
**The development of scrutiny in
the UK: A review of procedures
and practice**

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The Constitution Unit



Contents

Introduction	5
Overview and Scrutiny in Local Government	7
Scrutiny Committees in the Greater London Assembly	13
Scrutiny in the English Regions	21
Committees in the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly	27
Scrutiny by Select Committees of the Westminster Parliament	37
Conclusion	47
Appendix 1: other forms of scrutiny	49
Appendix 2: Glossary of acronyms	55
Bibliography	57



Introduction

“The action of looking searchingly at something; a searching gaze”

“Investigation, critical inquiry; an instance of this. Formerly often (now rarely) constitutional.”

(Definitions of ‘scrutiny’ from Oxford English Dictionary, 1989, from OED Online.)

What is scrutiny? The term has become almost ubiquitous in discussions of the conduct of UK government, and the practice of accountability, in the late 1990s and early 2000s. But explanations of its meaning, and discussions of how scrutiny is done and what its aims are, are less easily available. Any system of scrutiny taking place within a democratic government needs appropriate structures, resources, and practices: and it needs to fit clearly into the constitutional framework within which it works.

This report forms part of a wider on-going investigation into the *practice* of scrutiny at all four levels of government. Up till now there have been a number of guides produced (particularly for local authorities) on how to carry out scrutiny, plus a few reviews of practice in local government and the devolved nations. This publication is intended as an explanatory guide to the history and processes of committee scrutiny at the four different levels of government in the UK. It will be useful to officers and members of each level, to find out about how other layers of government deal with problems and decisions that are similar to their own; and it will be useful to members of the public and of other organisations which have to interact with the scrutiny process.

The word ‘scrutiny’ can cover a vast range of government and non-government activities. Not all are appropriate, or feasible, to be carried out by elected members of governmental bodies. This research will focus on the processes of scrutiny carried out by *committees* of parliaments, assemblies and local



management arrangements with a clear divide between executive and scrutiny functions. These were: an elected mayor and cabinet; an elected mayor and council manager; and a leader and cabinet. These options would accept the reality of majority-party rule on a council, but at the same time give opposition parties and majority party 'back-benchers' a clear role in policy-making and examination. The government guidance states:

*“Splitting these two roles would mean that it would no longer be possible for councillors to disclaim responsibility for corporate decisions... Councillors who have played no direct part in the decisions taken will have a clear explicit responsibility to review and question those decisions, whether or not they belong to the same party as the executive”.*⁵

Legislative Framework

The Local Government Act 2000 provides the basic legislative framework for the committees. However, each council must have its own constitution which governs the details of their own structural arrangements. New council constitutions had to be in place by July 2002. New constitutions must define 'key decisions' and the workings of the 'call-in' procedure (see below). They are also likely to specify the structures of the authority's scrutiny committees. Most authorities have chosen one of the following kinds of structure:

- committees that match the executive members' portfolios;
- committees that match the authority's service directorates;
- cross-cutting/thematic committees which match neither portfolios or directorates;
- a single scrutiny management committee which establishes 'task and finish' or ad-hoc committees to carry out specific enquiries;
- in some local authorities, the restriction of their small size means that a single scrutiny committee carries out all scrutiny work.

Structural Issues

Committees, sub-committees and ad-hoc working groups

The Local Government Act 2000 stipulates that local authorities must set up at least one overview and scrutiny committee. The committee(s) can compel members and officers of the local authority to appear before them—but no-one else can be compelled.

Committees may set up one sub-committee each and may co-opt non-voting members on to either themselves or their sub-committee. Many councils have one Overview and Scrutiny Coordinating Committee that acts as a coordinating body, and then a number of sub-committees which mirror cabinet posts or council directorates, or look at cross cutting issues. The overarching committee may be a very large committee, with the sub-committees being smaller.

The overview and scrutiny committee can also set up time-limited ad hoc working groups to look at specific issues. Usually these are very small units—with up to eight members. These groups tend to do investigative work, hearing from stakeholders, taking evidence, and going on site visits.

Membership and Chairs

The Local Government Act does not specify that committees must be chaired by members of a range of parties. It is a feature of House of Commons select committees that chairs are divided proportionately according to party representation, but this is a convention rather

Resources

Officers

As local authorities are bodies corporate, their officers serve all of their members. Under the 2000 Act, the executive is not a separately constituted body but results from an administrative division within the council. The Act does not oblige councils to distinguish between officers who work on executive and scrutiny issues. However, most guides suggest that some kind of distinction needs to be drawn: “officers who provide direct support and advice to the [scrutiny] committee must be independent of the management of the department”.⁶

Where committees do have dedicated officer support, these officers provide all the support for the committees. Even the largest authorities have no more than ten officers working on scrutiny, and frequently these officers have other responsibilities. These individuals therefore need to be able to grapple with vast amounts of detailed knowledge. This is the reverse of the situation at Westminster where generalist MPs are supported by specialist committee staff whilst they themselves build up knowledge.

Press and PR

The lack of resources available to committees severely limits the capacity of committees to manage their own media relations effectively. Few councils have tried to set up a media capacity for scrutiny as distinct from the council, often feeling that the distinction is of little interest to the electorate. However, committees often have the benefit of space awarded to them in the council newsletter.

Member training

Government guidance emphasises that members of scrutiny committees should be

situation to grapple with[(D.9(lop/TT5)4)Tj(A Tccy 11 5d toOJ02-1.1782rom tPush c0.1389 Tw(some kind1

Call-in

Overview and scrutiny committees may demand that any executive decision with which they are unhappy be called in for consideration by scrutiny. This power is not available to the full council itself. A call-in would mean that the decision was suspended until it had been considered, and either passed or rejected by the

the officer usually put the agenda together. The cabinet also often asks the committee to look at a particular decision or look into a specific area.

Soliciting and taking evidence

In investigating subject areas, and in questioning and reviewing the decisions of the cabinet, committees, sub-committees and ad-hoc groups take evidence from officials, cabinet

A new political culture in local government?

The new constitutional structures require politicians to suspend their party politics in pursuit of a higher goal. If executive members and scrutiny members choose to create an aggressive relationship, or continually divide committees along party lines, scrutiny will not work effectively. Scrutiny also relies on the executive being open to criticism. This adds up to a shift in the culture of local governance.

Scrutiny Committees in the Greater London Assembly

Introduction

In comparison with Scotland, Wales and Northern Ireland, the GLA's powers, budget and influence over policy-making in London are very thin indeed. Vast areas of competence remain with central government: the GLA accounts for some 7 per cent of government expenditure in London.

Moreover, the design of the Authority is a unique experiment in UK governance, covering a territory whose status has long been contested—a city or region or both?—the GLA is divided between a mayor—a single person executive—and a 25-member Assembly with the specific task of scrutinising the mayor. In the GLA, scrutiny is not just one function of the Assembly but *the* function. It is inevitable, then, that 'scrutiny' has taken a very different form in the GLA to the other institutions in this study.

This is not to say that 'scrutiny' was any better approached or thought through with regard to the GLA. Little clarity existed as to how a scrutinising Assembly with very little sanction over the Mayor (other than defeating his budget on a super-majority) would work. It is perhaps unsurprising that the GLA has gone through three committee structures in its first three years. This is clearly a symptom of an authority created to carry out a function to which its members and officers had had little opportunity, or means, to give sustained prior thought.

This chapter contains a fuller 'history' section than the other chapters because the learning process that the Greater London Assembly went through enables other bodies in the UK to learn from their experiences.

A history of the committees in the GLA

The first committee structure—May 2000

The Assembly began with the following six scrutiny committees (and memberships):

- Transport and Spatial Development (9)

- Transport Operations Scrutiny Committee (6)
- Environment and Sustainability Committee (6)
- Economic Development Committee (9)
- Planning Committee (an advisory committee) (6)
- Budget Committee (and Audit Panel) (6)

There were also three business committees: an Appointments Committee, and Standards Committee, and the Standing Orders Committee itself (which was short term only). A Bureau of Leaders was also created which had regular meetings. This consisted of the Chair and Deputy Chair of the Assembly with the four Group Leaders.

The Assembly shaped its own organisation largely around the Mayor's strategies. Despite the emphasis throughout the development of the London Assembly on cross-cutting scrutiny, the committee structure meant that its work closely mirrored that of the Mayor. For instance, the Transport and Spatial Planning Committee focused on the relevant strategies and monitored their implementation. The lack of committees with responsibilities for public services, culture and sport, and poverty and social exclusion was clearly problematic. In order to deal with this, the Assembly set up a number of ad hoc working groups to deal with issues as they arose and to carry out cross-cutting work.

Many members of the Assembly were serving on one or more functional body, and some had been appointed by the Mayor to be part of his advisory cabinet. All meetings of these groups took place during the daytime, with Monday and Friday reserved for constituency business. Together with the proliferation of ad hoc groups, the result was severe diary congestion. Provisions to have substitute committee members did not enhance the scrutiny function as it disrupted the continuity of scrutiny investigations.

A Working Group on Structure and Organisation was established by the Assembly on 10 January 2001. The report did not propose any radical changes to the number of committees or type of committee. The main change which followed this

review was the creation of a scrutiny management committee. The committee would consult committee chairs regularly and monitor the totality of the Assembly's scrutiny work. It would develop the budget bid and allocate the resources. This new committee would be aligned with the Bureau of Leaders in order to minimise the extra demand on members' time. The Working Group produced a set of guidelines which detailed what the Management Committee should be looking to the other committees to produce. However, although these guidelines are useful, the Management Committee was only going to meet quarterly so the capability for the committee to be able to take real control over the scrutiny committees, to get to the proposed mix

Structural Issues

Number and size of committees

The structure currently used by the London Assembly is:

- Budget Committee—(8 members)
- Public Services Committee—(6 members)
- Culture, Sport and Tourism Committee—(6 members)
- Environment Committee (6)
- Health Committee—(6)
- Planning and Spatial Development Committee—(6)
- Transport Committee—(9)

The following committees (which are not scrutiny bodies as such) also exist:

- Business Management and Appointments Committee (9)²⁰
- Audit Panel (4)
- Standards Committee (6 + Mayor + 3 independents)

Membership

Every member of the Assembly is entitled to sit on at least one committee. All of the 25 members sit on between two and four committees. The membership of the committees is politically balanced according to the seats in the Assembly. There is provision for substitute members, whose names are agreed by the assembly. Up to two substitutes per group per meeting are allowed.

Because many members of the Assembly also sit on the functional bodies of the Greater London Authority, the Standing Orders also stipulate that “A member shall not be the Chair of a committee with a remit to scrutinise a function of power of the Mayor, or; a function or power of a functional body, which that Assembly Member either directly or as a member of a functional body or as a member of another body exercises or assists in the exercise of the function or power”. However, it does not prohibit membership of the committee of people who may have such potential conflicts of interest.

Attendance

The quorum of the committees of the London Assembly is half of the members of the committee. If a quorum is not present within 15 minutes of the time when the meeting was due to commence, the meeting is abandoned.

Subcommittees and ad hoc working groups

Subject to the agreement of the full Assembly, every committee appointed by the Assembly may appoint working groups or sub-committees to carry out their remit as may be specified by the committee. The appointment of the Chair and Deputy Chair of a sub-committee shall be by the committee or may be delegated to the sub-committee.

From April 2002, ad hoc working groups were no longer appointed. The Structure and Organisation of the London Assembly Working Group (SOLA) 2002 stated that “There would be no ad hoc investigative committees established except in the most exceptional of circumstances.” The Assembly had been able to establish small ad hoc working groups to carry out investigative work. These groups had around four members. Work done by such groups included ‘Future Major Events in London’ which considered the cancellation of the New Year’s Eve events in 2000. However, as mentioned above, the reliance on these small groups caused diary log-jam and confusion as they proliferated greatly. This problem was compounded by the small size of the Assembly and the various other commitments of the members on functional body boards and at other levels of government.

In the second phase of the scrutiny structures, guidance was given on the circumstances where a scrutiny should be conducted by a rapporteur. One such scrutiny has been carried out: John Biggs, a Labour assembly member, carried out a piece of work on access to the Thames foreshore, which was published in July 2003. The review instead suggested that a scrutiny committee could resolve that the Deputy Chair, or another member, could take the chair for all proceedings relating to a particular scrutiny,

²⁰ The Business Management and Appointments Committee is a result of merging the Scrutiny Management Committee and the Appointments Committee. As the GLA is now established, most posts are filled, and hence there is less work for an Appointments Committee to do.

including the planning of the scrutiny, evidence sessions, and the discussion of the report.²¹

Business Management and Appointments Committee

The Business Management and Appointments Committee decides on issues of principle and process in scrutiny, to be followed by all standing committees as they arise. Previously there had been a separate Scrutiny Management Committee that had decided on the work programmes of the committees, but under the 2002 re-organisation the committees were given the authority to decide on their own work programme. A delegated budget is available to committees up to an agreed limit of £25,000 per piece of work. Frequently this is used to commission research by consultants. The Business Management and Appointments Committee keeps a watching brief on committees' spending, and may step in if a committee is spending an excessive amount. The Business Management and Appointments Committee is the nearest equivalent in the Assembly to a liaison committee, co-ordinating the work of subject committees.

Resources

Committee staff

Each committee has between one and three dedicated scrutiny managers. This is a particularly high level of resource, comparable to the Scottish Parliament, National Assembly for Wales and the Northern Ireland Assembly. However, the London Assembly has only recently begun to build up a significant library capacity.

Specialist Researchers

The Business Management and Appointments Committee also suggested the introduction of an Experts Advisory Group which would comprise Londoners known and respected in their field, and willing to provide their expert knowledge to the Assembly in order to strengthen the quality of the outcomes from Assembly scrutiny work. This idea was not implemented. Special advisers are used by committees, but normally on the basis of tendering for a small research contract. It is less

common to hire an individual expert on a per diem basis, as is done in Parliament. Discussions are under way around the possibility of setting up ongoing relationships with specialists.

Press staff

The London Assembly has tried to build up a separate profile for itself to that of the Mayor of London. On the Greater London Authority website there is a clear division between the Mayor and the Assembly. The Assembly has a press staff of four, with one senior officer and three others taking on issue-based portfolios.

Time

The SOLA Working Group 2002 stated that:

*“Scrutiny must be able to respond promptly to events and issues as they emerge. This may well mean organising evidence sessions with only a week or two’s notice followed by the swift production of a report. This is vital both to capture media interest and to convince Londoners of the relevance of the Assembly’s activity. The Assembly’s scrutiny work appears to be following rather than making the news agenda.”*²²

In order to rectify this SOLA’s recommendation is for each standing committee to have a regular ‘slot’ in the Assembly’s work programme, every two weeks, to ensure flexibility, responsiveness and momentum to its scrutiny work. It would be up to the committee to decide how many of such slots to fill with meetings. In practice, committees tend to meet around once a month.

Training

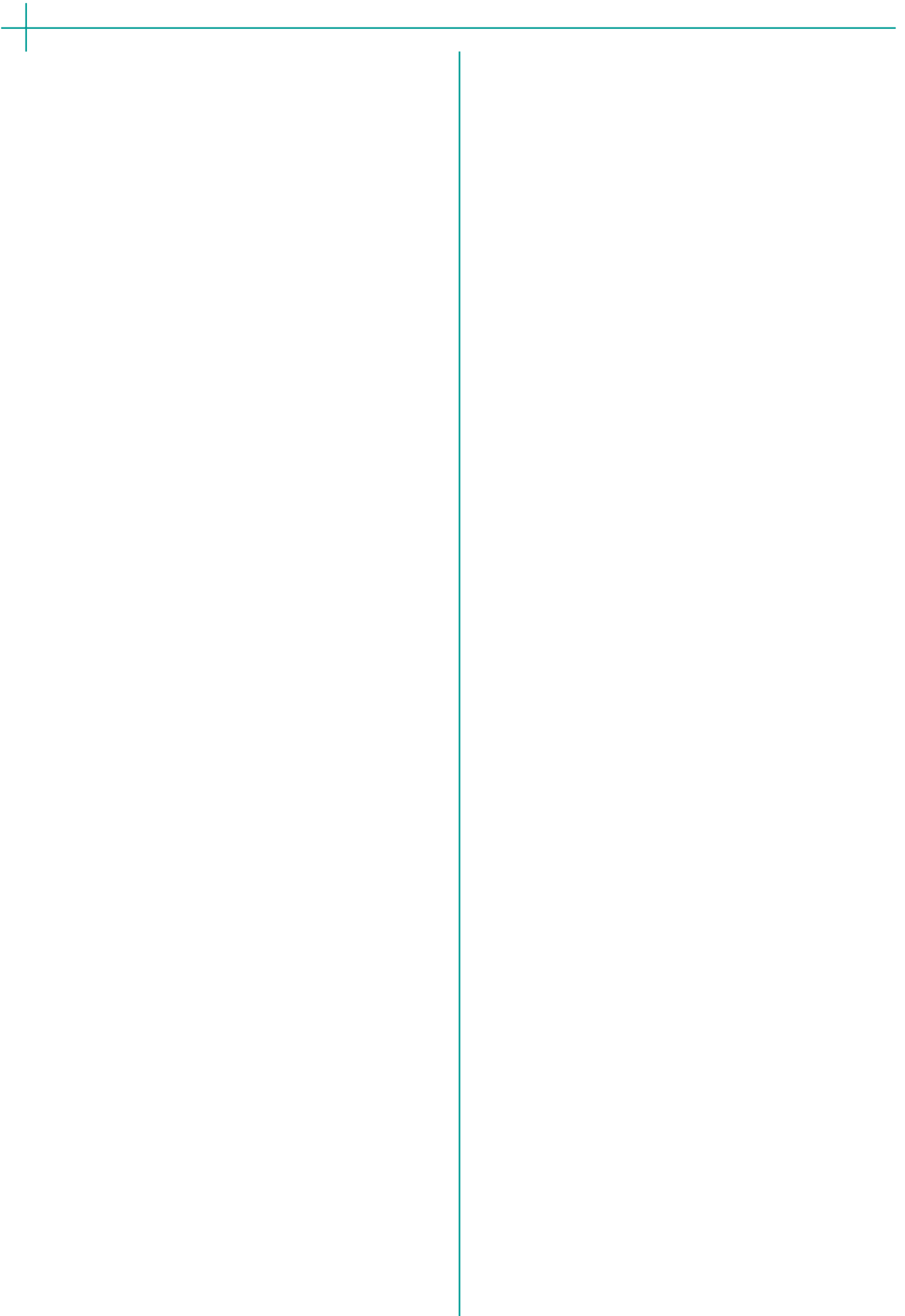
The SOLA Working Group 2002 makes reference to “demand from Members for training in various skills relating to the scrutiny function”. As well as promoting training for members, the working group pointed to the importance of briefing members in advance of evidence sessions.

²¹ Standing Orders of the London Assembly, Appendix 1.2.

²² SOLA Working Group 2002, 3.11.

The work of committees

The Report of the 2001 working group provides a



Evaluation



Introduction

The newly-created Regional Chambers/ Regional Assemblies claim to be the regional expression of the democratic voice in England. The eight Regional Chambers in England are voluntary bodies, the membership of which consists of 70% local authority councillors and 30% regional 'social and economic partners' (SEPs) such as business, voluntary organisations and environmental groups. Regional Chambers' only statutory role, as defined by the Regional Development Agencies Act 1998, is to scrutinise the Regional

was established in October 2001 which meets approximately every eight weeks. The Group has fifteen members with equal numbers of local authority representatives, business representatives and partners. There are also nine Group Advisors which include a member

Resources

Training for Members

The North East Regional Assembly and the Yorkshire and Humber Regional Assembly both mention the training of committee members. In Yorkshire and Humber members of scrutiny panels must have undergone a one-day training course conducted by the Office for Public Management. They are then put on an 'approved list'. The training consists of simulated scrutinies (with members of Yorkshire Forward) and discussions about what scrutiny is for. It is available to members of the Assembly's Commissions as well as full Assembly members. In the North East, panel members undergo background preparation in their subject areas. This contrasts with the West Midlands which takes care to ensure that panel members are appointed to reflect the expertise required to address the subject matter. Achieving continuity and developing the experience of Panel Members will be an additional aim.

Staff

Some of the Assemblies outline the need for additional staff to assist in the expanded scrutiny role of the chamber in their bids to the regional chambers fund. For instance, the East of England said that they would appoint dedicated staff to 'support EERA in its scrutiny function; monitor, report on and otherwise work closely with EEDA; and provide appropriate briefing and training to Assembly members'.³² The North West have established five new posts including a Senior Scrutiny Officer who will 'assist the Assembly's scrutiny role of the North West Development Agency and other public bodies in

websites with discussion boards, youth forums, and opinion polling.

Joint Working

Another theme of the Consultation Document is that of joint working. The North East, South West, North West and East Midlands all make explicit reference to collaborative or joint working with the RDA. As the Assemblies lack real effective remedy (i.e. they cannot enforce their will on the RDA or any other regional body) they must rely to some extent on influencing policy as it is made as well as scrutinising the effects of policy. The North West defines this approach as ‘about influencing rather than blaming’.³⁷ The South West states that they aim to “further develop a collaborative approach to the scrutiny process which ensures the Regional Assembly is fully engaged in the process of developing plans which meet national targets and region’s needs”.³⁸ The East Midlands show that they recognise that there are different kinds of scrutiny: “scrutiny should not solely be comprise an single end of year cross-examination of EMDA when it is too late to influence the outcome”.³⁹ This is also evident in the North East’s bid: “Scrutiny will be a positive activity and the output should be specific recommendations for change in policy, resource allocation, implementation, monitoring or organisational arrangements”.

Regional Economic Strategies

Each RDA produces a Regional Economic Strategy which outlines its plans for economic development within the region as a whole. In the West Midlands, the East of England and the East Midlands scrutinising the Regional Economic Strategy is clearly a central task of the various panels and committees which tackle the scrutiny agenda in the region. In the West Midlands the 'key scrutiny activity' consists of four panel hearings on a selected theme from each of the 4 pillars of the Regional Economic Strategy.

Although Regional Assemblies do not have to agree to the RDAs' strategies, there has been central government intervention in one case

Committees in the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly

Introduction

The creation of the three devolved national institutions—the Scottish Parliament, Northern Ireland Assembly, and National Assembly for Wales—represented a step-change in British constitutional politics. As Burrows says, in all three “it was anticipated that the bulk of the work... would be conducted through committees. It is in their operation that the devolved institutions are self-consciously ‘modern’”.⁴⁴ Committees in each institution are involved in policy making, reflecting the desire to make the new institutions inclusive, and legislative scrutiny (secondary legislation only in Wales) as well as the traditional scrutiny role that subject committees have in the Westminster Parliament.

The most movement in the operation of committees has taken place in Wales where there have been three periods of government: May 1999–October 2000, under a Labour minority government; October 2000–May 2003, with a Labour-Liberal Democrat coalition with a working majority; and May 2003 onwards, with a Labour majority. Under the minority government there were examples of the Subject Committees being able to frustrate the policy direction of the Executive. This was due both to the lack of an Executive majority and other parties’ discontent with Alun Michael’s style of leadership, which tended towards not releasing information early to subject committees.

Committee structures in Northern Ireland are subject to a number of special circumstances which make direct comparison difficult. The Assembly has only sat for some 50% of the duration of its first term, from 1998–2003. The remainder of the term has been lost to repeated suspensions of the institution. Secondly, the complex model through which the Northern Ireland executive is selected in order to represent

each party in proportion to its share of the seats in the Assembly. Thus the Cabinet contains representatives from four different parties. The precarious nature of the political settlement has meant that it is difficult to oppose or censure a Minister and as such, has affected the behaviour of committees.⁴⁵

Constitutional and Legislative framework

Northern Ireland

The Northern Ireland Assembly was shaped by the text of the Belfast Agreement (the Good Friday Agreement). This was a short document allowing for plenty of flexibility of interpretation. All of the structures of the Northern Ireland Assembly are overlaid with the need to prevent misuse of power or domination by one of the two ‘communities’; the committee system is covered by this provision. There are a number of joint-purpose committees which correspond to ministerial departments. These are referred to as ‘Statutory Committees’. The Belfast Agreement specified their functions in the following way:

*“The Committees will have a scrutiny, policy development and consultation role with respect to the Department with which each is associated, and will have a role in initiation of legislation.”*⁴⁶

The Standing Orders of the Assembly further emphasise the policy development role stating that Statutory Committees “advise and assist each Minister in the formulation of policy with respect to matters within his/her responsibilities as a minister”.⁴⁷

In order to carry out this work committees have been given powers to require any person to attend its proceedings for the purpose of giving

⁴⁴ Noreen Burrows, *Devolution*, Sweet and Maxwell, London, 2000, p46.

⁴⁵ This was written before the Northern Ireland elections of 26 November 2003.

⁴⁶ See <http://www.nio.gov.uk/issues/agreelinks/agreement.htm> : the text occurs in Strand One, section 9 of the Belfast Agreement.

⁴⁷ Standing Orders of the Northern Ireland Assembly, 46.1.

evidence, or to produce documents in his or her custody or under his or her control relating to any of the matters for which the Northern Ireland Assembly has control. Those who fail to attend proceedings or produce documents when required to by a committee can be fined or imprisoned.

Scotland

The subject committees of the Scottish Parliament are not statutory. The Parliament can choose to set up departmental committees, to give committees cross-cutting responsibilities, or both. A number of mandatory committees are referred to in the Standing Orders (see table 1), but these are distinct from the 'subject committees'.

The 'subject committees' have a wide formal remit, allowing them great scope within their particular area of public policy, but not obliging them to carry out a specified work programme or produce specific outputs. Their remit is described in the Parliament's Standing Orders as follows:

“Committees will conduct enquiries and carry out the following functions in relation to competent matters:

- *Consider and report on the policy and the administration of the Scottish Administration;*
-

Table 1: Committees in the devolved institutions

	Northern Ireland Assembly	National Assembly for Wales	Scottish Parliament
No. Members	108	60	129
No. Ministers (Deputy Ministers)	12 (10)	9 (5)	12 (10)
Size of Committees as specified by Standing Orders	11	7-11	5-15
Typical size of Committee 1998-2003	11	9	9/ 7
Typical party balance in committees	UUP: 2/3 SDLP: 2/3 SF: 2 DUP: 2/3 Others: 1/2	Lab: 4 PC: 3 Con: 1 LD: 1	Lab: 5/3 SNP: 3/2 Con: 1/ ½ LD: 1/ ½
List of 'subject' committees (2003-)		Culture, Welsh Language and Sport Economic Development and Transport Education and Lifelong Learning Environment, Planning and rdside	Communities Education Enterprise & Culture

List of 'subject' committees (1999-2003)

Agriculture & Rural Development	Agriculture & Rural Development	Education, Culture & Sport
Culture, Arts & Leisure	Culture	Enterprise and Lifelong Learning
Education	Economic Development	Health & Community Care
Employment & Learning	Education & Lifelong Learning	Justice 1
Enterprise, Trade & Investment	Environment, Planning & Transport	Justice 2
Environment	Health and Social Services	Local Government
Finance & Personnel	Local Government and Housing	Rural Development
Health, Social Services and Public Safety		Social Justice
		Transport & the Environment

List of other committees

Regional Development	Audit	Audit
Social Development	Business	Equal Opportunities
Audit	Equality of Opportunity	European
Business	European Affairs	Finance
Centre	Legislation	Procedures
Procedures	Standards of Conduct	Public Petitions
Public Accounts	Mid Wales (Regional Committee)	Standards
Standards and Privileges	North Wales (RC)	Subordinate Legislation
	South East Wales (RC)	
	South West Wales (RC)	

This table refers to the period 1999–2003 only (except the list of subject committees in the second session)

Chairs of subject committees are selected from a panel of Members elected by the Assembly so as to assure that, as far as is practicable, the balance of parties in the Assembly is reflected in the membership of the panel. The Business Minister then tables motions for the selection of chairs of particular subject committees following consultation in the Business Committee with the political groupings. There is provision in the Standing Orders for higher levels of salary to be made payable to Chairs of subject committees.

Attendance

Northern Ireland

The quorum of a committee in the Northern Ireland Assembly is 5. Attendance at committee meetings is varied. Paradoxically, one of the committees that has had the most trouble securing a quorum is the largest committee—the Committee of the Centre.

Scotland

The quorum for all individual committees and sub-committees is three (including the convener). In March 2002 a provision was made that substitute members could be admitted to committees in the event of members being ill or absent. The substitutes hold full voting rights. (This was an unusual development in relation to ‘traditional’ Westminster practice.)

Wales

The quorum of subject committees is laid down in the Standing Orders as either two Members or one-third of the number of its members, whichever is higher. A meeting of the committee will also be declared inquorate if, at the beginning of the meeting, the members present represent only one political group.

The Standing Orders also state that:

“If a Member fails to attend in person four consecutive meetings of a committee of which he or she is a member, and cannot

show good cause to the satisfaction of the Presiding Officer, he or she shall cease to be a member of that committee.”⁵⁵

Liaison Groups

In the Scottish Parliament there is a Convener’s Liaison Group which provides an informal forum where Committee conveners can meet to discuss matters such as the schedule of Committee meetings, endorsing and approving requests for Committee travel, research and civic participation, and consideration of working practices. The Presiding Officer convenes and chairs the meetings. Standing Orders state that the meetings should normally take place in private.⁵⁶ In the National Assembly for Wales, the equivalent body is the Panel of Chairs. This contains all the subject committee chairs. The panel is currently chaired by the Presiding Officer. In the first Assembly, the Deputy Presiding Officer was the chair.

Resources

Committee Staff

In all three institutions committees have one to three dedicated clerks who perform duties for the committee. Clerks would normally work with the committee chair to produce a work programme of the committee. The clerks will normally meet the chairs some time before a committee meeting to discuss the business of the committee and compose the agenda. They will also be involved with drawing up lists of potential witnesses, briefing members before evidence sessions, and producing drafts of the committee reports.

Specialist researchers

In all three bodies, the committees have access to specialist researchers within the research units of the body. The committees of the Scottish Parliament has access to researchers from the Scottish Parliament Information Centre (SPICe), and the National Assembly for Wales and the Northern Ireland Assembly both have equivalent

⁵⁴ The May 2003 election left Labour with 30 out of 60 seats in the National Assembly. Labour formed a single-party administration, abandoning their previous coalition partners, the Liberal Democrats. However, the subject committees now contain 5 Labour members and 5 from other parties, which promises interesting dynamics within the committees in the forthcoming session.

⁵⁵ Standing Orders of the National Assembly for Wales, 8.7.

⁵⁶ Standing Orders of the Scottish Parliament, Chapter 6A.

bodies. The Guidance of Operation of Committees of the Scottish Parliament states that “the Information Centre can provide both substantive advice and guidance as to the sources of further, more specialised advice, whether that be from commissioned research or from advisers appointed to the committee”.⁵⁷ This is precisely the kind of support that the committees in the Westminster Parliament have previously felt they are lacking, and that the new ‘Scrutiny Unit’ will provide.

Committee Advisers

Committees of all three bodies can appoint special advisers to assist them with their inquiries. This is done regularly although not for every inquiry. How special advisers are appointed varies from body to body. The Scottish Parliament Committees now have a page on their website where interested parties can register their interest in becoming a committee adviser, whereas in Wales positions are generally advertised individually in the press.

The use of reporters

In the Scottish Parliament, committees may consider the appointment of one or more of its members as reporters.⁵⁸ This concept originated within the European Parliament. One member of the committee is tasked with investigating and reporting back to the committee on a specific issue within a time limit as specified by the committee. Reporters are often used for topics where the committee as a whole feels it does not

Links between the committees with each body appear to be quite weak, with duplication occurring between committee work. For instance the Education and Lifelong Learning Committee and the Education Culture and Sport committee in the Scottish Parliament both did long inquiries into the Scottish Exam Results debacle in summer 2002.

The committees of the Scottish Parliament and the National Assembly for Wales published 'legacy reports' at the end of their first term which set out suggested topics for future committees to investigate, although they in no way bind future committees.

Legislative and Pre-legislative Scrutiny

The subject committees in all three institutions consider legislation (secondary legislation only in Wales). The reason for this can, in part, be identified as the desire to be different from Westminster, where legislation is considered by standing committees and not by departmental select committees. However, it is not clear that merging these roles has had the desired effect of "enabling Members to develop an expertise in particular areas and to bring an informed view to the consideration of legislation and scrutiny of the Executive".⁵⁹ Instead, in Scotland in particular, committees have been swamped by the demands of legislative and pre-legislative scrutiny to the extent that they have struggled to take control of their own agenda. As Peter Lynch states, in the first year of the Scottish Parliament "committee activity was often closely conditioned by the nature and pace of Executive legislation, the progress of MSPs' Bills and the amount of petitions and subordinate legislation which required attention."⁶⁰

Policy Development

The committees in all three bodies were envisaged as being more than the scrutiny bodies of the Westminster Parliament not only because they would scrutinise legislation, but they would contribute to policy development. Therefore committees of all three bodies carry

out long forward looking policy inquiries such as the Higher Education Policy Review in Wales and the Tourism Inquiry in Northern Ireland. This hybrid committee is described by Barry Jones as attempting to "combine the traditional role of the Commons Select Committees with the perceived advantage of local government committees which were presumed to encapsulate the principles of inclusivity in policy development".⁶¹

Ministerial scrutiny

In the National Assembly for Wales, all committees receive a regular monthly report from the Minister on their department's progress: discussion of this serves as a 'scrutiny period' in the committee meeting where the minister moves from their position at the committee table, to the witness table (nominally if not actually). However, this discussion is time limited as the agenda of the committee is often very full. The Agriculture and Rural Development Committee has noted that this session has developed with the life of the committee:

*"The Committee regularly scrutinised the Minister via a regular report to the Committee. Having initially been a relatively brief item of business at every other meeting, around an hour of every meeting is now dedicated to scrutiny of the Minister's report. With the Minister's agreement, the Committee has developed a system to allow Members to require specific items to be covered so allowing scrutiny of long-term and topical issues of importance."*⁶²

Procedure

Soliciting and taking evidence


For the most part, despite the desire to be 'different to Westminster' the committees have mostly used a traditional form of information gathering. The methods of soliciting written evidence vary depending on the purpose of the inquiry. For instance, the School of the Future Inquiry in the National Assembly for Wales

⁵⁹ Scottish Office, *Shaping Scotland's Parliament: The report of the Consultative Steering Group on the Scottish Parliament*, HMSO, 1999, p.4.

⁶⁰ Peter Lynch, *Scottish Government and Politics*, Edinburgh University Press, Edinburgh, p.70.

⁶¹ Barry Jones, "Driven by Events: the Agriculture and Rural Development Committee" in Barry Jones and John Osmond eds, *Inclusive Government and Party Management*, Institute of Welsh Affairs, 2001.

⁶² Agriculture and Rural Development Committee, *Annual Report and Summary of Activity During 2000–2003*.



solicited written evidence by writing to every individual school in Wales. In the Northern Ireland Assembly it is usual practice to place an advertisement in the press asking for submissions. This stems from the need to be seen to be consulting all sections of society.

Some committees, however, have tried different ways of taking evidence. Two noticeable examples include the inquiry into Tourism in Northern Ireland where two one day conferences were held to gather the views of as many stakeholders as possible and the Inquiry into the Need for a Children's Commissioner in Scotland where evidence was taken from young people in a variety of ways: focus groups, seminars,

work of the committee, they do contain insights into what has worked and what has not over the last four years.

Analysis by the Institute of Welsh Affairs (IWA) concludes that the subject committees were variable in their effectiveness during the first term. There is very limited evidence that the committees have departed to a significant extent from the 'Westminster model' and developed a more inclusive style of policy-making. That would depend on a level of inclusiveness from Welsh Ministers that has not, generally, been forthcoming.

The IWA makes some general observations that:

- Committees are at their most effective when the chair is from a different party from that of the Minister;
- The ongoing development of the 'parliamentary model' of executive/back-bench split in the Assembly will continue to influence the way in which the committees function;
- The practice of Ministerial 'monthly reports' has become commonplace: these often form the 'scrutiny section' of a committee meeting, where the Minister is scrutinised on their performance as set out in the reports;
- The degree to which committees are used to build cross-party consensus on policy, and to which the Welsh Assembly Government encourages an active dialogue and live relationship between the Minister and the committee, varies sharply between committees and depends closely on the character of the Minister and their relationship with the chair. In particular in the first term there was tension between Liberal Democrat ministers and their committees.

Scrutiny by Select Committees of the Westminster Parliament

Introduction

Select Committees in the House of Commons and the House of Lords are the main focus of non-partisan scrutiny and overview of Government policy and executive decisions. The current system of departmental select committees in the House of Commons was established in 1979 with the aim of altering the “whole balance of power between Westminster and Whitehall”.⁶⁵ Unlike the new Parliaments and Assemblies of the UK, the Westminster select committees do not fit into any ‘grand design’ of Parliamentary functioning, and are to a large extent still developing in their role. As they develop, the powers afforded to them and in their pattern of work changes also. Select committees often find themselves at the centre of proposals for strengthening Parliament.

The Westminster Parliament has two chambers, not one, from which to create committees. The House of Lords Select Committees are different to those in the House of Commons. They do not scrutinise departments, instead they focus either on cross-cutting issues or are appointed only for one parliamentary session to consider a significant topical issue.

It is a particular feature of the House of Lords scrutiny work that the European Union Committee, unlike the European Scrutiny Committee in the House of Commons and in other parliaments, operates through a series of policy based Sub-Committees which examine European proposals on their merits. Hence policy expertise in the Lords is focussed not on scrutiny government departments but on scrutiny of the EU, although that by definition involves the Lords in scrutiny of departments responsible for particular areas of EU policy. Lords scrutiny thus complements that of the Commons. Although this report does not examine European scrutiny as a function, the Lords Committee’s own “Review of Scrutiny” provides a definition of the purpose of scrutiny and also gives some useful parallels for other scrutiny work.

In general, many of the working practices of the Lords committees are similar to those of the Commons and so attention is only drawn here to some significant differences.

Parliament can also create joint committees of both Houses.

A History of Select Committees

There have been select committees in the House of Commons since the nineteenth century to report on specific issues of particular concern, but there was no sense that routine examination of policy and administration would improve government. In 1966 Richard Crossman, then Leader of the House of Commons, proposed a more systematic structure for committees. This was countered by traditionalists such as Enoch Powell and Michael Foot on the grounds that the committees would detract from the primacy of political debate in the Chamber. In the event Crossman’s reforms were relatively ineffective.

The Short review in 1976 recommended that a select committee be established for each government department. It recommended that each committee should be empowered to send for persons and papers, the Government should have to respond to committee reports within two months, expert advisers should be available to committees, some Parliamentary time should be set aside for debating the committees’ reports, and that appointments to committees should not be whipped. The review was largely acted upon by the incoming Conservative government in 1979 (although the aspiration to non-whipped appointments was not included). The committees were established by Standing Order, making their abolition difficult for any future executive.

Apart from these departmental select committees, there are also a number of ‘other’ select committees operating in the House of Commons which are listed in Table 2. The history of these committees differs somewhat from the departmental committees, most of them pre-dating the 1979 reforms.

⁶⁵ Norman St John Stevas, 25 June 1979.

Historically, committees in the House of Lords have been fewer than those in the Commons. In the 1960s, the addition of increasing numbers of life peers following the 1958 Life Peerages Act led to a greater number of working peers, making it easier to maintain the membership of committees. The nature of the House of Lords as a largely appointed more deliberative chamber means that the nature of its committee structures and the work committees do differs from that of the Commons.

Constitutional framework

The remit of the Departmental Select Committees is set out in the House of Commons Standing Order no. 152 which establishes them. Select Committees do not have the power to amend or reverse policy.

(1) "Select committees shall be appointed to examine the expenditure, administration and policy of the principal government departments as set out in paragraph (2) of this order and associated public bodies.

(2) The committees appointed under

Commons Chamber was the knock-on effects the earlier sittings would have on attendance at select committee meetings. However, as Robin Cook (then Leader of the House of Commons) stated in his opening speech, in practice the majority of Select Committees already met during the sitting hours of the chamber.

The work of select committees

Core tasks

Select committees are able to decide upon their own work programme. However, in May 2002 the House of Commons passed a resolution determining certain ‘core tasks’ for select committees to undertake. The ‘core tasks’ proposed in the motion on 14 May 2002 were compiled by the House of Commons Liaison Committee, which contains the chairs of all the selection committees in the Commons. The list defined the tasks of select committees in the following way:

“It shall be the duty, where appropriate, of each select committee:

- to consider major policy initiatives;*
- to consider the Government’s response to major emerging issues;*
- to propose changes where evidence persuades the Committee that present policy requires amendment;*
- to conduct pre-legislative scrutiny of draft bills;*
- to examine and report on main estimates, annual expenditure plans and annual resource accounts;*
- to monitor performance against targets in the public service agreements;*
- to take evidence from each Minister at least annually;*
- to consider the reports of Executive Agencies;*
- to consider, and if appropriate report on, major appointments by a Secretary of State of other senior ministers;*
- to examine treaties within their subject areas”*

The Liaison Committee had previously produced four categories of select committee activity as:⁷²

(i) seeking to influence government

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(clerks were free to tick more than one box as the work of select committees often crosses these boundaries). 20% of reports had covered only expenditure or administration. There had been little incentive to do complex work which was often 'media-unfriendly' and difficult to tackle with their current staff resources. The creation of the Scrutiny Unit is aimed to increase the capacity to do precisely this type of work.

Legislative and Pre-legislative scrutiny

Unlike the Scottish Parliament and the Northern Ireland Assembly, Westminster select committees do not consider legislation that comes out of their relevant department (except draft legislation). Instead, a new committee, a Standing Committee, is established separately for every piece of legislation.

Although pre-legislative scrutiny is within the list of functions of select committees, in practice it only makes up a very small part of a committee's workload. As it is the executive which decides whether or not to produce draft legislation, the executive controls this part of a committee's agenda. Although there have been movements to increase the number of draft bills introduced, most committees are yet to see their first piece of draft legislation. Legislation itself is not examined by departmental committees but by Standing Committees which are established for to single purpose of scrutinising a particular Bill.

the Committee through an informal process of reaching consensus. Any disagreements left after an informal process move on to the more formal process of taking votes on amendments. In the Commons, the chair has the casting vote if the votes are equally split.

Minority views

Committees do not necessarily publish minority reports. However, if votes are taken during the deliberative process, the outcome of these votes is recorded in the minutes of proceedings and published with the report.

The impact of reports

Debates in the Chamber on Select Committee reports

There are few opportunities to debate Commons Select Committee reports on the floor of the House of Commons. In the first 10 years of the Select Committees (since the St John Stevas reforms of 1979), only four of around 500 reports were debated. This increased to 29 reports between 1997 and 2000. The introduction of 'parallel debates' in Westminster Hall in 1999 has enabled far more reports to be debated, but normally these are very poorly attended. There are currently 30 opportunities a year for debates on committee reports (six on the floor of the House during annual estimates days and eleven in Westminster Hall). A committee which wants to follow up one of its reports with a debate applies to the Liaison Committee, which decides which reports should have priority. As the government holds a majority of committee chairs, it has a majority on the Liaison committee. Therefore the committee may not willingly allow reports to be debated which are particularly critical of the government or particularly controversial.

It is common for debates to take place on the floor of the Lords on committee reports. Grantham's 1989 survey of members suggested that they thought the impact of Lords select committee reports was strongest within the House itself.⁷⁵ Impact on the Government

compares with that of Commons select committees. There is little significant public impact of Lords select committees, though this is partly due to the fact that few of the committees are tasked with reporting on newsworthy or topical issues.

Government's replies to reports

The Government has to provide a response to select committee reports within 60 working days. A study carried out in 2001 which asked committee clerks to evaluate Government responses on various criteria, including whether or not the report was delivered on time and whether it engaged with the whole report or just the summary of conclusions. 17% of responses were felt to be less than satisfactory. However, the report notes that "the difference between the number of reports and the number of responses included in the analysis is largely a consequence of the fact that a number of reports did not receive a response".⁷⁶ The report also notes that although clerks may be satisfied with responses, chairs may not be. The Liaison Committee in 2000 stated that

- (who may make changes before questioned by the committee or in anticipation of a critical report;*
- (ii) select committee scrutiny makes it more likely that the options reflected when a decision is made become known and this may compel decision-makers to be more rigorous in their assessment;*
- (iii) the compilation of evidence by committees (and the opportunity their inquiries gives to critics of government policy and administration) encourages a more open discussion of policy options;*
- (iv) apparent parliamentary support may strengthen the case within government for one particular option (or make ministers more reluctant to disregard it); and*
- (v) the continuing interest of a committee in an issue over a period of years makes it harder for that point of view to be ignored.”⁷⁸*

The introduction in 2002 of a requirement for select committee to produce annual reports to the Liaison committee will produce a valuable source for the evaluation of the work of the departmental committees.

Criticisms of Select Committees and reform proposals

As noted in the introduction, since 1997 select committees have been at the centre of a number of proposals to strengthen Parliament against the Executive. A number of modernisation proposals have been suggested to tackle the deficits listed below.

The current main criticisms of Select Committees are can be summarised as:

- their resources are too few in terms of staff and finance;
- there is little co-ordination between committees and regulator, ombudsmen, auditors, MPs’ researchers, Commons librarians, and policy communities;

- the committees have poor collective memory, deriving from relatively high turnover in membership;
- the membership of committees should no longer be controlled by party whips;
- there is no job description for members and no mechanisms for training in the House.

The Scrutiny Unit, recently set up in the House of Commons, will begin to address the problems of understaffing. However, some of the problems are more complex to resolve. Preventing members from taking up positions on the front benches and thereby giving up their select committee role is close to impossible. The increased pay for committee chairs may eventually lead the committee life to be an alternative career path to that of ministerial office. However, with no reward for members of committees as well as chairs there is little for the role of junior minister to compete with.

The predominance of the whips in the process of choosing members and chairs of select committees is often criticised. A number of influential reports, both inside and outside Parliament, have proposed changing the system. The Liaison Committee has recommended the establishment of a select committee panel,⁷⁹ as did the Hansard Society Commission on Parliamentary Scrutiny.⁸⁰

The nominations committee as proposed by the Modernisation Committee in 2002 would have been chaired by the Chairman of the Ways and Means Committee and consist of senior members of all political parties. The Chair would:

“issue a standard form for parties to circulate inviting their Members to indicate the select committees on which they would be interested in serving. These forms would be returned to the political parties who in turn would submit proposals to the Committee of Nomination, based as far as possible on the preferences expressed by individual members.”⁸¹

The Committee of Nomination would have the power to amend those nominations if “it was

⁷⁸ Robert Blackburn and Andrew Kennon, *Griffith and Ryle on Parliament: Functions, Practice and Procedure*, second edition, p601.

⁷⁹ House of Commons Liaison Committee, *Shifting the Balance*, 2000, op. cit.

⁸⁰ Hansard Society, 2001, op. cit.

clear that a fundamental problem had arisen".⁸²
These proposals, however, failed to pass through Parliament.

Evaluation

As might be expected from institutions which

Conclusion

Scrutiny has become a growth industry since the election of the Labour government in 1997. However, it has done so in an unco-ordinated fashion. The word was barely used before 1997: words such as ‘accountability’ and ‘responsibility’ were used to describe the relationship between Government ministers and Parliamentary committees. The constitutional reform programme of the 1997 Labour government has been the more significant driver of the development of ‘scrutiny’. The devolved assemblies in Scotland, Wales and Northern Ireland, the Greater London Authority and Regional Chambers have all been established since 1997, and ‘scrutiny’ has played a central role in the Labour government’s programme of local government modernisation. There has been a sudden arrival of new governmental bodies in the UK, all of which need to develop relationships between those of their members with executive responsibilities and those without. Although these governmental bodies have widely differing powers and responsibilities, the need to keep their executives in check unites them.

As Parliament had been practising what is now called ‘scrutiny’ for some twenty years before the arrival of the devolved institutions, Regional Chambers, and the ‘conversion’ of local government into an executive and scrutiny mode, it might be expected that the practices of Parliament would be dominant in informing how these new and existing bodies made sense of their role. This has not been the case. Parliament has certainly been influential, particularly through ex-MPs who now sit in Scotland, Wales, and Northern Ireland. But the new institutions are displaying an increasing freedom of imagination in carrying out the scrutiny role. Local government received considerable amounts of guidance as to the form of scrutiny from the centre, but little obligation in terms of the content of scrutiny work—allowing wide variation between local authorities.

The framework of legislation has been a factor in developments within the new bodies. This is particularly true of the Regional Chambers, where the process described as ‘scrutiny’ would be ‘joint working’ or discussion in any other forum. Chambers have been obliged, by their lack of powers, to use this method to gain purchase on RDA policy, and through building

good relationships with RDAs have been able to influence their corporate plans. Local authorities are enjoying similar small successes with ‘external’ bodies through the power of health scrutiny.

Committee structures also exhibit more variation amongst the regional and local bodies than might be expected. In the House of Commons and the devolved institutions, there are sufficient resources to set up a committee to face each government department. Local government has, on the whole, opted not to do so, preferring to set up either cross-cutting committees or a single scrutiny committee which sets up task and finish groups to carry out enquiries. The London Assembly has set up committees which roughly cover the policy responsibilities of the GLA, which of course does not have departments and ministers in the manner of an assembly. Regional Chambers have set up committees investigating focused aspects of regional economic policy, and also occasionally on wider matters.

In all these political authorities the matter of resources is vital. House of Commons committees were, for many years, notoriously under-resourced. Recently, however, their staffing has increased considerably. Scottish Parliament and Northern Ireland Assembly committees are relatively well-resourced, and have automatic support from their respective library services (this is not the case for the House of Commons Library). Resources in the National Assembly for Wales were significantly increased in early 2003. The London Assembly’s committees are also well-resourced, and Regional Chambers frequently use their policy officers to provide information to scrutiny panels. Only in local government are resources still a significant problem for scrutiny, especially in district councils—districts often have only one FTE staff for committees generally, and are not able to segregate staff to carry out work on scrutiny alone. The use of resources also varies between layers of government: local and regional governments have only very rarely made use of special advisers in the manner of the House of Commons, for instance.

The nature of committee outputs is quite unusual in local and regional governments, compared

with national and devolved levels. Local authorities and regional chambers have far more of a corporate ethos: there is far less attempt to separate the executive and scrutiny roles within the officer structure. In some local authorities the scrutiny process is mainstreamed as an automatic stage in policy development. Councillors and officers from the two 'sides' mix and exchange information far more freely. This contrasts with Parliament and the devolved institutions, where the committee secretariat and executive departments, whilst in contact, keep their distance from one another—the flow of information is by no means automatic. Similarly, at local and regional levels committee outputs do not necessarily take the form of formal reports. Short commentaries are sometimes produced, but outputs, on some occasions, are simply fed back into the authority through meetings and joint seminars.

The process of scrutiny will be investigated in greater detail through the other outputs of the Constitution Unit's research. We will examine the

Appendix 1: other forms of scrutiny

This appendix lists some of the other forms that ‘scrutiny’ takes and has taken in political life in the UK. These are included here to demonstrate that scrutiny and accountability, in their widest sense, do not merely take place in committee meetings, but take place in many different ways.

Questions

Oral and written questions to ministers are perhaps the oldest form of scrutiny available in Westminster. They were central to obtaining information from ministers throughout much of the 20th century, though their significance has declined comparatively since the introduction of select committees. Oral and written questions cannot oblige Ministers to give answers. Sometimes answers will not be given on the grounds of national security or confidentiality; more often, responses which do not address the questions asked, or omit important information, will be given. Some recent parliamentary ‘scandals’, such as the arms-to-Iraq affair which led to the Scott Inquiry in 1994–95, and parliamentary questions leading to the Belgrano trial in 1985, began with misleading answers to parliamentary questions. However, the ability to ask questions can in itself reveal information which Ministers would rather not reveal: it is a forensic process.

Question times have been less remarked upon in the devolved assemblies, due to the strength of their committees to make and debate policy and to the time spent in committee (much greater than in Westminster). However, they remain important forums of debate, and written questions remain a useful means to information—particularly on members’ constituency issues. The monthly questionings of the Mayor by the Assembly within the Greater London Authority play a similar role: allowing members to challenge the Mayor on individual decisions and constituency issues. However, in local authorities, there is no tradition of individual questions to executive members (who have been in existence only for a few years). Most of the events of plenary are determined beforehand in pre-meetings. The same is largely true of Regional Chambers; although individual questions are permitted, time is very limited, as only 3–4 single-day plenary meetings per annum take place.

Plenary

Committees are just one part of any legislature or

hold Government to account for its actions—are today duplicated and reinforced by the media. Media ‘scrutiny’, however, is rarely detailed or constructive. It may force the release of information that governments do not want released, but the nature of most broadcast and written media is such that the scrutiny they offer rarely matches detailed scrutiny by democratic institutions.

The media plays an important role in bringing the results of democratic scrutiny to public attention. Historically, links between Parliamentary committees and the media have been poor: the House of Commons currently employs one press officer between all its select committees. The Greater London Authority appointed a head of press for the London Assembly some two years after its establishment. And many local authorities, particularly in large urban areas, find that there is no dedicated newspaper or media outlet interested in covering issues in their geographical boundary. In the absence of at least some information being easily available to the public, the impact of scrutiny and democratic accountability is reduced.

Legal accountability and judicial review

Accountability of executive actors through litigation and the courts has increased significantly in recent years with the dramatic increase in actions for judicial review. A further source of increased judicial activism has been the incorporation of the European Convention of Human Rights into UK law (Human Rights Act

Parliament's Code of Conduct can result in a range of penalties, hence the scrutiny of the actions of those in a position of power can be more effectively scrutinised by someone of independent standing.

Part III of the Local Government Act 2000 introduced a new ethical framework for local government. This provides that all relevant authorities should adopt a code of conduct based on a model code issued by the then Department for Transport, Local Government and the Regions. Failure to provide a written undertaking pledging to observe the authority's code would result in the individual ceasing to be a member or co-opted member of that authority. The model code of conduct includes clauses on the declaration of personal interests, the registration of financial interests, as well as an obligation to promote equality, and not to bring the authority into disrepute.

Ministerial behaviour is also governed by the Ministerial Code (formerly known as Questions of Procedure for Ministers). Again, this is not legally binding—it is a code not a law. Although it is therefore limited in being a tool of scrutiny itself, it does set down principles of ministerial accountability to Parliament, trying to ensure ministerial responsibility to Parliament. For instance, section 27 reads that “When Parliament is in session, Ministers will want to bear in mind the desire of Parliament that the most important announcements of Government policy should be made, in the first instance, in Parliament.” Although there is no way of ensuring the Code really is followed it does contain standards against which ministers' behaviour can be judged, and those standards include paying due deference to Parliament. For instance, in January 2003 Education Secretary Charles Clarke was rebuked by the Speaker of the House for giving too much information away about the Higher Education Funding Green Paper to media interviews before it was placed before the House and members had had a chance to question him over it.

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However, the Freedom of Information Act has been much criticised for the number and scope of its exemptions. Exempt material includes: commercial interests, the economy, and the formulation of government policy. Most of the exemptions are subject to a public interest test. Any requester denied information may appeal.

Financial Scrutiny and Audit

Financial scrutiny, ensuring that public funds are being used effectively, efficiently, and in accordance with policy, is carried out by professional auditors. All the audit bodies except the National Audit Office employ auditors either from the private sector or from arms-length audit bodies (i.e. District Audit). However, it is also possible for an individual to access the accounts of a public body. If you are entitled to vote in local council elections by law, you are entitled to inspect your council's accounts and ask questions about, or challenge them. The different Parliaments and Assemblies of the UK receive reports from the various audit bodies, and have audit committees which investigate aspects of the public accounts.

The National Audit Office audits all the central government departments and over half of the non-Departmental Public Bodies. It is headed by the Comptroller and Auditor General who is an Officer of Parliament. All of the NAO's main work is presented to Parliament by order of the House of Commons. Each year about 45 reports are investigated further by the Committee of Public Accounts.

The Audit Commission is the body responsible for auditing local authorities, police, fire and health bodies in England and Wales. The Audit Commission also audits the Greater London Authority and its functional bodies. The Audit Commission is a non-departmental public body sponsored by the Office of the Deputy Prime Minister with the Department of Health and the National Assembly for Wales. The Audit Commission is itself audited by the National Audit Office. Auditors are appointed either from District Audit, an arm's length agency of the Commission, or a private sector accountancy firm.

Apart from auditing of accounts, these audit bodies carry out 'value for money' audits, comparing performance and identifying and promoting good practice. This has been a recent

extension of the scrutiny powers of the auditors. They also collect and publish performance information on council, police and fire services, to enable monitoring and comparison of service performance, and carry out inspections of local services to assess their quality and cost effectiveness. In preparation for comprehensive performance assessment they compile local authority corporate assessments, combining performance information data, audit, inspection and other service assessments.

The devolved bodies also have their own audit bodies—the Auditor General for Wales audits the accounts of the National Assembly and its sponsored bodies and is also empowered to investigate whether value for money has been achieved. The Northern Ireland Audit Office and Comptroller and Auditor General do the same for the Northern Ireland Assembly, and Audit Scotland and the Auditor General for the Scottish Parliament. Functions in the devolved nations which are reserved, are still audited by the National Audit Office.

In their report on the Government Resources and Accounts Bill (9th Report 1999–2000 HC159) the Committee of Public Accounts expresses concern at the number of non-departmental public bodies which have funds voted on by Parliament whose finances were audited by auditors appointed by, and reporting to, Ministers, rather than Parliament's own officer—the Comptroller and Auditor General. The Review of Audit and Accountability (under Lord Sharman) was established to examine current audit and accountability arrangements for central government and reported in February 2001. Amongst its recommendations was a suggestion that the C&AG should be appointed as the auditor of all NDPBs. The bulk of Sharman's recommendations were accepted. Most noticeable amongst the recommendations which were rejected were those to extend the power of the C&AG to scrutinise the civil list and parliamentary scrutiny of BBC funding.

Participation

Scrutiny can also be achieved by letting the public participate and interact with decision-makers to influence policy decisions. Focus groups, opinion polls, citizens juries and consultations all increase participation and scrutiny by the general public and are used by all levels of government to one extent or another.

The Government has been experimenting with e-consultations, making it easier for the public to get involved. In the Greater London Authority, one innovation in scrutiny has been 'People's Question Time'. Question Time happens twice a year and gives Londoners the chance to ask the Mayor and the London Assembly about their plans, priorities and policies for London. There will also be a Mayor's Question Time for schools and colleges which has been organised in partnership with the Institute for Citizenship. Unelected Regional Chambers have a number of members who represent 'Social and Economic Partners', thereby widening the basis of accountability out into interested social groups.



Appendix 2: Glossary of acronyms

Acronym	Term
C&AG	Comptroller & Auditor General
DETR	Department of Environment, Transport and the Regions
EEDA	East of England Development Agency
EERA	East of England Regional Assembly
EMDA	East Midlands Development Agency
FOI	Freedom of Information
GLA	Greater London Authority
MSP	Member of the Scottish Parliament
NAO	National Audit Office
NDPB	Non-Departmental Public Body
RDA	Regional Development Agency
SEEDA	South-East England Development Agency
SEP	Social and Economic Partner
SOLA	Structure and Organisation of the London Assembly



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