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Standards, Procedures and Public Appointments Committee

1. The remit of the Standards, Procedures and Public Appointments Committee is to consider and report on—
   a. the practice and procedures of the Parliament in relation to its business;
   b. whether a member’s conduct is in accordance with these Rules and any Code of Conduct for members, matters relating to members interests, and any other matters relating to the conduct of members in carrying out their Parliamentary duties;
   c. the adoption, amendment and application of any Code of Conduct for members; and
   d. matters relating to public appointments in Scotland.

2. Where the Committee considers it appropriate, it may by motion recommend that a member’s rights and privileges be withdrawn to such extent and for such period as are specified in the motion.
Committee Membership

Convener
Stewart Stevenson
Scottish National Party

Deputy Convener
Margaret McDougall
Scottish Labour

George Adam
Scottish National Party

Cameron Buchanan
Scottish Conservative and Unionist Party

Patricia Ferguson
Scottish Labour

Gil Paterson
Scottish National Party

Dave Thompson
Scottish National Party
Executive Summary

The Presiding Officer asked the Standards, Procedures and Public Appointments Committee to consider the case for committee conveners to be elected by the whole Parliament. The move to elected chairs in the House of Commons – the only Parliament to have made this change – seems to have enhanced the status and authority of committees.

However the Committee is not convinced that the same benefits would be achieved at this time in the Scottish Parliament without there being a consideration of the broader committee structure and practice.

The Committee therefore proposes to undertake an inquiry into the operation of committees. We will publish conclusions by Christmas 2015 so that the Parliament can decide, before the end of the Parliamentary session in March 2016, what changes are needed.
Introduction

1. In October 2014, the Presiding Officer wrote to the Standards, Procedures and Public Appointments Committee (“the Committee”) asking us to consider whether committee conveners should be elected by the whole Parliament. She told us that her overall aim was “to ensure the Parliament and its committees were more relevant, more topical and more in touch with the wider public and civic Scotland”.

2. Throughout this parliamentary session the Presiding Officer has worked with the Committee, the Conveners Group and the Parliamentary Bureau to overhaul and strengthen the Parliament's procedures. We agreed with her that the idea of electing conveners was worth considering as a further step in this programme of reform.

3. The Committee considered 11 written submissions, the majority of them from MSPs, and heard evidence at three committee meetings.

Experience elsewhere

4. At present in the Scottish Parliament the Parliamentary Bureau proposes to the Parliament which party the convener of a committee should be drawn from, taking account of the balance of political parties in the Parliament. The convener is then chosen from among its members by the committee. It would be possible - in principle - for more than one candidate to be nominated (at least where a party has more than one member on the committee). But in practice to date a single candidate has always been nominated and agreed by the committee without a vote.

5. We wondered what experience of elected committee chairs there was in other legislatures. It appears that in most places chairs are selected by the committee itself in a similar way to the Scottish Parliament. The one exception is the House of Commons which introduced Parliament-wide elections for committee chairs in 2010.

6. The Committee accepts that for the House of Commons this appears to have been a valuable change and we wanted to hear about how it had affected committees there. We noted, though, that the House of Commons is a very different institution in size and history from the Scottish Parliament. It has a different committee structure and in particular, as Sir Alan Beith pointed out, House of Commons select committees do not have a legislative role. We cannot therefore assume that the same benefits would be delivered if we made this change in the Scottish Parliament.
7. The starting point for change in the House of Commons was a three year research programme by the Nuffield Foundation on the governance of Parliament. One of its recommendations, which was implemented in 2009, was to establish a Select Committee on Reform of the House of Commons. That committee recommended a number of changes to give parliamentary scrutiny greater authority and hold the government to account more effectively. Among these were proposals for the whole of the House of Commons to elect committee chairs and also for the members of select committees to be elected by their parties.

8. We heard from Sir Alan Beith, former chair of the Liaison Committee of committee chairs in the House of Commons, that it was generally accepted that the election of chairs there had had important and positive impacts.

- The election of chairs of committees in the House of Commons has significantly enhanced the authority of the chairs and of the committees, and has added to a number of things that have caused ministers, civil servants and outside bodies to take committees more seriously than ever before.  

- It is quite clear that the person who is holding the chair does not hold it because they have been given that opportunity by the Executive and the whips system. It is also clear that that person has had to assemble the support of a range of members of Parliament in order to secure the mandate to achieve and, perhaps, keep the position. That is quite clearly strengthening to the independence of the committees.

9. Dr Hannah White from the Institute of Government, who has researched the impact of elected committee chairs in the House of Commons, took a similar view.

- ...there has been a definite impact on the way in which select committee chairs view themselves and the legitimacy and credibility that they feel they have, having been elected by their peers. In the sense that there is a direct line of accountability – in other words, the people elect the Parliament and then the Parliament is responsible for electing those who will scrutinise the executive in the legislature – one can argue that it enhances the situation.

10. Sir Alan also pointed to a higher profile for committee chairs among organisations in the field, including invitations to address conferences and attend meetings on behalf of the committee; and a reduction in the scope for the Executive to use the committee system as a method of rewarding or threatening members.

11. Dr White commented in addition on the impact of the changes in giving committees and chairs a base from which to “do more and to do things differently” and to demand more resources and support to achieve that.

12. It is still relatively early days for the House of Commons, and it may be difficult to separate the impact of this change from other reforms introduced at the same time. Professor James Mitchell sounded a note of caution.
...the evidence base for this measure is relatively weak. That is not to say that there is not a strong case to be made for it, but it has not been tried out very often.  

Issues for the Scottish Parliament

13. The Presiding Officer set out for us in her letter the benefits that she expected would flow from the election of conveners: enhanced sharing of power, enhanced scrutiny and enhanced accountability.

Being elected would provide additional status and authority to these influential parliamentarians. This would support conveners in their scrutiny role and would set a confident example for other committee members seeking to become more prominent. All of this would contribute to enhancing the impact and profile of our committees.

14. Several people shared her view about the potential of these changes. Murdo Fraser MSP talked about giving conveners “a level of authority which currently does not exist”. Bruce Crawford MSP suggested that it would “bring a transparency to the process of who becomes a Convener”. David Stewart MSP concluded that:

A growing, dynamic Parliament with new powers and responsibilities deserve a new breed of independent, single-minded and committee oriented conveners enhanced with new democratic authority from Parliament as a whole.

15. Others concluded that, even if the full range of benefits was not delivered, or not immediately, the change was at the very least unlikely to be negative.

...the first time it happens, the result may not look very different from how it might have looked if it had been done just as the system is now, but at least it creates the conditions in which a different result is possible, whereas, under the existing system, a different result is never possible. (Dr Hannah White)

If the worst criticism of having elected conveners is that their election could be influenced by the whips, it is no worse than the present situation... (Michael Russell MSP)

16. However, much of the evidence concluded that, on its own, electing conveners would change little or nothing. So although we did take evidence on how the process might work in practice, we are not making recommendations in this report about specific procedures. We do note that in the House of Commons, election of committee members was introduced at the same time as election of conveners and this is one of the questions the Parliament would need to consider.
17. There are though much wider issues for committees.

18. The Presiding Officer, when she referred this issue to us, made clear that it was only one strand in a continuing programme of reform to strengthen committees. We see that, in the House of Commons, the introduction of elected chairs came at the end of several years of debate and in depth consideration. Though the Committee began with very specific questions about the case for elected conveners, we found that most people could not answer these questions without looking beyond them.

19. Issues of resourcing, structure and capacity came up several times. So did questions about the balance of power between political parties, the Parliament and the government.

...it is well worth looking at reform overall and considering the relationship between the chamber and committees, the number of committees and the subjects that are considered. (Professor James Mitchell)

...the Parliament will have more to do in a way that has yet to be entirely determined. For example, it will have particularly complex fiscal and welfare policy matters to add to its list of tasks. That puts into perspective the capacity point that has been made and suggests the need to go beyond thinking about conveners...and to think in a much more systematic way about how the Parliament remains fit for purpose as it moves forward. (Professor Charlie Jeffery)

Committees are at their best when they act in the interests of the Parliament and of the public rather than in the interests of parties and if necessary, the rules of the Parliament should be changed to ensure this happens more often. (Scottish Conservatives)

20. Suggestions for change were touched on:

- We need to resource committees better and we need to reduce the number of committees (Michael Russell MSP)
- ...there are issues about the number of committees that we have and the size they should be in order to be effective and robust (Hugh Henry MSP)
- ...this is only one aspect of the parliamentary architecture that requires reform. There are others; the size and numbers of committees, the failure by and large to carry out post-legislative scrutiny, the difficulties on keeping the executive in check with majority Government, the lack of a revising chamber post Smith Commission, and the work-overload experienced by key committees such as the Justice (and the lack of, as in Westminster, of a backbencher business committee). (David Stewart MSP)
Standards, Procedures and Public Appointments Committee
Elected Conveners, 6th Report, 2015 (Session 4)

21. The question of the overall number of MSPs was also raised but we do not propose to look at this further now since it can more appropriately be considered following the devolution of powers proposed in the Scotland Bill in relation to elections and membership of the Parliament.

22. We agree that the Parliament needs to be confident going in to the next session that it has the right structure, size and number of committees, with the right resources and the most effective working practices. However we found differing views about where elected conveners fit in to this.

Finding the right starting point

23. For the Presiding Officer, and for some of those we heard from, elected conveners are the right starting point for wider reform.

- The Parliament has been pretty good at looking at itself periodically. It would be good if there were a major review, in which the Parliament asks itself how it should go forward ... but elected conveners would be a catalyst. It would be a good base on which to look at the broader questions. (Professor James Mitchell)\(^{20}\)

- The committee system and the way in which the Parliament functions need to be reviewed and reorganised to put the committee system back at the heart of the process...The question is where you start and how you get it moving. If you reject the suggestion on elected conveners, you are still casting around for the first step. (Michael Russell MSP)\(^{21}\)

- In my view it is a mistake to do nothing on the basis that you cannot do everything. The journey of a thousand miles starts with the first step. (David Stewart MSP)\(^{22}\)

24. Others said that it was necessary to look at other changes first; elected conveners at this stage would not work as intended.

- There is a case for continuing with the current arrangements for electing Convenors and at this point the Group is not persuaded of the need for a change...The Group acknowledges that there are wider issues of how to get the best out of the committee system and improve scrutiny of government policy on subject areas. (James Kelly MSP on behalf of the Scottish Labour Party Parliamentary Group)\(^{23}\)

- Until we have established a tradition of independent minded backbenchers who are not willing to do the bidding of the party whip, then the current position is the best one for ensuring the Government of the day is held to account. (Hugh Henry MSP)\(^{24}\)
Conclusions

25. It is possible - even likely - that at some stage the Scottish Parliament will introduce elected conveners. Even those opposed to the change at the moment could see the advantages under different circumstances. The question for the Committee became: is this the right first step or are there bigger issues to deal with first?

26. We recognise that the best time to make significant procedural changes is at the start of a new session but the hectic early weeks after a general election do not allow time for measured consideration. That means there needs to be discussion and broad agreement on the next steps before the end of the current session.

27. Therefore the Committee proposes that, at this stage, the Parliament should set aside the proposal for elected conveners. Instead there should be a focused and practical discussion about the steps needed to strengthen committees’ ability to scrutinise legislation and policy and hold the government to account.

28. The Presiding Officer’s speech to the David Hume Institute called for a debate around further reform.

   I truly hope we will make further changes in good time for the next Parliamentary session and that these can pave the way for a future reform agenda to help us manage the additional powers which will follow in the years thereafter.25

29. The Presiding Officer has begun this debate; as a cross-party committee of experienced members we are well placed to assist the Parliament in taking it to a conclusion.

   We therefore propose over the next six months to undertake an inquiry into the operation of committees. We will report by Christmas 2015 so that the Parliament can decide before the end of the session in March 2016 what changes it needs to make.

30. We do not rule out returning to the issue of elected conveners during the inquiry but we are clear that there are other questions to look at first. We look forward to debating those issues further with parliamentary colleagues and others with an interest in an engaged, effective Parliament which is true to its founding principles.
1 Letter from the Presiding Officer to the Standards, Procedures and Public Appointments Committee, 31 October 2014
2 Standards, Procedures and Public Appointments Committee written and oral evidence
9 Letter from the Presiding Officer to the Standards, Procedures and Public Appointments Committee, 31 October 2014
10 Murdo Fraser MSP. Written submission.
11 Bruce Crawford MSP. Written submission.
16 Scottish Conservatives, Written submission.
19 David Stewart MSP. Written submission.
22 David Stewart MSP. Written submission.
24 Hugh Henry MSP. Written submission.
25 Presiding Officer speech to the David Hume Institute.
Annexe A

Extracts from the minutes of the Standards, Procedures and Public Appointments Committee and associated written and supplementary evidence

13th Meeting, 2014 (Session 4), Thursday 6 November 2014

Work programme (in private): The Committee considered its work programme and agreed to consider a paper on Members’ business debates and planning matters at a future meeting and to consider an approach paper for its inquiry into Elected Committee Conveners in private at a future meeting.

14th Meeting, 2014 (Session 4), Thursday 20 November 2014

Elected Conveners (in private): The Committee agreed its approach to the inquiry.

1st Meeting, 2015 (Session 4), Thursday 15 January 2015

Decision on taking business in private: The Committee agreed that its consideration of its work programme and the written evidence received on its inquiry into elected conveners should be taken in private at future meetings.

4th Meeting, 2015 (Session 4) Thursday 26 February 2015

Inquiry into the election of Committee Conveners (in private): The Committee considered written evidence and agreed the next steps on its inquiry.
6th Meeting, 2015 (Session 4), Thursday 26 March 2015

2. **Decision on taking business in private:** The Committee agreed to take future consideration of the report from the Commissioner, and its own draft report on the complaint, in private at a future meeting. The Committee also agreed, in relation to its inquiry into the election of Committee Conveners, that its consideration of oral evidence heard at future meetings (and at agenda item 6) issues for a draft report and a draft report should be taken in private at future meetings.

4. **Inquiry into the election of Committee Conveners:** The Committee took evidence from—

Dr Hannah White, Institute for Government, Programme Director; Professor Charlie Jeffery, Senior Vice Principal, and Professor James Mitchell, Co-Director, Academy of Government, University of Edinburgh.

6. **Inquiry into the election of Committee Conveners (in private):** The Committee considered the evidence heard earlier in the meeting.

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**Written evidence**

[Professor Charlie Jeffery, Senior Vice Principal, and Professor James Mitchell, Co-Director, Academy of Government, University of Edinburgh](#)

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8th Meeting, 2015 (Session 4), Thursday 23 April 2015

1. **Inquiry into the election of Committee Conveners:** The Committee took evidence from—

Sir Alan Beith, Former Chair of the Justice and Liaison Committees, House of Commons.

2. **Inquiry into the election of Committee Conveners (in private):** The Committee considered the evidence heard earlier in the meeting.
### 9th Meeting, 2015 (Session 4), Thursday 21 May 2015

2. **Inquiry into the election of Committee Conveners:** The Committee took evidence from—

   Hugh Henry;
   Michael Russell.

6. **Inquiry into the election of Committee Conveners (in private):** The Committee considered the evidence heard earlier in the meeting.

**Written evidence**

- Hugh Henry MSP

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### 10th Meeting, 2015 (Session 4), Thursday 4 June 2015

**Inquiry into the election of Committee Conveners (in private):** The Committee agreed issues for a draft report.

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### 11th Meeting, 2015 (Session 4), Thursday 18 June 2015

**Inquiry into the election of Committee Conveners (in private):** The Committee considered a draft report and agreed to finalise by correspondence.
Annexe B

List of other written evidence

- Malcolm Chisholm MSP (5KB pdf)
- Bruce Crawford MSP (7KB pdf)
- Murdo Fraser MSP (68KB pdf)
- Ally Gowans (122KB pdf)
- James Kelly MSP (60KB pdf)
- Josh MacRae (135KB pdf)
- University of Cardiff (328KB pdf)
- Graeme Pearson MSP (6KB pdf)
- Scottish Conservatives (60KB pdf)
- David Stewart MSP (76KB pdf)