

# Environment and Sustainability Committee

E&S(4)-01-11 : Paper 1

## Fourth Assembly Committees Establishment and remit of committees

1. This paper provides background information on the new committee structure in the Fourth Assembly and more flexible ways of working.
2. Standing Order 16.1 requires the Assembly to establish committees with power within their remit to:
  - (i) examine the expenditure, administration and policy of the government and associated public bodies;
  - (ii) examine legislation;
  - (iii) undertake other functions specified in Standing Orders; and
  - (iv) consider any matter affecting Wales.
3. In doing this the Business Committee had to ensure that every area of responsibility of the government and associated public bodies, and all matters relating to the legislative competence of the Assembly and functions of the Welsh Ministers and of the Counsel General, are subject to the scrutiny of a committee or committees.
4. The Assembly has decided on a committee structure which gives committees the power to both scrutinise the government and associated public bodies and to scrutinise legislation, within a subject remit. It requires them to fulfil both of these principal functions. This is different from the third Assembly when separate committees existed for these purposes.
5. On 22 June 2011, the Assembly established five committees to carry out the functions set out above. These committees are:
  - Children and Young People Committee
  - Communities, Equality and Local Government Committee
  - Enterprise and Business Committee
  - Environment and Sustainability Committee
  - Health and Social Care Committee
6. The committee remits are broad and, in the main, cut across Ministerial portfolios. However, committees have the flexibility to examine any issue of

relevance to the broad remit defined by their titles and are not constrained in examining any issue of relevance.

7. Five additional committees have been established to undertake other functions specified in Standing Orders. European issues are to be mainstreamed into the work of the Constitutional Affairs Committee and the five “thematic” committees.

## **Principal functions of committees**

### *Scrutiny of legislation*

8. Committees have a general power to examine legislation within their remit. In addition, committees will be responsible for scrutinising Government and non-Government Bills referred to them by the Business Committee.

In addition, committees may:

- scrutinise Legislative Consent Memorandums (LCMs) referred to them by the Business Committee; and
- scrutinise UK and European Union legislative proposals (and their implications) that fall within committees’ remits.

### *Scrutiny of Government and associated public bodies*

9. Committees have powers to examine the expenditure, administration and policy of the government and its associated public bodies. The committee may choose to carry out these functions in a number of ways, for example through:
  - regular Ministerial scrutiny meetings and annual budget scrutiny
  - intensely scrutinising Welsh Government and associated public bodies policy, administration and expenditure within the Committee’s remit, typically through committee inquiries;
  - follow up scrutiny of the implementation of recommendations made in previous reports, etc.
  - scrutinising the Welsh Government’s role in influencing EU policy developments of particular relevance to Wales, within the committee’s remit. In particular in terms of shaping the UK negotiating line in Brussels, and promoting Welsh views to the European Commission, European Parliament (including in particular the Welsh MEPs).and through other channels.
  - conducting post-legislative scrutiny on legislation relevant to the committees’ remits.

10. A major benefit of the new approach to committees is that Members can develop specialist policy knowledge and expertise and apply this to all the scrutiny they are involved in.

### **Delivering Multiple Roles**

11. Although there are a smaller number of committees, this will not alter workload or the amount of time needed to deliver all the activities of committees. This is a radical and challenging system which will require committees to self-manage a demanding and varied programme of work.
12. This will require committees to think about their work plans carefully. There will be a need to be both systematic and flexible in terms of prioritising work and consider ways in which they carry out their tasks to maximise their effectiveness and impact. A paper highlighting these issues is included at Annex A.
13. The five subject-based committees have been established with sufficiently large memberships to enable them to undertake multiple streams of work in formal sub-committees and informal or rapporteur groups as well as continued operation in full committee. This would allow policy and legislative work to take place simultaneously. As an example, smaller groups could be used to undertake more detailed, specialised inquiries making use of committee membership with a particular interest in the subject area. This flexibility allows committees to be more responsive to varying priorities or sudden changes in the political landscape. It also allows for more efficient use of time given the unpredictability of the legislative workload.
14. Certain of a committee's responsibilities will need to be undertaken following particular procedures. The most obvious of these is the consideration of legislation. There are a range of conventions that were adopted in the Third Assembly that will need to be built in to the system, or to be reviewed, in order that legislation is properly considered whichever committee is undertaking the activity. Guidance will need to be provided as to the undertaking of consideration of legislation in differing circumstances, for example by a full committee or by a sub-committee.

15. To accommodate the workload generated by broad portfolios and joint responsibility for scrutiny of legislation and policy, the weekly timetable will provide significant blocks of time for the use of each committee each week. Each of the five committees has been allocated one and a half days every fortnight in which it can schedule its activity. This is split into a half-day and a whole day on alternate weeks.

## Annex A

### **Suggested strategic approach to work planning**

1. This annex outlines a suggested strategic approach to work planning for fourth Assembly committees. The approach is based on good practice developed by some previous committees to determine their work planning. It also takes into account the broader responsibilities of committees, implications of the timing relating to scrutiny of legislation and issues of capacity, in the 4<sup>th</sup> Assembly. As with the National Assembly for Wales itself, committees may be considered to have 3 broad functions:
  - *Make laws for the people of Wales*
  - *Hold the Welsh Government to account*
  - *Represent the People of Wales*
2. This latter of these typically influences the means by which committees take forward their other two functions, in terms of directly engaging the people of Wales in their work, and ensuring the views of the people of Wales are represented in scrutiny.
3. Committees will have capacity to scrutinise both legislation and policy simultaneously, by making greater use of formal sub-committees, informal groups and rapporteurs etc as well as continued operation in full committee.
4. The main purpose of this suggested strategic approach to determining work is to assist the committee in managing a demanding and varied portfolio of responsibilities. Taking this approach would mean that, in considering a programme of work, the committee would be provided with comprehensive information about all the issues covered by its remit, in a simple format. Based on this information the Committee will be in an informed position to select the issues it wants to consider as part of its forward work plan.

### **Determining potential work**

#### *Implications of the timing of legislative scrutiny on committees' work programmes*

5. Committees may be tasked by the Business Committee with considering specific Bills or LCMs. If a referral is made the Business Committee must

agree a deadline within which the committee must report. Typically, during the Third Assembly, deadlines were between 6 and 12 working weeks.

6. The volume of legislation dealt with by any one committee will depend on the subject matter of legislation introduced to the Assembly, both Government and non-Government Bills.
7. The timing of the introduction of legislation and the agreement of a reporting deadline will be matters over which committees will have no direct control. As such, in drawing up their work programmes, it will be important for committees to maintain sufficient flexibility to enable them to respond to referrals in a timely way.
8. On 14 June 2011, the First Minister made a statement in Plenary on the Welsh Government's legislative priorities. This will be followed on 12 July 2011 by an announcement of the Government's five-year programme of legislation. While these will give an indication of the subject matter of legislation coming forward in the Fourth Assembly it is not anticipated that specific timings for the introduction of individual pieces of legislation will be included; it is usually the case that Bills are introduced by the government with little warning.

### *Identifying priorities for scrutiny of the Government and associated public bodies*

9. In prioritising their work, a committee may wish to consider:

#### *Covering the breadth of the committee's portfolio*

Each committee has a wide ranging remit. Over the course of an Assembly the committee could reasonably be expected to cover major issues across the full breadth of this remit.

#### *The range of responsibilities of the committee*

As well as the principle functions of examining specific Bills referred to them by the Business Committee, and undertaking inquiries scrutinising the Government's policy, administration and expenditure, a committee will need to ensure it is undertaking work across the range of their responsibilities. Examples would include

- directly scrutinising Ministers in relation to their responsibilities;
- scrutinising budget proposals;

- scrutinising UK and European Union legislative proposals and their implications;
- consideration of petitions referred to them by the Petitions Committee;
- conducting post legislative scrutiny to examine the effectiveness of the legislation;
- following up on the implementation of recommendations made;
- taking a strategic approach to key policy developments at EU level of particular importance to Wales, and scrutinising the implementation of EU funding programmes/initiatives in Wales.

### *The focus of the inquiry's scope*

Inquiries will normally focus on subjects covered by a committee's remit. However, committees' remits are broad and cross cutting, and in prioritising inquiries Members may also wish to consider whether any other committees are undertaking (or have recently undertaken) similar inquiries. They may also wish to take account of similar work being undertaken by other organisations.

There may also be occasions on which co-ordination of work across committees would be of particular value, for example some key EU policy developments cut across a number of policy areas.

### *The potential impact and outcomes of an inquiry*

A committee may wish to consider whether there is any evidence (including anecdotal evidence) to suggest the issue is of clear concern to the people of Wales, or specific groups of people in Wales. Petitions are one way people are able to flag these issues.

Timing may be key to effectiveness for a particular piece of work. Committees may also consider what stage the Welsh Government is at in its own decision making processes, enabling them to maximise their influence. This is likely to necessitate the Welsh Government providing committees with information.

### *Resources that the Committee would need to conduct the scrutiny inquiry.*

This may be a useful time for committees to give thought as to whether a specific inquiry could make use of a particularly innovative or ground-breaking method of gathering evidence (examples of things that have been tried in the past are available). Committees may also want to consider at this stage how they might best access expertise needed for the piece of work.