

Scottish Environment LINK (LINK) is the forum for Scotland's voluntary environment organisations, with over 35 member bodies representing a range of environmental interests and sharing a common goal of contributing to a more environmentally sustainable society. LINK members welcome the opportunity to comment on this consultation.

LINK's members are collectively involved in many areas of environmental concern, from natural heritage and wildlife protection, through marine conservation, land and resource use, action on food and health, to planning, economics, environmental governance, and a transition to a low carbon economy envisaged in the Scottish Government's ambitious carbon reduction targets. LINK works mainly through groups of members working together on topics of mutual interest, exploring the issues and developing advocacy to promote sustainable development, respecting environmental limits. LINK builds common ground with allies in the wider policy community in Scotland and beyond.

### **Submission**

LINK and many of its member organisations are in constant communication with members of the Scottish Parliament, its committees and officials, across the whole range of interests outlined above. LINK members therefore greatly welcome the Presiding Officer's decision to set up a Commission on Parliamentary Reform, in advance of the Scottish Parliament's 20th anniversary in 2019, and to seek views on the performance of the Parliament to date, and how it could be improved. LINK members note the high ambition that surrounded the setting up of the Parliament in 1999, including the aspiration that it should act as a model for 21st century democracy, engaged, participative, accessible and accountable; LINK members supported that aspiration then and very much welcome the opportunity to play a role in assessing how far the Parliament has lived up to those hopes, and how it can continue to strive to meet those high aspirations as it moves into its third decade.

Our main comments and suggestions are as follows:

#### **A. ON THE OPERATION OF THE SCOTTISH PARLIAMENT AS A WHOLE**

1. LINK members believe that the setting up of the Scottish Parliament has in general been of great benefit to the quality and effectiveness of environmental legislation and regulation in Scotland.

LINK members believe that the principles of proportionality, representativeness, diversity, voices for all perspectives should be captured in the system of election for the Scottish Parliament and that a proportionally elected parliament aids effective scrutiny. They strongly support the election of the Parliament by a proportional system and recognise that many systems deliver this; at present they have no views on the strength or weakness of the different approaches although would be open to debate as and when the need required.

2. LINK members note that while it was hoped that a more proportional electoral system would lead to greater in-depth scrutiny, very often business conducted in forums such as First Minister's Questions does not allow for issues to be examined in the detail required and for solutions to be found on a consensual basis. LINK members commend the extension of First Minister's Questions to 45 minutes, to

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allow for more backbench constituency questions, and would be interested in further debate about how to maintain ample opportunity for robust debate, while maximizing the opportunities to focus attention on detailed policy areas with a view to moving towards conclusions rather than leaving these as rhetoric.

3. LINK members believe that the Scottish Parliament Petitions System continues to work well, as a forum through which members of the public and outside organisations can raise issues directly with the Parliament, although its success is limited. Many petitions are “noted” but the issues raised remain unaddressed. As we argue below (Section B) there is a strong case for greater committee investment to investigate and address the issues raised by petitions in the future.
4. LINK members note that the legislative programme of the Scottish Parliament is now almost entirely dominated by measures proposed by the Scottish Government, when it was clearly intended in 1999 that this should not be so. Whilst this can vary, the sheer weight of legislative activity which has become the norm since 1999 has tended to result in the exclusion of the kind of pre- and post-legislative scrutiny, and more general scrutiny of the Executive, which is also a vital parliamentary function. This is only set to be exacerbated by a legitimate need for the Scottish Parliament to consider its new powers and any potential subsequent legislation needed following whatever constitutional arrangement arises from the UK exiting the European Union. LINK members suggest that the Presiding Officer and those responsible for parliamentary business should strive to develop a greater balance between legislation and scrutiny in parliamentary business, and asking the Executive to set its priorities accordingly and appropriately.
5. LINK members invite the Presiding Officer and his deputies to consider measures requiring that a certain number of the bills tabled each year should come not from the Executive, but from individual members, parliamentary committees, or opposition parties.
6. LINK members believe a system is needed, beyond the Ministers’ introductory speech whereby the objectives of legislation are set out so that principles and intended outcomes are clarified from the start. This could be achieved by means of “preambles” (as in EU Directives and Regulations) or in accompanying written statements, either of which could be used by Courts and other parties to aid interpretation. This thinking<sup>1</sup> was discussed extensively during the process of setting up the Parliament, within both the Constitutional Convention and the Consultative Steering Group. LINK members believe that the Parliament and its committees should avoid the sometimes marked tendency to try to “balance” between the competing views of various interested parties and organisations, instead of remaining clearly focussed on the declared purpose of the legislation.

**B. ON THE OPERATION OF SCOTTISH PARLIAMENT COMMITTEES**

1. LINK members note that while much valuable work is carried out by Scottish Parliament committees, the role originally envisaged for them in Scotland’s single-chamber parliament was much more powerful and independent - in terms of conducting investigations, proposing legislation, and holding the Executive to account - than the one which has emerged over the last 18 years. LINK members note that the committees combine the functions of Standing and Select Committees at Westminster, are often limited to only 7-8 members, are relatively poorly resourced, often lack independent expert advice, and - unlike Westminster committees - do not

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<sup>1</sup> Outlined in *To make the parliament of Scotland a model for democracy*, prepared for the John Wheatley Centre by Bernard Crick and David Millar, pub. 1997

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have Convenors directly elected by secret ballot. All these factors tend to diminish their authority and autonomy, and therefore the ability of the Parliament as a whole, to hold the Executive to account.

LINK members suggest that the Scottish Parliament adopt, as soon as possible, some sort of system of election of committee chairs by secret ballot of members

LINK members suggest that Chairs of major Scottish Parliament committees, once elected, should commit themselves to remain in post for the full parliamentary term, in order to build up authority and expertise. This could offer MSPs an alternative career choice in a specialised field and afford committees stability and greater strategic oversight.

2. LINK members do not state a preference over the Standing and Select Committees at Westminster or the hybrid model at the Scottish Parliament as both have their advantages and weaknesses. It is essential that regardless of the option, adequate consideration has gone into mitigating any weakness and to strengthen the time and resources to allow for robust scrutiny and wider inquiries. LINK members believe that there should be a substantial increase in the resources available to committees, particularly for the commissioning of independent expert advice and research. Advisors or researchers could be allocated to committees either on a permanent basis or for periods to cover work on specific issues and consideration should be given to having co-opted external representatives or experts, but not as voting members, to committees or sub-committees for the period of an inquiry or a bill. A wider access to advice and research would ensure an increase of evidence-based policy.
3. More committee inquiries could be conducted by sub-committees or individual 'rapporteurs' on behalf of a committee as a whole, both of which should equally be supported by advice and research, either through existing means such as the Scottish Parliament Information Centre (SPICe) or aforementioned temporary experts brought in explicitly for the purpose.
4. LINK members believe that it is possible that the Scottish Parliament is not now big enough, at 129 members, both to provide an Executive and to support a robust independent committee system across all the areas of policy for which it is now responsible; and suggests a review of the size and working methods of parliaments representing similarly-sized nations across Europe and beyond, in order to establish whether more MSPs may be needed, or whether improvements in working methods may be sufficient to enhance democratic scrutiny within a Parliament of the present size. LINK members would support a review of how Parliament can effectively scrutinise amendments in Stages 2 and 3 when time is short and Government tends to introduce amendments at the very end of the process, which allows very little if any time for proper review and discussion.
5. LINK asks the Commission to consider other ways to ensure that committees are less partisan and more independent. This calls for a culture which proactively incentivises the development of an alternative career path for MSPs, as elder statesmen and stateswomen. This would contribute significantly to a greater scrutiny role in Holyrood.
6. Through their working relationships with the current cohort of MSPs, LINK members welcome the casual positive feedback received about the induction process for new MSPs and would recommend that this is continued and enhanced by ongoing Continued Professional Development on the role of Parliament to continue to foster a representative and accountable chamber.
7. LINK members suggest that the Parliament review the question of a whether a committee system structure which always mirrors the departmental divisions of the Scottish Government necessarily

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provides the best scrutiny of the Executive, particularly in those matters which cut across several areas of departmental responsibility. In the same vein and in order to make better use of existing resources, the Commission could consider more committees with narrower remits or additional cross-cutting remits.

8. LINK members believe guidance should be clarified as to how committees should work with one another on issues of joint responsibility or interest, criteria for selecting lead committees, how lead committees should liaise with other committees whose roles are relevant and how the thinking of the other committees should be factored into lead committee procedure.
9. LINK members recognise that the onus of sourcing a diversity of views and voices to be heard by the committees should not lie solely within the Scottish Parliament's remit and responsibility. In the spirit and interest of robust debate and representation, all interested parties should contribute and should welcome recommendations of underrepresented voices, whether these be put forward by the Scottish Parliament, the public sector, business sector or civic sector, on the understanding, or assumption, that nominating organisations would want to promote any voice being overlooked in a given debate or inquiry, and would not simply promote voices of those in alignment with their own views.
10. Representation is sometimes limited by practicalities which could be addressed by improving video links to the Scottish Parliament, for example by establishing dedicated 'phone-in' hubs across the country to ensure reliability and quality of technology and reduce travel times and distances for witnesses. On occasions when video link does not suffice, the Scottish Parliament should consider offering travel expenses as well as reiterating, and where appropriate expanding, childcare provision. Finally, consideration should be given to whether time off work - as applied for jury service - should be available to those giving evidence.

**C. ON RELATIONS BETWEEN THE PARLIAMENT AND CIVIL SOCIETY**

1. LINK members believe that one of the main benefits of the setting up of the Scottish Parliament, since 1999, has been the ease of access it offers for major campaigning and civil society organisations in Scotland seeking to communicate with MSPs and parliamentary committees.
2. LINK members appreciate the efforts made by the Parliament to ensure access for smaller and less well-resourced organisations, and to strike a balance between drawing on known expertise, and listening to new or grassroots voices.
3. LINK members are among many interests which have welcomed Scotland's commitment to the Sustainable Development Goals (SDGs) and would strongly support clarity as to how the Parliament will be expected to deliver against this. In its pursuit of sustainability for Scotland, LINK members believe that the Parliament should seek to increase the extent of independent expertise on which it draws, and that committees should draw in a wider range of perspectives going beyond the most obvious players, per issue to be considered.
4. LINK members invite the Parliament to consider whether it might benefit, at this stage in its development, from the presence of a parallel Civic Assembly to debate matters related to the Parliament's programme, and to feed views back to the Parliament and the Scottish Government. LINK members note that a civil society assembly along these lines was widely advocated by those

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campaigning for a Scottish Parliament in the 1990s, and was seen as a major possible way of enriching and balancing debate in Scotland's single chamber parliament. LINK members feel that the existing Futures Forum is not genuinely representative in the way envisaged of the Civic Assembly, as its membership is led by academic and business interests and would require involvement and input from our wider civil society.

5. Once again, we very much appreciate the opportunity to contribute to this inquiry into the working of the Parliament, and look forward to further discussion with Commission members over the coming months.

**This response was compiled on behalf of LINK Governance Group and is supported by the following LINK members:**

Badenoch & Strathspey Conservation Group  
Bat Conservation Trust  
Buglife  
Froglife  
Plantlife Scotland  
Ramblers Scotland  
RSPB Scotland  
Scottish Association of Farm Conservation Advisers  
Scottish Badgers  
Scottish Wild Land Group  
Trees for Life  
Whale and Dolphin Conservation  
Woodland Trust Scotland

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