

**SCOTTISH PARLIAMENT****COMMISSION ON PARLIAMENTARY REFORM****WRITTEN SUBMISSION BY AUDIT SCOTLAND**

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**Introduction**

1. The post of Auditor General for Scotland was created under the Scotland Act 1998 to support the work of the Scottish Parliament. Audit Scotland provides services to the Auditor General for Scotland and the Accounts Commission for Scotland. It is also a product of the creation of the Scottish Parliament and was established under the Public Finance and Accountability (Scotland) Act 2000.
2. Audit Scotland audits over 220 public bodies across the public sector on behalf of the Auditor General for Scotland<sup>1</sup> (for the NHS and central government bodies) and the Accounts Commission for Scotland<sup>2</sup> (for local government bodies). These organisations spend over £40 billion of public money annually.
3. Public audit has an important role in supporting accountability to the Parliament and the public. Audit Scotland's independence and expertise across the public sector places us in a strong position to aid decision-makers in the Parliament to deliver high quality and impartial scrutiny, and support improvement.
4. We are committed to supporting the Parliament in scrutinising how well public money is spent to implement policy and improve the quality and impact of public services. For that reason, we welcome the opportunity to provide written evidence to assist the Scottish Parliament's Commission on Parliamentary Reform. We think this is a timely review given the significant new fiscal powers that are being transferred to Holyrood. These present both opportunities and challenges that will need to be reflected in the Parliament's future scrutiny arrangements.
5. This submission draws on our experience of supporting parliamentary scrutiny since the creation of the Scottish Parliament in 1999. It also draws on evidence gathered through our audit work across the public sector, with a particular emphasis on our audit findings in relation to community engagement, governance, and scrutiny.
6. Our submission covers all three areas of the Commission's remit, but focuses in particular on engagement and 'checks and balances' as these are the areas in which we have the most evidence and where we think we can offer the most useful insights to support the Commission in its work.

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<sup>1</sup> The Auditor General for Scotland is an independent crown appointment created under the Scotland Act 1998, to help the Scottish Parliament ensure that public money is spent properly, efficiently and effectively.

<sup>2</sup> The Accounts Commission is the public spending watchdog for local government. It holds councils in Scotland to account and help them improve. It operates impartially and independently of councils and of the Scottish Government and meets and reports in public.

## Engagement

### *Our experience of Parliamentary engagement*

7. The Scottish Parliament is a key stakeholder for Audit Scotland. The Public Finance and Accountability (Scotland) Act 2000 (the PFA Act) makes provisions about public resources and finances linked to section 70 of the Scotland Act 1998. It underpins the Auditor General for Scotland's reporting to the Parliament on financial management and the use of resources by Scotland's public bodies.
8. We engage widely with parliamentary committees, MSPs and Scottish Parliament officials (committee clerks and colleagues in SPICe) to ensure that our audit work supports parliamentary scrutiny of public bodies in Scotland. We do this by briefing committees on our audit work, contributing to parliamentary inquiries and providing evidence to support committees in their scrutiny of public services and the implementation of legislation.
9. Our main point of contact with the Parliament continues to be the Public Audit and Post-legislative Scrutiny Committee, which has the remit and responsibility within Parliament to consider reports from the Auditor General for Scotland. The Local Government and Communities Committee regularly considers reports from the Accounts Commission and we have developed effective relationships with other subject committees that increasingly make use of our audit work.

### *The challenges of public engagement*

10. Two of the four key principles for the Parliament at the time of its establishment were openness and 'the sharing of power between the people of Scotland, the legislators and the Scottish Executive'.<sup>3</sup> This commitment to being accessible, open and responsive to communities is a commendable ambition. Community engagement is a longstanding area of audit interest to us which has assumed even greater prominence since the publication of the Christie Commission report and the passing of the Community Empowerment (Scotland) Act 2015.
11. The Parliament is clearly aware of the challenges of giving the general public in its diversity a stronger voice in how it conducts its business. The use of outreach teams by committees, to connect with voices that would not normally be heard, is a positive development, as is the use of cross-party groups to enable MSPs to hear from individuals and groups and discuss issues of shared concern in less formal settings. Similarly, the efforts that committees have made to conduct business away from the Parliament building, and within communities, demonstrates a willingness to bring the business of the Parliament closer to communities.
12. However, for the general public, and for smaller organisations whose interaction with the Parliament is more sporadic, there can still be real or perceived barriers to effective Parliamentary engagement. These include: the language used in parliamentary reports and consultation documents; the levels of confidence people have speaking in public at formal settings such as committees; and more practical issues such as the cost of visiting the Parliament and the way in which Parliamentary business is timetabled and managed.

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<sup>3</sup> Shaping Scotland's Parliament. Report of the Consultative Steering Group on the Scottish Parliament. The Scottish Office, 1998.

13. There is evidence from our audit work that most public bodies find engaging with communities challenging, particularly if the intention is to give the public a stronger voice when decisions are being made that affect them<sup>4,5</sup>. Common difficulties facing public bodies in this regard include:
- ensuring that a diverse set of views are sought and used to inform consultation and engagement exercises, that avoids the risk of repeatedly drawing on the same network of 'experts' (professional, academic or communities of interest) irrespective of their knowledge and expertise of the specific topic in question
  - reconciling the often competing views and voices that arise when consulting and engaging with different groups
  - finding different and innovative ways of involving people in decision-making to help overcome the barriers that some people experience (e.g. skills, confidence, finances, etc.) when participating in consultation or engagement exercises
  - creating a culture that positively values different voices and sees the 'stories' that the public can tell about their experiences of public services as having legitimate value alongside other more traditional sources of evidence such as expert opinion, quantitative data, etc.
  - managing the tensions and challenges that can arise when trying to introduce a more participative model of public engagement within a system of representative democracy.
14. The Christie Commission report on the Future Delivery of Public Services highlighted the importance of empowering individuals and communities receiving public services by involving them in the design and delivery of the services they use. Given the greater emphasis on the role of communities and the experience of service users as part of the Scottish Government public service reform agenda (including the Community Empowerment Act), it is all the more important that the Parliament finds effective ways of ensuring that the voice of the public and service users informs its deliberations on the allocation of increasingly scarce public finances and how well public services are performing in Scotland.

*Public engagement in budget setting and scrutiny*

15. Strengthening public engagement can help build legitimacy and trust in the Parliament as well as providing critical evidence on how well public services are performing in Scotland to support the Parliament in its scrutiny role.
16. The Financial Issues Advisory Group (FIAG) was established in 1998 to propose rules, procedures and standing orders and legislation for the handling of financial issues by the Scottish Parliament. One of its principles was that the public should have the opportunity to put their views to subject committees and individual MSPs at an early stage of the budget setting process. Some attempts to progress this agenda have already taken place, with the Finance Committee having held a series of external meetings across Scotland in Session 4 to gauge the impact of the budget on local areas, and the use of social media by the Finance and Constitution Committee as part of its scrutiny of the Draft Budget 2017/18.

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<sup>4</sup> Community planning. Turning ambition into action. Audit Scotland. November 2014

<sup>5</sup> Community planning. An update. Audit Scotland. March 2016.

17. One tool that could be used by subject committees to facilitate wider public engagement as part of the budget setting process is a citizens budget. This would be an objective and non-technical stand-alone document to complement the more detailed budget proposals. It would need to be written and presented in an accessible manner and should set out performance data and medium-term projections of the planned objectives and outcomes that the Scottish Government is seeking to achieve and the anticipated resources needed to deliver them.
18. Various innovative approaches to public participation in both budget setting and parliamentary scrutiny have been attempted in countries and states such as Canada, Ireland, Denmark, Finland, Brazil, Australia, Oregon, and Estonia. These have included citizens juries, deliberative polls, citizens' assemblies, and stakeholder partnerships.
19. Clearly, any of these developments would need to be adapted to reflect the specific context of the Scottish Parliament and what it is trying to achieve. But they provide potential ways in which the Parliament's commitment to community engagement could be further developed.

### **Distinct identity**

20. Through our work we sometimes find that there is not a full understanding of the different roles of the Scottish Government, Parliament and local government.
21. Clarity of roles and responsibilities between the different parts of the public sector in Scotland is an essential element of good governance and accountability. Our audit work can play a part in making clear to the public who is responsible for managing and overseeing Scotland's key public services and how well the money that funds them is being used.
22. The management of Scottish public finances will fundamentally change as the new tax, spending and borrowing powers provided for in the Scotland Act 2016 are delivered. This creates the potential for the Scottish Parliament to be seen by the public as a place that is making a real difference their lives. This will depend upon the Parliament raising public awareness of its new powers and using them in ways that deliver real improvements in the life chances and outcomes for citizens.

**Checks and balances***Effective scrutiny*

23. Effective parliamentary scrutiny is critical to ensure that decisions being taken by government are thoroughly tested and independently reviewed. It is one of the essential 'checks and balance' of a healthy parliamentary democracy. For it to work effectively the Parliament needs:
- committees with sufficient independence to challenge the Executive (Ministers, Civil Servants and Accountable Officers)
  - committee members with the necessary skills and expertise to provide effective insight and challenge
  - a committee structure with the necessary time and resources to scrutinise policy and legislation from development through to implementation
  - high quality independent advice and information to support MSPs in their work.
24. Whilst processes and systems are important, ultimately the effectiveness of parliamentary scrutiny depends upon behaviours and the culture that is created within the Parliament.
25. The Parliament is a single chamber parliament, thereby making it more important that committees of Parliament are effective in holding inquiries into their policy areas, making recommendations to government and initiating legislation.
26. The significant new fiscal powers that have been, and are scheduled to be transferred to Holyrood mean that the Parliament's role in scrutinising the Scottish Government's policies, budget and performance has never been more important.
27. As the Parliament has recognised in its tri-partite review of the budget process, its approach to scrutiny and the work of its committees will need to adapt significantly to establish world class financial scrutiny arrangements that reflect these considerable additional fiscal powers.

*Culture and behaviours*

28. One of the ambitions in creating the Scottish Parliament was that it would establish a more consensual style of politics than the adversarial Westminster model. Creating the climate and culture that supports effective scrutiny requires striking a careful balance between expressing legitimate differences of political view whilst avoiding creating an over-politicised adversarial environment. Establishing the right behaviours and a tone of debate within committee will increase witnesses' confidence in appearing in front of committees and help extend public participation and engagement with the Parliament.
29. It is important that MSPs balance their roles as parliamentarians as well as members of political parties in ways that demonstrate that committees of the Parliament are independent of the Executive.

*The status and profile of committees*

30. The introduction of elected chairs in the House of Commons following the three year research programme by the Nuffield Foundation on the governance of Parliament<sup>6</sup> has significantly enhanced the authority of chairs and of committees and caused ministers, civil servants and outside bodies to take committees more seriously than before.
31. The introduction of elected convenerships was considered by the Standards, Procedures and Public Appointments Committee in Session 4 of the Parliament as a specific topic in its own right<sup>7</sup> and the issue was also reconsidered as part of that committee's broader review of committees.<sup>8</sup> At that time the Committee did not recommend that the Parliament makes any change to the current system of choosing committee conveners.
32. The issue of elected conveners has also been raised during the Commission's consultation events. We support this proposal as we believe that the introduction of elected convenerships could strengthen the independence of, and lessen partisanship, in committees. It would enhance the status of the convener role and might also create a further option for career progression for Members other than seeking ministerial office. It could also strengthen the legitimacy and credibility of committees by creating a direct line of public accountability, i.e. the public elects the Parliament and then the Parliament elects those who will scrutinise the Executive in the legislature.

*Strategic approach to scrutiny*

33. The Scottish Government's commitment to taking an outcomes-based approach to its policies has implications for the way in which the Parliament exercises its scrutiny role. In particular, its approach to budget scrutiny which is currently under review by the Parliament's budget process review group. The Scottish Government's move to a more outcomes-based approach to budgeting and service delivery should be reflected in a greater focus across the Parliament on scrutinising what impact is being achieved from public spending and how it is contributing to the Government's overall purpose and specific outputs and outcomes.
34. This will require a clearer focus across committees on 'big picture' strategic issues that will outlast any single parliamentary session and is essential if the Parliament is to effectively hold the Scottish Government to account for the delivery of its long-term ambitions in areas such as of addressing inequality of outcomes, delivering more sustainable public services, improving health and social care services and addressing climate change. The need for such a strategic overview of how public finances are being used to deliver improved outcomes becomes increasingly important as the Parliament implements the new tax and spending powers arising from the Scotland Acts 2012 and 2016.

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<sup>6</sup> *The House Rules? International lessons for enhancing the autonomy of the House of Commons*. Nuffield Foundation, October 2007.

<sup>7</sup> Elected Conveners. Standards, Procedures and Public Appointments Committee. SP Paper 767. 6<sup>th</sup> Report, 2015 (Session 4). Published 25<sup>th</sup> June 2015.

<sup>8</sup> Committee reform. Standards, Procedures and Public Appointments Committee. SP Paper 882. 1<sup>st</sup> Report, 2016 (Session 4). Published 19<sup>th</sup> January 2016.

35. The committees of the Parliament are increasingly working well together to promote a co-ordinated and 'joined-up' approach to significant cross-cutting issues. But the volume of business that committees are dealing with can militate against their ability to deal with more complex, longer-term issues. There is an opportunity to develop greater coordination while respecting the particular areas of focus pursued by each committee.

*Expertise, experience and support*

36. In our experience, greater continuity of committee membership over time would improve the effectiveness of the operation of committees. It would enable Members to build up expertise and experience in specific policy areas to deliver more informed scrutiny. Although the Consultative Steering Group (CSG) report *Shaping Scotland's Parliament* anticipated that the majority of Members would serve a complete parliamentary session on the same committee this, has not always happened in practice. For example, in the last Session of Parliament, the nine-member Economy, Energy and Tourism Committee had 25 different members and ended the session with only two of its original members, while the Local Government Committee had 23 different members and ended the session with only one of its original seven members. This level of turnover, caused in part by ministerial changes, inevitably affects the effectiveness of the operation of committees.
37. Parliamentary committees need high quality, independent evidence and information to inform their deliberations. The Scottish Parliament Information Centre (SPICe), with which we work closely, has an important role in providing independent and impartial evidence to support robust parliamentary scrutiny. We will continue to develop our collaborative working with SPICe throughout Session 5 to make best use of the evidence gathered through our audit work and co-ordinate our engagement with and support for parliamentary committees.

*Parliamentary scrutiny as a continuous process*

38. Parliamentary scrutiny needs to take place at each stage of the parliamentary process: when policy and legislation is being prepared; as it is being implemented; and post-legislative scrutiny to assess whether legislation has met its objectives.
39. One way for the Parliament to deliver its commitment to world class financial scrutiny would be to reflect the OECD principles of Best Practices for Budget Transparency<sup>9</sup> in its future approach to budget scrutiny. This would involve consideration of spending and performance at each stages of the budgetary cycle (including post-legislative scrutiny). Improving budget scrutiny is also critically dependent upon the Scottish Government improving the range and quality of financial and performance information it is able to make available to the Parliament<sup>10</sup> (Exhibit 1).

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<sup>9</sup> <https://www.oecd.org/gov/budgeting/Best%20Practices%20Budget%20Transparency%20-%20complete%20with%20cover%20page.pdf>

<sup>10</sup> [http://www.scottish.parliament.uk/S5\\_Finance/Complete\\_PUBLIC\\_Finance\\_Cttee\\_Papers.pdf](http://www.scottish.parliament.uk/S5_Finance/Complete_PUBLIC_Finance_Cttee_Papers.pdf)

**Exhibit 1****Budget and performance scrutiny**

<b>Phase</b>	<b>Purpose</b>
<b>Strategy</b>	<ul style="list-style-type: none"> <li>• Consideration of the government's long-term economic and fiscal policy objectives/ intentions.</li> <li>• Review of performance expectations (aligned to the Scottish Government's national outcome commitments) and broad financial plans for a number of years ahead (5-7), making link to economic performance and consequences for public finances.</li> <li>• Assessment of the longer-term sustainability of public finances.</li> </ul>
<b>Formulation</b>	<ul style="list-style-type: none"> <li>• Debate on the budget aggregates and how they interact with the economy.</li> <li>• Creation of appropriate expectations for the budget.</li> <li>• Consideration of how revenue and expenditure will develop during, at least, the two years beyond the next fiscal year.</li> </ul>
<b>Approval</b>	<ul style="list-style-type: none"> <li>• Review and consideration of: <ul style="list-style-type: none"> <li>○ detailed commentary on each revenue and expenditure programme.</li> <li>○ non-financial performance plans, including performance targets.</li> <li>○ Citizen's budget which make the budget accessible to the public.</li> </ul> </li> <li>• Provision of Parliamentary authority for expenditure and revenue raising measures.</li> </ul>
<b>Execution</b>	<ul style="list-style-type: none"> <li>• Tracking of aggregate spending and revenues.</li> <li>• Determination of whether initial budget is in need of review or fine-tuning as a result of economic or other changes.</li> <li>• Assessment of outline performance of budget as executed relative to plan (covering finance, performance, outputs &amp; outcomes).</li> </ul>
<b>Audit and evaluation</b>	<ul style="list-style-type: none"> <li>• Tracking of aggregate spending and revenues.</li> <li>• Determination of whether initial budget is in need of review or fine-tuning as a result of economic or other changes.</li> <li>• Assessment of longer-term performance of budget as executed relative to plan (covering finance, performance, outputs &amp; outcomes).</li> </ul>

Source: Audit Scotland

40. A key area for further development is moving parliamentary scrutiny of budgets and use of resources towards a more systematic, sustained parliamentary engagement throughout the course of the budget cycle.

41. Promoting transparency in the use of public money would be improved if the Parliament strengthened its focus on the extent to which policy outcomes are being delivered in the most efficient manner possible. There is scope for the Parliamentary committees to take a more strategic approach to scrutinising spending within and across key policy areas on how it is being used to deliver agreed policy outcomes. For example, by tracking how major policy commitments are being implemented across government. We are keen to ensure that our audit work supports committees in this way and already work closely with the Public Audit and Post-Legislative Scrutiny Committee and subject committees of the Parliament to ensure that our audit work supports effective parliamentary scrutiny, with a particular emphasis on the execution and evaluation of policy and the extent to which public resources are being used to best effect.

42. To date, post-legislative scrutiny has not been a central area of focus for the Parliament and its committees. Whilst most subject committees had the power to undertake post-legislative scrutiny, and some did undertake specific enquiries into the implementation of legislation, in practice this role was mainly exercised by what was the Parliament's Public Audit Committee. That committee has now been formally re-named the Public Audit and Post-legislative Scrutiny Committee to recognise its important role in this area. It is important that subject committees also play an active role in undertaking post-legislative scrutiny, particularly if the Parliament wishes to develop a stronger and more systematic approach to parliamentary scrutiny throughout the course of the budget cycle.
43. This emphasises the importance of effective co-ordination and liaison between the Public Audit and Post-legislative Scrutiny Committee and subject committees, ensuring that a coherent approach to assessing the impact of key pieces of legislation is in place.
44. Audit plays an important role in supporting the Parliament in its post-legislative scrutiny work. Much of our audit work looks at the effectiveness of implementation of key government policies and the impact of significant programmes of public service reform. Our recent audit work in areas such as health and social care integration, community planning, and police and fire reform are all examples, in effect, of post legislative scrutiny. The independent impartial evidence that our audit work provides is already used by the Parliament through the Public Audit and Post-Legislative Scrutiny Committee and its committees when undertaking post-legislative scrutiny and we are keen to further develop our role in this area moving forward.

#### *Changing models of public services*

45. The increasingly complex pattern of public service delivery arrangements in Scotland, with the creation of new partnerships, shared services, regionalisation and the greater use of arms-length external organisations (ALEOs), further complicates the public service accountability landscape. This has important implications for the Scottish Parliament in its scrutiny role, and for public in terms of knowing who is responsible for delivering public services. We will continue to do all we can to ensure our work brings clarity to what is a fast changing and complex picture.
46. We hope that you find our comments helpful. We would be happy to meet with the Commission to expand on any points contained within our submission if you would find that helpful.
47. In the meantime, should you require any further information please contact Fraser McKinlay, Director of Performance Audit and Best Value, Audit Scotland, 102 West Port, Edinburgh, EH3 9DN, e-mail [fmckinlay@audit-scotland.gov.uk](mailto:fmckinlay@audit-scotland.gov.uk).