Introduction

The Scottish Churches Parliamentary Office (SCPO) has undertaken Parliamentary monitoring and engaged with a number of pieces of legislation passing through the Scottish Parliament in recent years. This submission presents the reflections of SCPO staff in relation to work primarily undertaken on the following pieces of legislation:

- Offensive Behaviour at Football and Threatening Communication (Scotland) Bill; work on behalf of the Church of Scotland
- End of Life Assistance (Scotland) Bill; work on behalf of the Church of Scotland, The Salvation Army, the Methodist Church in Scotland
- Criminal Justice and Licensing (Scotland) Act 2010; work on behalf of the Church of Scotland and Joint Faiths Advisory Board on Criminal Justice
- Alcohol (Scotland) Act 2010; work on behalf of the Church of Scotland
- Climate Change (Scotland) Act 2009; work on behalf of the Church of Scotland and Eco-Congregation Scotland

Phase Two

The SCPO would suggest that the Committee should include two additional areas in the inquiry:

- That where procedures exist for public consultation and participation those procedures are applied vigorously and are not sacrificed for political ends.
- Committees should retain the capacity to undertake inquiries that are broader than immediate scrutiny of legislation.

From the list included in the consultation paper SCPO would suggest prioritising the following issues during phase two of the enquiry:

- There should be appropriate checks and balances to ensure that the Parliament can hold the Scottish Government to account.
- Increasing the visibility of the work of the Parliament to communities.
- Increasing scrutiny of legislation after it has passed.
SCPO would be pleased to discuss these reflections further with the Committee on 22 November 2011.

1. Where procedures exist for public consultation and participation those procedures are applied vigorously and are not sacrificed for political ends

The founding principles of the Scottish Parliament include openness, accountability, sharing of power and equal opportunities. The processes for public consultation during the early stages of legislative scrutiny are designed to live out these principles. The process of providing a three month public consultation period, in which any organization or individual can participate; the thoughtful reflection, analysis and reporting of those contributions and timely requests for respondents to provide oral evidence to Committees is an outstanding feature of the Scottish Parliamentary process. SCPO’s experience of this process in relation to the End of Life Assistance (Scotland) Bill was entirely positive. However, recent experiences in relation to the Offensive Behaviour at Football and Threatening Communication (Scotland) Bill have caused concern that this process is being undermined by the Scottish Government and that not all MSPs understood and accepted the reasons for the existing process.

When discussing the End of Life Assistance (Scotland) Bill the timescale for making an initial submission enabled denominations with similar interests to communicate with each other and agree a joint submission. For many third sector organisations participation in formal Parliamentary processes requires working with busy practitioners who are not solely employed in policy roles and approval processes involving volunteers. The three month timescale allows this to happen and therefore allows organizations with a wealth of practical experience to formulate and communicate that experience to the Parliament. The drastic shortening of this process in relation to the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill made this engagement with practitioners impossible to conduct thoroughly. Even after the Government accepted the need to extend the public consultation the extended period was still closer to two months than the usual three and took place across the summer holiday period when it was hard for those who wished to participate to do so.

For a Committee to understand the implications of proposed legislation it is important for them to hear from a range of people some of whom will be experts in law or fulfill particular roles e.g. the police. However, it is also important for the Committee to hear from people who will be affected by the decisions being made. SCPO would encourage Committees to make space in their schedules to enable community based organizations, including churches, to include people experiencing the issues under discussion when presenting oral evidence. Once again in relation to the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill the invitations to present oral evidence were at such short notice it was impossible to arrange and support the involvement of practitioners in community projects. In fact, the pressure involved in this particular process meant that is highly unlikely that anyone
other than professional policy officers who were able to other work and focus exclusively on this issue would be able to participate. There are positive examples of Committees inclusion of communities affected in their legislative scrutiny e.g. in relation to Alcohol (Scotland) Act 2010. It is appreciated when Committees enable this level of participation.

Stages 2 and 3 of the normal process for scrutiny of a Bill are less open to participation by organisations with limited capacity for specialised policy work than Stage 1. This is because the timescales are routinely very short. It would be preferable for longer notice periods to be given regarding the tabling and consideration of amendments.

SCPO commends the unique work and achievements of the Public Petitions Committee, which has been a way for real concerns to be expressed on a non-partisan way and for Parliament as a whole to engage in the issues that have been raised.

2. Committees should retain the capacity to undertake inquiries that are broader than immediate scrutiny of legislation

In recent years there have been a number of inquiries carried out by Committees which are broader than the immediate scrutiny of legislation e.g.

- Finance Committee Inquiry on Preventative Spending
- Equal Opportunities Committee separate Inquiries into Migration and Trafficking; and Female offenders in the criminal justice system

This capacity to explore specific issues and lay the groundwork for more substantial changes such as the focus on preventative spending in the 2011 Spending Review is valuable and it is hoped that the present inquiry into the reform of Parliamentary business recognizes and supports the beneficial aspects of the current system.

3. There should be appropriate checks and balances to ensure that the Parliament can hold the Scottish Government to account

The mechanisms for Parliament holding the Government to account rely on MSPs and Committees asking questions and Ministers answering questions. When answers, particularly to written questions, are poor there is little recourse for MSPs to enter into dialogue. It would seem to SCPO that there is a difference between an answer which is disagreed with and an answer which fails to address the terms of the question. It is necessary for there to be a procedure for MSPs to highlight inadequate answers.

4. Increasing the visibility of the work of the Parliament to communities

Part of the remit of SCPO is to communicate to members of congregations about the work of the Parliament. This is done by producing newsletters which include an interview with a politician (sometimes an MSP, sometimes a
Scottish MP); by visiting church groups and by offering guidance and support to church groups that want to get more involved. A common question from people attending workshops and events is “does the Parliament want to hear from churches?” – In the experience of SCPO the Parliament is always open to hearing from churches, as it is from other community based organisations. However, this message is often lost at local level.

The work of the Parliament could be enhanced by increasing the time devoted to issues are of longer term significance to the nation but which have less immediate political impact, for example how to encourage and support innovation in science and technology.

5. Increasing scrutiny of legislation after it has passed

SCPO and Eco-Congregation Scotland successfully sought to amend the Climate Change (Scotland) Act 2009 to include a public engagement strategy. This amendment received significant support from MSPs however the responsibility for designing and delivering the strategy rests with the Scottish Government. It would be desirable for the Parliament to be able to review whether the development and implementation of the strategy have been successful and to include in this process representation from outside bodies including churches.

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