

**National Assembly for Wales
Business Committee**

Legacy Report

March 2016

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



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Committee remit:

The Business Committee is responsible for the organisation of Assembly Business and its functions are set out in Standing Order 11. Its role is to “facilitate the effective organisation of Assembly proceedings” and to consider revisions to the Assembly’s Standing Orders, in accordance with Standing Order 33.

Committee membership:

Committee member	Party	Constituency or Region
Dame Rosemary Butler (Chair)	Presiding Officer	Newport West
Paul Davies	Welsh Conservative Party	Preseli Pembrokeshire
Jane Hutt	Welsh Labour	Vale of Glamorgan
Elin Jones	Plaid Cymru	Ceredigion
Aled Roberts	Welsh Liberal Democrats	North Wales

Previous members of the Committee:

Committee member	Party	Constituency or Region
Jocelyn Davies 2011 - 2013	Plaid Cymru	South Wales East
Nick Ramsay May - September 2011	Welsh Conservative Party	Monmouth
William Graham 2011 - 2014	Welsh Conservative Party	South Wales East
Lesley Griffiths 2013 - 2014	Welsh Labour	Wrexham
Peter Black 2011 - 2012	Welsh Liberal Democrats	South Wales West

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Chair's Foreword

While it rarely makes the headlines in the way other Assembly committees do, the Business Committee, which I chair in my role as Presiding Officer, is fundamental to the effective operation of the Assembly. The role it plays in such areas as proposing the committee structure, agreeing the Assembly timetable, and making recommendations for procedural reforms means that it sets the foundations for all aspects of the Assembly's work.

In October, we launched a consultation to gather views from people across Wales about work carried out by the Committee over the past five years, the impact it has had, and what further reforms could be considered by the Business Committee of the Fifth Assembly. We are grateful to those who took the time to respond as this provided a clearer picture of the impact of these reforms and possible areas of improvement. We are particularly grateful to the Chairs' Forum, chaired by the Deputy Presiding Officer, for their input on matters relating to Assembly committees.

Over the course of this Assembly, the Business Committee has implemented a number of Standing Order and procedural changes. The common thread running through all these changes is the aim of improving the effectiveness of scrutiny and Government accountability in both Plenary and Committee meetings. In particular, increasing the opportunities for backbenchers to scrutinise Ministers and raise matters of importance to them, and providing more opportunities to raise topical matters, have been recurring themes.

It is clear from the evidence that the key reforms of shortening the deadlines for tabling Oral Assembly Questions, and allocating time for Party Leaders and Spokespeople to question Ministers without notice, have been generally well received and have contributed to achieving the Business Committee's aims. The reforms have provided Members with opportunities to scrutinise Ministers on matters that are of current importance, and have introduced a valuable element of topicality to the scrutiny of Ministers. However, our report recommends that there is still further work to do in this area in the Fifth Assembly.

There has also been a general welcome for the introduction of Individual Member Debates. While the evidence supported this mechanism as a way of debating motions put forward by non-government Members, it also prompted a wider discussion around the use of non-government time in Plenary, and how greater variety could be introduced so that this time can be used more effectively. Suggestions included more committee-led debates and debates on topics chosen by external stakeholders which could, in turn, improve public engagement. I hope very much that the new Business Committee will look seriously at how these suggestions could be put into effect.

The evidence also led the Committee into an evaluation of the Assembly timetable as a whole – specifically the structure of the working week. The Committee concluded that the new Business Committee should look at whether the structure adopted in the Fourth Assembly is the most effective pattern given the likely increase in Plenary business.

Given the importance of committees to the Assembly's ability to carry out the functions of holding the government to account, making laws for Wales and representing the people of Wales, it is no surprise that so much of the evidence we received, and so many of the recommendations in this report, relate to Assembly Committees.

There was general consensus in the evidence, and among Business Committee members, that the new structure adopted for the Fourth Assembly, combining the roles of policy and legislative scrutiny, had allowed Members to develop expertise in particular fields, and for greater coherence between the scrutiny of policy and legislation.

We endorsed the Chairs' Forum recommendation that in general Committees should be smaller so as to increase Members' capacity to develop their expertise and scrutinise effectively. There was a wide consensus that combining policy and legislation had improved the quality of legislative scrutiny, and that reducing the size of Committees would enhance scrutiny even further.

This report therefore serves a dual purpose – to assess the impact of the reforms carried out during this Assembly, and to make recommendations to our successor committee regarding areas where review and reform might be beneficial. It will of course be a matter for the new Business Committee and the new Assembly to decide which recommendations to take on board, and how best to implement them, if at all. However, I am sure that this report, and the evidence on which it is based, will provide them with a valuable starting point.



Dame Rosemary Butler AM
Presiding Officer

Recommendations

Recommendation 1. The new Business Committee should review the functioning of Leaders' and Spokespeople's questions in light of the party balance of the Fifth Assembly.

Recommendation 2. The new Business Committee should consider whether Oral Assembly Questions procedures overall provide the right balance between topicality and tabled questions, and between opportunities for front-benchers and back-benchers.

Recommendation 3. The trial new approach to Urgent Questions should be reviewed at the start of the Fifth Assembly as part of a broader discussion on Oral Assembly Questions.

Recommendation 4. The new Business Committee should look at scheduling more regular Individual Member Debates, and ensure that they are scheduled in a way that is transparent, predictable, and involves backbench Members.

Recommendation 5. The new Business Committee should consider whether or not the threshold of cross-party support required before a motion can be considered for debate should be lowered from three parties to two.

Recommendation 6. The Business Committee endorses the Chairs' Forum finding that 'reducing the size of committees in the Fifth Assembly would greatly increase Members' capacity to carry out their duties and lead to sustainable improvements in the quality of scrutiny' and recommends that the committees of the Fifth Assembly should be as small as procedurally and politically possible.

Recommendation 7. The new Business Committee should consider reviewing some of the Assembly's procedures in relation to committees in the light of the practical realities of the Assembly's make-up after the election, including the possibility of giving automatic right of attendance to Members of groups not represented on a committee.

Recommendation 8. The current core structure of joint policy and legislation committees should be maintained.

Recommendation 9. The new Business Committee should consider whether to establish a dedicated committee to consider Member Bills, and/or to make use of ad hoc legislation committees where this would help relieve pressure on a committee.

Recommendation 10. In line with the Constitutional and Legislative Affairs Committee recommendation in its 'Making Laws in Wales' report, we recommend that the new Business Committee in considering the committee structure to be adopted in the Fifth Assembly should:

- consider a range of options identifying the pros and cons of each;
- take account of the practical experiences of Assembly committees;
- publish a report of its deliberations including its final recommendation.

Recommendation 11. The new Business Committee should ensure that its decisions on committee structure, size, remits, chairing and timetabling support the delivery of the Commission's vision.

Recommendation 12. The new Business Committee should consider whether a different procedure for the election of committee chairs should be adopted at the start of the Fifth Assembly.

Recommendation 13. All committee chairs should undertake a programme of training and professional development upon taking up their posts, as recommended by the Chairs' Forum.

Recommendation 14. The new Business Committee should look at scheduling a greater variety of business during non-government time, including more committee business to increase the integration between Plenary and committees. Types of business could, for example, include statements at the beginning of committee inquiries, annual reports from committees, debate topics chosen by young people and other stakeholders, and series of debates on a particular theme.

Recommendation 15. The new Business Committee should conduct a review of the Assembly timetable, including the scheduling of plenary meetings, with a view to ensuring the most effective pattern of plenary business, as well as increasing the overall capacity for formal Assembly business.

Recommendation 16. The new Business Committee should explore the options proposed by the Chairs' Forum for increasing committee capacity, including making Monday afternoons a formal part of the business week and rotating the committee timetable, although Jane Hutt did not support this view

Recommendation 17. In line with the Constitutional and Legislative Affairs Committee recommendation in its Making Laws in Wales report, we recommend that the new Business Committee:

- following an appropriate period of time in the Fifth Assembly, reviews the need for a minimum period to be included in Standing Orders for the scrutiny of Bills at Stage 1;
- reviews the process for Member Bills, taking account of the evidence the CLA Committee received from Assembly Members and their suggestions for improving the process;
- undertakes further work to inform consideration of amending Standing Orders to require that all amendments tabled to a Bill are accompanied by text that explains their purpose and effect.

Recommendation 18. The new Business Committee, in considering committee remits, should consider whether a committee other than Business Committee should be given the role of reviewing and proposing changes to the Assembly's Standing Orders and procedures. The Committee should give consideration to the Scottish Parliament example, in which procedural work is the responsibility of a Standards, Procedures and Public Appointments Committee.

Recommendation 19. If the new Business Committee were to retain the procedural role, it should consider conducting its procedural work at dedicated meetings, to be held in public, so as to improve transparency and public engagement with the Assembly's procedures.

BUSINESS DURING THE FOURTH ASSEMBLY

This information is correct up to 10 February 2016.



34
INDIVIDUAL
MEMBER
DEBATES

28
HOURS

TIME SPENT ON
INDIVIDUAL MEMBER DEBATES

311 OPPOSITION
DEBATES



290
HOURS

TIME SPENT ON
OPPOSITION DEBATES



85
COMMITTEE
DEBATES

15 NUMBER OF
STANDING
ORDER
REFORMS

60 TIME SPENT ON
HOURS COMMITTEE DEBATES



83

NUMBER OF URGENT
QUESTIONS



32
TOTAL NUMBER OF
BILLS CONSIDERED



1,732
NUMBER OF FIRST
MINISTERS QUESTIONS

3,889 NUMBER OF OAQs
TO OTHER MINISTERS

1,422 NUMBER OF LEADER'S QUESTIONS
ASKED TO FIRST MINISTER

9 PIECES OF
BACKBENCH
LEGISLATION
CONSIDERED

Introduction

The Business Committee

1. The Business Committee consists of Assembly Members from each of the political groups representing the four political parties in the Assembly, along with the Presiding Officer as chair. Unlike other Assembly committees, the Business Committee does not take evidence and scrutinise the policies, legislation and expenditure of the Welsh Government. The Business Committee's functions relate to the Assembly itself: under Standing Orders, the Committee is responsible for the organisation of Assembly business and facilitating the effective organisation of Assembly proceedings. It is also responsible for proposing changes to the Assembly's Standing Orders and procedures.
2. The new Business Committee of the Fifth Assembly will need to take a number of key decisions within the first few weeks after the election, and the key purpose of the Business Committee's legacy report is therefore to help inform those decisions by reviewing how the current structures and procedures have worked, and highlighting possible areas for review or change.

Fourth Assembly Reforms

3. The Assembly's Standing Orders were comprehensively reviewed by the Business Committee of the Third Assembly in 2010-11, and so the current Business Committee has focused on specific reforms aimed at improving the effectiveness of the Assembly's procedures.
4. The Assembly's procedures are constantly evolving and the Assembly has agreed seventeen sets of changes to Standing Orders since May 2011. These changes have included shortening the tabling deadlines for Oral Assembly Questions, introducing a procedure for Private Bills, establishing a new structure for oversight of the Wales Audit Office, and changes relating to Members' standards of conduct and declarations of interest.
5. Many other key reforms introduced by the Presiding Officer and Business Committee in this Assembly have happened without having to change the Assembly's Standing Orders. These reforms include:
 - establishing a new committee structure based around joint policy and legislation committees;
 - introducing new procedures for party leaders and spokespeople to question the First Minister and other Ministers without notice;
 - increasing opportunities for backbench Members through regular scheduling of Individual Member Debates.

Terms of Reference and Consultation

6. In October 2015 the Business Committee agreed on terms of reference for its legacy work, and launched a public consultation based on these. Party groups, Assembly committees and stakeholders were invited to respond, as was the general public. A full list of responses can be found at Annex A.

7. The questions the Committee asked were:

During the current Assembly, the Presiding Officer and Business Committee have introduced a number of procedural reforms, including changing the deadlines for tabling Oral Assembly Questions, introducing regular Individual Member Debates, and leaders' and spokespeople's questions.

– What impact have these changes had in enabling Members to represent their constituents and hold the government to account?

For the first time, the committee structure of the Fourth Assembly, combined policy and legislative scrutiny within the same committees.

– How effective has this approach been and how have committees achieved -a balance between their policy, financial and legislative scrutiny?

– What changes could be made to committee size and structure in future to make them more effective?

The Business Committee is responsible for setting the Assembly timetable, including scheduling committee meetings. Currently, Plenary meets on Tuesday and Wednesday afternoons, with committees meeting mostly on Tuesday and Wednesday mornings, and Thursdays.

– Does the current Assembly timetable, including the structure of the working week and committee/Plenary slots provide the correct balance in terms of the use of the Assembly's time, allowing it to effectively perform its functions of making laws, representing the people of Wales, and holding the government to account?

The Business Committee is responsible for establishing timetables for committees to consider Bills, and LCMs, in line with Standing Orders.

– Do the current processes for timetabling legislation – including Bills and LCMs – allow for proper scrutiny and engagement by Members and stakeholders? Could it be made more effective?

Unlike its equivalents in many other legislatures, the Assembly's Business Committee combines the role of scheduling Assembly business with that of a 'procedures committee' responsible for considering and proposing changes to the Assembly's Standing Orders and procedures.

– What are the advantages and disadvantages of this dual role, and is there a case for reviewing it?

The Committee's Conclusions and Recommendations

- 8.** The Business Committee met for an extended meeting on 30 November to consider the key issues arising from the evidence submitted, and for Business Managers (the Business Committee members) to input their own views. As a result of that discussion, the Committee decided to focus its report on the nine key areas which are addressed in the following chapters.

- 9.** The aim of the recommendations is to inform the new Business Committee's consideration of the issues in the Fifth Assembly, and recommendations for review are not necessarily endorsements by all of the current Business Managers of a particular solution or change. It will of course be up to the new Business Committee to decide if and how to take these recommendations forward.

13:03

00:01:55



Oral Questions

Background

- 10.** Standing Orders were amended in January 2013, to shorten the tabling deadlines for Oral Assembly Questions. The deadlines had previously been two weeks for all Ministers; they are now three days for the First Minister and five days for other Ministers. The aim was to allow for more topical questions to be tabled.
- 11.** To balance the shorter deadlines for tabling Oral Questions, the Business Committee also agreed that questions should be more focused and the 'Procedures and Practice for Tabling Assembly Business' guidance document was updated to reflect this.
- 12.** Business Committee has discussed proposals by the Presiding Officer for introducing a dedicated Topical Questions procedure on three occasions – in January 2013, June 2014 and October 2015, but has been unable to reach a consensus for change. Such procedures exist in other UK Parliaments, allowing Members to ask questions without notice to Ministers in each Oral Questions session.
- 13.** In the absence of a dedicated Topical Questions procedure, the Presiding Officer introduced Leaders' questions at the start of the Assembly, with party leaders initially able to ask four questions without notice to the First Minister. This was reduced to three in September 2011. All three opposition leaders get the same number of questions, but the order in which they are called is rotated from week to week with the Conservative leader going first in three of every six weeks, the Plaid Cymru leader twice, and the Liberal Democrat leader once. This reflects the relative size of the groups, and is in the same proportion as the allocation of opposition debate time for each group.
- 14.** The current format for spokespeople's questions was introduced in September 2014, following a Business Committee review of Oral Questions, and were again intended to introduce greater topicality. The new procedure replaced the previous practice where party spokespeople were called for two supplementaries on one question of their choice. As with leaders' questions, spokespeople have three questions without notice which are taken after question two. Again, spokespeople are rotated on a weekly basis, depending on party size. The aim was to allow greater topicality.
- 15.** The Assembly's procedure for Urgent Questions reflects that in other UK Parliaments and Assemblies, with the Presiding Officer having to be satisfied that a request relates to a matter of urgent public importance if it is to be accepted.
- 16.** As of 21 October 2015, there had been a total of 332 requests made during the Fourth Assembly, of which 75 were granted. On 12 November 2015, following a request from party leaders, and in the absence of consensus on the introduction of Topical Questions, the Presiding Officer announced that she would trial a new approach to Urgent Questions for the remainder of the Assembly, without binding her successors. Under the trial, a list of all requests made is published by the Table Office, along with the Presiding Officer's determination in each case. In addition, the Presiding Officer indicated that, while she would continue to apply a number of criteria in assessing whether a request met the test of urgent public importance, her practice during this period would be that Urgent Questions be accepted unless the requests clearly did not relate to a matter of urgent public importance.

17. The Assembly is the first legislature in the UK to adopt the practice of publishing rejected Urgent Question requests.

Evidence

18. All written evidence received on this subject supported the changes that have been made to tabling deadlines for Oral Assembly Questions, though the Government did express the view that many tabled questions were still broad in nature.
19. The majority of written evidence received on this subject stated that Leaders' and Spokespeople's Questions allow for more scrutiny of the Welsh Government, and provide an opportunity to ask more topical questions as they don't have to be tabled in advance. There was some concern expressed, however, that giving time to Leaders' and Spokespeople's Questions limits opportunities for backbenchers to ask questions.
20. Suggestions for reform included that Leaders' and Spokespeople's Questions should be allocated proportionately to party group size, and that opposition frontbenchers should not be able to table questions for a session where they are also asking Leaders' or Spokespeople's questions.
21. The evidence on Urgent Questions was submitted before the Presiding Officer announced the new trial approach referred to in paragraph 16. All written evidence received on this subject called for greater clarity around the Urgent Question process, while some wanted to see information published to improve transparency, including a list of rejected questions and the reasons for refusing individual questions.

Business Committee Discussion and Conclusions

22. The Business Committee endorsed the views expressed in the evidence that the shortening of tabling deadlines and the introduction of Leaders' and Spokespeople's questions had been valuable reforms contributing to better scrutiny of the Government by the Assembly, particularly on topical issues.
23. The Business Committee also concluded that while the current arrangements for Leaders' and Spokespeople's questions has been appropriate for the current Assembly, the arrangements would need reviewing by the new Business Committee to ensure they are appropriate for the party balance of the Fifth Assembly.
24. The Committee considered it important that any reforms to Oral Assembly Questions be approached in a holistic manner, to ensure that the totality of procedures provide the right balance of scrutiny.

Recommendations

Recommendation 1. The new Business Committee should review the functioning of Leaders' and Spokespeople's questions in light of the party balance of the Fifth Assembly.

Recommendation 2. The new Business Committee should consider whether Oral Assembly Questions procedures overall provide the right balance between topicality and tabled questions, and between opportunities for front-benchers and back-benchers.

Recommendation 3. The trial new approach to Urgent Questions should be reviewed at the start of the Fifth Assembly as part of a broader discussion on Oral Assembly Questions.

Individual Member Debates

Background

25. Standing Order 11.21 requires that time be made available in every Assembly year for motions proposed by Members who are not members of the government. Such debates were a rarity during the Third Assembly, and so from October 2011 the Business Committee started scheduling Individual Member Debates on the Business Statement.
26. Once a debate is scheduled, Members are invited to table motions for the Business Committee to consider. According to the criteria agreed by the Business Committee, a motion is only eligible for consideration if it has the support of at least three Members representing three different political groups.
27. Usual practice has been for the Business Committee to schedule an Individual Member Debate every half term, but on occasion additional debates have been held where the Committee considered more than one motion to be worthy of debate. A total of 31 such debates have been held during the course of this Assembly.

Evidence summary

28. Individual Member Debates were generally supported in the written evidence. Suggestions for improvement included scheduling regular, predictable timeslots for the debates, and a change to the minimum threshold of support required from three Members from three groups to five Members from more than one party group.

Business Committee Discussion and Conclusions

29. The Business Committee is of the view that the new Individual Member Debate procedure introduced at the start of this Assembly has been generally successful in ensuring a broader range of debates, and providing opportunities for backbenchers to have their motions debated in the Chamber.
30. The Business Committee endorsed the suggestions for reform made in the evidence as having the potential to improve the procedure further, and also considered how backbenchers could have more of a say in how such backbench business is scheduled.

Recommendations

Recommendation 4. The new Business Committee should look at scheduling more regular Individual Member Debates, and ensure that they are scheduled in a way that is transparent, predictable, and involves backbench Members.

Recommendation 5. The new Business Committee should consider whether or not the threshold of cross-party support required before a motion can be considered for debate should be lowered from three parties to two.

Committee Size

Background

31. Business Committee is responsible for proposing the size of committees. In so doing, it must adhere to some statutory requirements, including ensuring that the membership of each committee reflects as far as is practicable the political balance of the Assembly as a whole. (It is anticipated that the forthcoming Wales Bill may include provisions to allow the Assembly to vary these requirements.)
32. The Business Committee considered the issue of committee size in October 2015 and noted that in the past, agreement on committee sizes has been reached by political compromise. Business Managers agreed to consider the issue further as part of their legacy work, when it could be informed by the broader discussion on timetabling and the structure of the working week.

Evidence summary

33. The Committee Chairs' Forum makes the following recommendation on committee size:

Recommendation 1: Reducing the size of committees in the Fifth Assembly would greatly increase Members' capacity to carry out their duties and lead to sustainable improvements in the quality of scrutiny.

34. That recommendation was supported by vast majority of the evidence received from party groups, Assembly committees and the Welsh government. The possible benefits of smaller committees highlighted in the evidence include improved scrutiny by enabling Members to follow more sustained lines of questioning, and less time pressure on Members allowing more time for preparation and reflection.
35. The exception was the evidence from the Liberal Democrat group, which is opposed to any reduction in committee size that would prevent every group being represented on every committee.
36. One suggestion made in the evidence was that, if a group were not represented on a committee, a Member from that group should have an explicit right to attend committee meetings, but not to vote. (Standing Orders do not prevent any Member from attending any committee meeting, but this right is rarely exercised.)

Business Committee Discussion and Conclusions

37. Business Managers believe that committees should be smaller in the Fifth Assembly if that were procedurally and politically possible. In Aled Roberts's view, that would mean every group continuing to be represented on each committee.
38. Business Managers also concluded that ideally, Members should not sit on more than two committees in total, and not more than one subject committee.

Recommendations

Recommendation 6. The Business Committee endorses the Chairs' Forum finding that 'reducing the size of committees in the Fifth Assembly would greatly increase Members' capacity to carry out their duties and lead to sustainable improvements in the quality of scrutiny' and recommends that the committees of the Fifth Assembly should be as small as procedurally and politically possible.

Recommendation 7. The new Business Committee should consider reviewing some of the Assembly's procedures in relation to committees in the light of the practical realities of the Assembly's make-up after the election, including the possibility of giving automatic right of attendance to Members of groups not represented on a committee.

Committee Structure

Background

39. One of the new Business Committee's first major decisions will be to establish new Assembly committees. In the Fourth Assembly, for the first time, the Assembly established joint policy and legislation committees to be responsible for all aspects of their remit. This contrasts with the committee structure of the Third Assembly where legislative scrutiny was carried out by five dedicated legislation committees.
40. The new structure saw the number of permanent committees reduce from nineteen (plus one permanent sub-committee) in the Third Assembly to twelve in the Fourth. Whilst the previous model mirrored that in Westminster where policy and legislation scrutiny is conducted by Select and Standing Committees respectively, the current structure reflects that of the Scottish Parliament in combining both.

Evidence summary

41. Respondents to the consultation generally supported combined policy and legislation committees, with Members' ability to develop expertise in a particular policy field, and apply that to legislative scrutiny, being the main advantage cited. The exception was the Conservative Group, which believes that separate policy and legislation committees would provide better scrutiny and more responsive committees.
42. There were more general concerns that the time available for policy scrutiny work has been limited in some cases owing to heavy legislative workloads. Suggestions for alleviating this problem included greater use of sub-committees.
43. The Chairs' Forum made the following recommendations on combined policy and legislation committees:

Recommendation 2: Encouraging the Welsh Government to stagger the timetabling of legislation would avoid several Bills hitting the same committee at once.

Recommendation 3: Committees could be more assertive in ensuring that legislation is "fit for purpose" by returning Bills to the Welsh Government where they are ill-thought through or clearly not ready.

Recommendation 4: Tailoring their approach to legislation would enable committees to spend less time on small, non-controversial issues and focus more on legislation that is controversial and/or significant.

Recommendation 5: Special, ad hoc legislative committees could be used to scrutinise large and significant pieces of legislation on behalf of the whole Assembly or to manage bottlenecks in the system, which would increase flexibility and capacity in the Fifth Assembly.

Recommendation 13: Periodic meetings of the Chairs' Forum to discuss issues of strategic importance for committees would be valuable, such as providing oversight on EU issues and sharing best practice.

44. The Committee also noted that the Constitutional and Legislative Affairs Committee had made a relevant recommendation regarding the committee structure in its report on 'Making Laws in Wales'.

Business Committee Discussion and Conclusions

45. The majority view of the Business Committee is that the current structure of joint policy and legislation committees is preferable to the model that existed previously, and should be retained.
46. The Committee noted that some committees have experienced problems with their workload owing to the volume of legislation they have been required to consider, and have struggled to find time to carry out policy scrutiny. The Committee would like to see its successor explore ways of alleviating these problems. Options that could be considered include establishing ad hoc committees or a dedicated committee for Member Bills.
47. Earlier information from Welsh Government would allow Business Committee and individual committees to better plan their work programmes around legislation. The practice that has developed in this Assembly of allowing time for Business Committee to consult with the relevant committee over proposed timetables should be continued.
48. The Business Committee welcomed the Constitutional and Legislative Affairs Committee's 'Making Laws in Wales' recommendations regarding the legislative process, and the role of committees in it.

Recommendations

Recommendation 8. The current core structure of joint policy and legislation committees should be maintained.

Recommendation 9. The new Business Committee should consider whether to establish a dedicated committee to consider Member Bills, and/or to make use of ad hoc legislation committees where this would help relieve pressure on a committee.

Recommendation 10. In line with the Constitutional and Legislative Affairs Committee recommendation in its 'Making Laws in Wales' report, we recommend that the new Business Committee in considering the committee structure to be adopted in the Fifth Assembly should:

- consider a range of options identifying the pros and cons of each;
 - take account of the practical experiences of Assembly committees;
 - publish a report of its deliberations including its final recommendation.
-

World Class Parliamentary Committees

Background

49. In its Review of Support for Committees published in December 2013, the Assembly Commission set out a vision for world class committees. The Chairs' Forum used this vision to structure its legacy discussions and report.
50. The Commission's vision is that the committees of the Assembly should demonstrably improve the quality of policy outcomes, legislation, public services and government spending for society as a whole in Wales. They should be respected, influential and accessible, acting with integrity and independence. Their work should be strategic and rigorous.
51. This means that Assembly committees will:
 - i. have a clear, agreed, strategic plan for their work that prioritises their activities and focuses their use of time and resource;
 - ii. be a top priority for the Members who serve on them;
 - iii. be guided by Chairs who fulfil all of the expectations set for them by the Assembly;
 - iv. be respected and listened to by the Welsh Government because of the quality of their inquiries and scrutiny, the rigour of their questioning, the depth of their analysis and the value of their legislative amendment. The Government will be mindful of the reaction of committees as it formulates its policy, spending and legislative plans;
 - v. scrutinise policy, spending and legislation within their portfolio in the round, not as isolated aspects of their responsibilities;
 - vi. offer and expect constructive engagement with the Welsh Government but retain their detachment and ability to offer objective criticism;
 - vii. not be limited by constraints on access to Ministers, information or witnesses and will be able to draw on the expert advice and support they require;
 - viii. engage with a wide diversity of people, be seen by stakeholder groups as important, influential players and as the natural place to go to with concerns and ideas, and undertake work that enhances the public reputation of the Assembly. Their outputs will be accessible to as wide an audience as possible;
 - ix. ensure that those who contribute to their work see the value of their participation; and
 - x. seek critical analysis and evaluation to improve their performance.

Business Committee Discussion and Conclusions

52. The Business Committee fully endorses the Assembly Commission's vision for World Class Committees.

Recommendations

Recommendation 11. The new Business Committee should ensure that its decisions on committee structure, size, remits, chairing and timetabling support the delivery of the Commission's vision.

Committee Chairs

Background

53. The current practice of committee chairs being appointed by the whole Assembly dates back to 2011. Prior to that it was for each committee to elect its own chair having regard to party balance amongst all chairs.
54. Practice elsewhere varies. In the Scottish Parliament the Parliamentary Bureau (the equivalent of the Business Committee) proposes to the Parliament which party the convener (chair) of a committee should be drawn from with due regard being given to the balance of political parties in Parliament. The convener is then chosen from among its members by the committee.
55. The House of Commons procedure is very different, having introduced Parliament-wide elections for committee chairs in 2010 following recommendations by the Select Committee on Reform of the House of Commons. Under this process, the chair of each committee is allocated to a particular party. Any MP from the designated party may then stand for the position of chair, which is elected by a secret ballot of MPs from all parties. The rest of each committee's membership is then appointed separately.

Evidence summary

56. The Chairs' Forum makes the following recommendation on the role and independence of Committee Chairs:

Recommendation 9: A new process for electing committee Chairs would strengthen the independence and effectiveness of committees. Ensuring that committee Chairs cannot be removed by the political parties would also send a clear signal that scrutiny is the priority of the new Assembly.

57. There was also support for changing the process in the evidence received from external organisations.

Business Committee Discussion and Conclusions

58. Business Managers noted the Chairs' Forum recommendation that 'a new process for electing committee Chairs would strengthen the independence and effectiveness of committees' and agreed to consider further whether the procedure for the election of committee chairs should be revised in line with that recommendation. Business Managers recognised that any change in procedure would need to be in place before new committees are established in the Fifth Assembly and so ideally needed to be decided in this Assembly.
59. Following further consideration of the options for change, particularly the possibility of moving to a system modelled on that used by the House of Commons, Elin Jones AM, Paul Davies AM and Aled Roberts AM were in favour of such a change, while Jane Hutt AM was opposed. As a result, there was no majority on the Business Committee for proposing such a change in this Assembly.

- 60.** The Business Committee also discussed the key role played by chairs in ensuring committees worked effectively, and in delivering the vision for world class committees. Business Managers reaffirmed their commitment to the key responsibilities of committee chairs which the Business Committee set out at the beginning of the Fourth Assembly. Committee chairs must:
- set the strategic direction of the committee and ensure the transparent prioritisation of its activity so as to deliver a balanced, comprehensive and effective programme of legislative, policy and financial scrutiny;
 - maximise the relevance and influence of the committee whilst maintaining its clear independence from the Welsh Government;
 - act impartially at all times, decisively, fairly and in a manner that maintains the confidence of the committee;
 - command the confidence of Members, witnesses and the public at large through knowledge of the subject matter of the committee’s remit; demonstration of effective legislative, policy and financial scrutiny techniques; maintenance of order; and the application of all relevant legal and procedural requirements on the committee;
 - secure the commitment and engagement of all committee members and build cross-party consensus wherever possible;
 - build the culture and skills mix within the committee required to maximise its effectiveness as a scrutiny body;
 - ensure that the committee receives the expert advice, information and other support it requires to fulfil its objectives effectively;
 - drive the delivery of all aspects of the committee’s work with pace and quality;
 - represent the committee publicly, in the media and in formal Assembly business; and
 - ensure critical analysis and evaluation of the committee’s work and drive innovation in its operation so as to increase effectiveness, public engagement and impact.

Recommendations

Recommendation 12. The new Business Committee should consider whether a different procedure for the election of committee chairs should be adopted at the start of the Fifth Assembly.

Recommendation 13. All committee chairs should undertake a programme of training and professional development upon taking up their posts, as recommended by the Chairs’ Forum.

Assembly Timetabling

Background

61. Some aspects of the Assembly's timetable are set out in Standing Orders, while others are agreed by Business Committee. Standing Orders require that Plenary meetings must be held usually on Tuesday and Wednesday afternoons, but it is up to the Business Committee to decide when committees and political groups can meet. Currently, Tuesday and Wednesday mornings along with all-day Thursday are set aside for committee meetings, while the Constitutional and Legislative Affairs Committee meets on Monday afternoons. Party groups also meet on Tuesday mornings, which constrains the time available for committees. There is no formal Assembly business on Mondays (with the exception of the Constitutional and Legislative Affairs Committee) or Fridays.

Evidence summary

62. The Chairs' Forum makes the following recommendations on committee timetabling:

Recommendation 7: Options for increasing committees' capacity should be explored, which might include expanding the formal business week to four days to include Monday afternoons, extending Assembly terms, and rotating the committee timetable.

Recommendation 8: Reviewing the pattern and balance of Plenary and committee time would improve the quality and productivity of Plenary sessions and lessen the intensity of the committee schedule.

63. The Chairs' Forum also makes recommendations on continuous professional development which if implemented would impact on committee timetabling:

Recommendation 10: All committee Chairs should be expected to participate in CPD in the Fifth Assembly and CPD should be "normalised" for all Assembly Members.

Recommendation 11: Business Committee may wish to consider a nuanced approach to programming Plenary business in order to accommodate time for Chairs' and Members' CPD. Placing Members' compliance with CPD on the public record would send an even stronger signal about the commitment to our continuous professional development.

Recommendation 12: Reserving the first few committee sessions in the Fifth Assembly for team building would enable Chairs to set strategic direction and priorities and allow Members to agree ways of working as an effective team.

64. In contrast to the Chairs' Forum recommendation, evidence received from the party groups was generally opposed to major extensions to the working week, although there was some support for extending Plenary meetings and/or shortening recesses.
65. The Committee received evidence suggesting that a better balance between Plenary and committee could be struck, and that Wednesday afternoon Plenary in particular is not an effective use of Members' time. There was also some evidence that Thursday afternoons aren't fully used by committees.

Business Committee Discussion and Conclusions

66. Business Committee agreed with the evidence received that Plenary time is not always used as effectively as it could be, and a greater variety of business would increase opportunities for Members to scrutinise the government and represent their constituents. The Committee also agreed that alternative ways of scheduling business should be explored, including reviewing the balance between Plenary and committee time.
67. Business Managers noted that the committee timetable as currently organised does not always enable committees to make full use of the time available to them, with both Tuesday mornings and Thursday afternoon slots presenting difficulties.
68. Business Managers endorsed the Chairs' Forum recommendation that time for Chairs' and Members' CPD should be accommodated within the Assembly timetable, and that the first few committee sessions in the Fifth Assembly should be reserved for setting a strategic direction and priorities and agreeing ways of working as an effective team.

Recommendations

Recommendation 14. The new Business Committee should look at scheduling a greater variety of business during non-government time, including more committee business to increase the integration between Plenary and committees. Types of business could, for example, include statements at the beginning of committee inquiries, annual reports from committees, debate topics chosen by young people and other stakeholders, and series of debates on a particular theme.

Recommendation 15. The new Business Committee should conduct a review of the Assembly timetable, including the scheduling of plenary meetings, with a view to ensuring the most effective pattern of plenary business, as well as increasing the overall capacity for formal Assembly business.

Recommendation 16. The new Business Committee should explore the options proposed by the Chairs' Forum for increasing committee capacity, including making Monday afternoons a formal part of the business week and rotating the committee timetable, although Jane Hutt did not support this view

Legislation Timetabling

Background

- 69.** When a Bill is introduced, the Business Committee is responsible for referring it to a committee for Stage 1 and 2 scrutiny. At the same time, the Business Committee must set a deadline for the responsible committee to report in each case. Whilst the Business Committee is not responsible for scheduling the Plenary stages of government Bills, the deadlines it sets for committees to conclude their work prevents those Plenary stages from happening before a set time.
- 70.** The CLA Committee looked at timetabling legislation in its 'Making Laws in Wales' report and the Business Committee will be looking at those specific recommendations before the end of the Fourth Assembly.

Evidence

- 71.** The evidence received on the timetabling of legislation highlighted a variety of issues and possible reforms to the legislative process, including:
- Committees should consider re-engaging with stakeholders at Stage 2, as a Bill can change significantly after Stage 1, but at the moment there is no opportunity for stakeholders to formally feed into the process once the general principles have been agreed;
 - More time should be allocated to the Plenary stages of legislation, with Stage 3 debates being more focused on amendments that have a reasonable chance of success;
 - Greater account needs to be taken of committees' capacity when dealing with particularly large Bills, or with more than one Bill at the same time;
 - There should be a more flexible approach to timetabling legislation, with more account being taken of the nature of each Bill in deciding on its timetable;
 - There should be a tightening of the rules around Emergency Bills to ensure scrutiny can only be curtailed in exceptional circumstances.

Business Committee Discussion and Conclusions

- 72.** The Business Committee noted that on some occasions committees have found the timetable for scrutinising legislation to be challenging given the other demands on their time, and that lack of time was a significant constraint preventing, for example, further engagement with stakeholders after Stage 1.
- 73.** The Business Committee has noted the recommendations made to it by the Chairs' Forum and in the Constitutional and Legislative Affairs Committee's 'Making Laws in Wales' report with regard to the legislative process, and will consider the specific recommendations for change before the end of the Fourth Assembly.

Recommendations

Recommendation 17. In line with the Constitutional and Legislative Affairs Committee recommendation in its Making Laws in Wales report, we recommend that the new Business Committee:

- following an appropriate period of time in the Fifth Assembly, reviews the need for a minimum period to be included in Standing Orders for the scrutiny of Bills at Stage 1;
 - reviews the process for Member Bills, taking account of the evidence the CLA Committee received from Assembly Members and their suggestions for improving the process;
 - undertakes further work to inform consideration of amending Standing Orders to require that all amendments tabled to a Bill are accompanied by text that explains their purpose and effect.
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The Role of Business Committee

Background

74. The House of Commons, Scottish Parliament and Northern Ireland Assembly all have committees with responsibility for reviewing the institution's procedures and making recommendations for change. In all cases, any changes to the Standing Orders still require agreement by the Assembly/Parliament as a whole. In Scotland, this function is included within the remit of the Standards, Procedures and Public Appointments Committee, which can carry out reviews either on its own initiative or at the request of the Presiding Officer or others.
75. The Assembly is therefore unique in the UK in not having such a procedures committee, and in having its Business Committee perform this role.
76. While the Business Committee normally meets in private, there is precedent for it to meet in public when considering changes to Standing Orders.

Evidence summary

77. Very little detailed evidence was received on this subject. Those that did respond were all content with the current arrangements, although one stakeholder stated that Business Committee meetings should be held in public.
78. The Environment and Sustainability Committee made the case in its evidence for the Assembly to have a Public Appointments Committee responsible for conducting pre-appointment hearings for major public appointments.

Business Committee Discussion and Conclusions

79. The Business Committee considered the advantages and disadvantages of the current model compared with those elsewhere, and concluded that the possibility of giving another committee responsibility for reviewing procedures, possibly combined with public appointments and/or standards, is something the new Business Committee should consider. However, the Committee did not feel that it had sufficient evidence to make a firm recommendation at this point.

Recommendations

Recommendation 18. The new Business Committee, in considering committee remits, should consider whether a committee other than Business Committee should be given the role of reviewing and proposing changes to the Assembly's Standing Orders and procedures. The Committee should give consideration to the Scottish Parliament example, in which procedural work is the responsibility of a Standards, Procedures and Public Appointments Committee.

Recommendation 19. If the new Business Committee were to retain the procedural role, it should consider conducting its procedural work at dedicated meetings, to be held in public, so as to improve transparency and public engagement with the Assembly's procedures.



Looking Ahead

80. This report has focused for the most part on those areas where the current Business Committee has introduced reforms, with a view to assessing their success and making recommendations for the new Business Committee to follow. These are areas where the decision to change or not is in the hands of the new Business Committee and the Assembly.
81. The nature of the devolution process in Wales means that often, change will come from outside the Assembly, and the Business Committee will need to play a role in leading the Assembly's response to that change. There are at least two major changes to the Assembly's powers and functions anticipated in the Fifth Assembly to which the new Business Committee will need to respond by reviewing the Assembly's procedures.

Finance Procedures

82. The Assembly's budget procedures will require modification prior to the 2018-19 budget round to take account of the tax and borrowing powers devolved as a result of the Wales Act 2014. The Finance Committee's inquiry into Best Practice Budget Processes considered how the Assembly's budget processes could be improved and in their Part 2 report made the following recommendation:

The Committee recommends that the Welsh Government and the Assembly should work together to develop a new budget process, which allows for:

- UK budget announcements;*
 - – a two part process;*
 - – the need to provide an early indication to other public bodies of their budgets for the following financial year;*
 - – adequate time for Assembly scrutiny; and*
 - – 'future-proofing' for any further fiscal devolution*
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83. The Presiding Officer and Minister for Finance and Government Business agreed that officials from the Welsh Government and Assembly should work together to develop a new budget process. In a letter to the Chair of the Finance Committee on 19 May the Presiding Officer welcomed the continued commitment from the Minister to work collaboratively to ensure the new budget procedures are fit for purpose for both the Welsh Government and the Assembly going forward.
84. The *Wales Act 2014* provided the Assembly with competence to amend the relevant sections of the *Government of Wales Act 2006*, which provide for the current budget arrangements. However, the Assembly does not have competence to alter the wider finance provisions for accountability and audit arrangements.
85. The Presiding Officer has called for the Assembly's competence to be extended, via the forthcoming Wales Bill, to allow for comprehensive financial framework legislation to be passed to provide for budget, accounting and audit procedures – similar to the *Public Finance and Accountability (Scotland) Act 2000*. However, until this issue of wider competence over

financial provisions has been clarified, it is unlikely that a new budget process will be provided for via Assembly legislation.

86. In the meantime, an alternative non-statutory budget process which would provide for the fiscal powers conferred by the Wales Act 2014 is being pursued, in collaboration with the Welsh Government.
87. The aim is to have a non-statutory budget process and associated safeguards in place by summer 2017, prior to the 2018-19 budget round. Decisions regarding a new budget process will therefore be a matter for the next Business Committee early in the Fifth Assembly, in consultation with the successor to the Finance Committee.

Wales Bill

88. On 20 October 2015 the Wales Office published the draft Wales Bill. This is the starting point for the next phase of legislation on devolution for Wales, drawing on the recommendations of the Silk Commission's second report and the St David's Day talks.
89. As well as devolving a number of policy areas, the Wales Bill also proposes a number of significant changes to the constitutional law of Wales. For example, it:
 - provides for the recognition of an Assembly for Wales and a Welsh Government as permanent parts of the UK's constitutional arrangements;
 - gives statutory recognition for the existing legislative consent convention that the UK Parliament will not "normally" legislate with regard to devolved matters without the consent of the Assembly;
 - gives the Assembly control over electoral arrangements, such as the number of AMs, the manner in which they are elected, including the franchise and the electoral system and the length of Assembly terms;
 - proposes a change from the conferred powers model of legislative competence to a reserved powers model;
 - confers new executive functions on the Welsh Ministers. Some of these functions fall within areas of new legislative competence for the Assembly; others are in areas in which the Assembly still has no legislative competence (e.g. building regulations);
90. Of greatest relevance to the role of the Business Committee is the fact that the Bill gives the Assembly control over many of its internal operational affairs including, the ability to change the name of the Assembly, rules relating to the position of Presiding Officer and Clerk, participation of Secretary of State in Assembly proceedings, and the ability to determine the composition of the Assembly's committees.
91. The draft Bill proposes removing many of the constraints currently contained in the GOWA 2006 relating to these aspects of its procedures, and so if these provisions become law the new Business Committee will need to consider whether to review those procedures. In some cases, the draft Bill provides for the operational arrangements to be brought within competence, and so would require the Assembly to pass primary legislation as well as agree subsequent revisions to Standing Orders.

Annex A

The following people and organisations provided written evidence to the Committee. All written evidence can be viewed in full at:

<http://www.senedd.assembly.wales/mgConsultationDisplay.aspx?ID=198>

Organisation

01. Marie Curie
02. Welsh NHS Confederation
03. Finance Committee
04. FSB Wales
05. Welsh Conservatives Group
06. Labour Group
07. Public Affairs Cymru Executive
08. Welsh Government
09. Welsh Liberal Democrats Group
10. Committee Chairs' Forum Report: Legacy from Fourth Assembly Committees
11. Wales Governance Centre
12. Health and Social Care Committee
13. Constitutional and Legislative Affairs Committee
14. Environment and Sustainability Committee
15. Communities, Equality and Local Government Committee