

National Assembly for Wales
Business Committee

Committees in the Fifth Assembly

June 2016

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



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01.Introduction

On 21 June 2016 we agreed to propose the names and remits of committees to the Assembly for agreement in Plenary.. These are set out at Annex A.

This report sets out how we developed our proposal for a committee structure and how we have addressed some of the legacy issues identified by committees in the last Assembly. A response to each of the recommendations made in relation to committees is provided at Annex B.

In summary, we have a system that is centred on six combined policy and legislation committees and a number of specialist committees to deliver Standing Order functions.

This system covers all the responsibilities of the Welsh Ministers and all areas of devolved legislative competence. We have addressed historical remit issues to provide a more even distribution of work and to ensure all aspects of policy receive the attention that is necessary. We have also included a reserve committee in the structure for the first time so that we can react swiftly to emerging issues and peaks in the legislative programme.

Alongside this, we have extended the amount of time available to committees by formalising Monday afternoons as part of the business timetable.

Membership levels of the core committees have been reduced in order to accommodate the creation of an additional policy and legislation committee.

These factors combined produce a structure that provides a firm foundation from which the Assembly Commission's vision for world class committees can be achieved:

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.

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.

02.Remits

As mentioned above, the committee names and remits are provided at Annex A.

Models considered

We considered variations of a committee system that combined policy and legislative scrutiny within the remit of single committees and we also considered separating policy and legislative scrutiny.

The recommendations made by our predecessor committee and the Fourth Assembly Committee Chairs to retain the combined policy and legislation committees were also considered.

The benefits of the combined model are that it allows members to develop policy expertise and to apply this to the legislative scrutiny process. It also allows the full range of policy delivery mechanisms to be considered within one committee. The key disadvantage is that if a committee has a large volume of legislation remitted to it, then policy scrutiny can be curtailed.

On a practical front, after modelling both scenarios, we could see that separating policy and legislation committees would have practical implications in terms of the number of committee places that would need to be filled to deliver such a model.

Ultimately, we were convinced of the intrinsic merits of the combined policy and legislation committee model, and that these outweighed the potential disadvantages.

However, we remained concerned about peaks in the legislative workload having a disproportionate impact on the ability of some committees to maintain a policy scrutiny programme.

To address this concern we have taken three steps:

- Established six policy and legislation committees (one more than in the last Assembly) to provide additional capacity and to better distribute the legislative workload;
- Established a reserve committee that can alleviate the pressure on a committee that faced a peak in workload; and
- Ensured that there is unallocated committee time built into the timetable.

We also recognise that it is we, the Business Committee, that remits legislation to committees and that we have a responsibility to ensure that this is done in a balanced way. Should committees be concerned that the delivery of their broader scrutiny functions are being impaired by legislation then they should raise this with us by writing to the Llywydd.

Additionally, Chairs of committees have some control over the timetables for Stage 2 consideration of Bills within the deadlines set by Business Committee and so it is, to an extent, within their gift to manage their work programmes accordingly.

Breadth of remits

It is important to understand that, in the case of the policy and legislation committees, their remits are not prescriptive or restrictive. We have deliberately allowed them to remain broad and we decided not to provide a list of subject attached to each committee. As in the last Assembly, we believe that providing committees with the ability to pursue issues across portfolios and subject areas makes for better scrutiny and avoids the risk of too narrow an approach.

For example, the CYPE and CWLC committees could both consider Welsh-medium education from their respective positions and both the CCERA and EIS committees could both consider energy issues.

As in the last Assembly, we expect Chairs and their clerks to communicate with one another to ensure that work programmes are aligned and, in the unlikely event of a dispute, this can be resolved by the Business Committee through exercise of Standing Order 17.2 or, in extremis, 16.3.

The remits of the specialist committees – Finance, Public Accounts, Constitutional and Legislative Affairs, Petitions, Standards and Scrutiny of the First Minister – remain the same as in the last Assembly. We considered how best to meet the ‘responsible committee’ functions in Standing Orders and concluded that arrangements in the previous Assembly had worked well and that there was no case for changing these arrangements at this time.

Procedures and public appointments

We have considered the issues of **procedures** and **public appointments** and whether these could be combined with a standards committee’s remit. We concluded that consideration of procedural matters will remain our responsibility, but we acknowledged that this should become more transparent. We intend to consider procedural issues in public.

We are going to return to the issue of **public appointments** and whether there is a case for formalising the Assembly’s role in scrutinising key public appointments.

For the time being, the Finance Committee retains responsibility for oversight of the Auditor General, the Wales Audit Office and the estimates of the Public Services Ombudsman. The Equality, Local Government and Communities Committee is responsible for oversight of the Older People’s Commissioner and the Future Generations Commissioner. The Children, Young People and Education Committee is responsible for overseeing the work of the Children’s Commissioner. The Culture, Welsh Language and Communications Committee is responsible for overseeing the work of the Welsh Language Commissioner.

There are other public appointments that individual committees will want to consider scrutinising e.g. ministerial appointments to the boards of Welsh Government Sponsored Bodies. These can be pursued at the discretion of the committees concerned.

European affairs

We note the recommendation of the CLA Committee of the Fourth Assembly regarding committee consideration of European affairs. We will return to the matter in the light of the outcome of the European Referendum.

03.Representations from outside the Assembly

We received correspondence the Director of Universities Wales, the Welsh Language Commissioner and the National Union of Journalists and took their views into account in our deliberations.

04.Chairs of Committees

Following a strong recommendation from the Chairs' Forum in the Fourth Assembly we have proposed a new procedure for election of chairs by secret ballot. Further details are contained in our report on Changes to Standing Order 17 laid before the Assembly.

Furthermore we endorse the responsibilities of chairs set out in the Fourth Assembly and these are reproduced at Annex C.

Annex A – Committees and their remits

Policy and Legislation Committees

Children, Young People and Education Committee

To examine legislation and hold the Welsh Government to account by scrutinising its expenditure, administration and policy, encompassing (but not restricted to): the education, health and well-being of the children and young people of Wales, including their social care.

Climate Change, Environment and Rural Affairs Committee

To examine legislation and hold the Welsh Government to account by scrutinising expenditure, administration and policy matters encompassing (but not restricted to): climate change; energy; natural resources management; planning; animal welfare and agriculture.

Culture, Welsh Language and Communications Committee

To examine legislation and hold the Welsh Government to account by scrutinising expenditure, administration and policy matters encompassing (but not restricted to): culture; the arts; historic environment; Welsh language; communications; broadcasting and the media.

Economy, Infrastructure and Skills Committee

To examine legislation and hold the Welsh Government to account by scrutinising expenditure, administration and policy matters encompassing (but not restricted to): economic development; transport; infrastructure; employment; skills; and research and development, including technology and science.

Equality, Local Government and Communities Committee

To examine legislation and hold the Welsh Government to account by scrutinising expenditure, administration and policy matters encompassing (but not restricted to): local government; housing, community regeneration, cohesion and safety; tackling poverty; equality of opportunity and human rights.

Health, Social Care and Sport Committee

To examine legislation and hold the Welsh Government to account by scrutinising expenditure, administration and policy matters encompassing (but not restricted to): the physical, mental and public health and well-being of the people of Wales, including the social care system.

Reserve Policy and Legislation Committee

To consider any matter referred to it by the Business Committee.

Specialist Committees

Constitutional and Legislative Affairs Committee

To carry out the functions of the responsible committee set out in Standing Order 21 and to consider any other constitutional, legislative or governmental matter within or relating to the competence of the Assembly or the Welsh Ministers, including the quality of legislation.

Petitions Committee

To carry out the functions of the responsible committee set out in Standing Order 23.

Scrutiny of the First Minister Committee

To scrutinise the First Minister on any matter relevant to the exercise of the functions of the Welsh Government.

Standards of Conduct Committee

To carry out the functions of the responsible committee set out in Standing Order 22.

Public Accounts Committee

To carry out the functions set out in Standing Orders 18.2 and 18.3 and consider any other matter that relates to the economy, efficiency and effectiveness with which resources are employed in the discharge of public functions in Wales.

Finance Committee

To carry out the functions of the responsible committee set out in Standing Order 19; the functions of the responsible committee set out in Standing Orders 18.10 and 18.11; and consider any other matter relating to the Welsh Consolidated Fund.

Annex B – Response to recommendations made by Fourth Assembly Committees

The Business Committee

The Fourth Assembly's Business Committee made a number of recommendations in its legacy report that relate to the establishment of committees.

The recommendations and responses are set out below.

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.

This has been a key consideration for us in determining the committee structure and we have reduced the size of the policy and legislation committees as far as we consider practically 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.

This has not been necessary due to the political make-up of the Assembly.

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

The core structure of joint policy and legislation committees has been 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.

We have considered this recommendation and have decided to recommend the establishment of a reserve committee that meets this recommendation to an extent.

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.

We have followed this recommendation and have reported on our deliberations. The motions to establish committees can be considered our final 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.

We believe that the proposed structure provides a firm foundation from which the Assembly Commission's vision for world class committees can be achieved.

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.

We have considered this and have made recommendations to the Assembly to amend Standing Order 17.

The Constitutional and Legislative Affairs Committee

In addition to the recommendation made in its 'Making Laws in Wales' report, this committee made two further recommendations in relation to European Affairs:

Recommendation 12. If the UK votes to remain in the EU, we believe that a small committee should be established with responsibility for the oversight of European work in the Assembly and to perform an 'ambassadorial' role.

Recommendation 13. If the UK votes to leave the EU, we believe that there would be a significant benefit to the Assembly establishing a committee dedicated to exploring the implications for Wales of leaving the European Union, including the detailed legal and administrative issues involved.

We will reconsider these recommendation once the outcome of the referendum on membership of the European Union is known. For the time being, European Affairs are 'mainstreamed' with the Constitutional and Legislative Affairs retaining a role in terms of considering subsidiarity and cross-cutting issues.

The Communities, Equality and Local Government Committee

Media and communications

We believe that the Fifth Assembly should establish a Communications Committee to strengthen the accountability arrangements between the Assembly and the media operating in Wales.

A committee has been established with communications, broadcasting and the media within its remit.

Annex C - The key responsibilities of committee chairs

- 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.