

**Letter from the Convener of the Net Zero, Energy and Transport Committee
to the Convener of the Standards, Procedures and Public
Appointments Committee
16 April 2024**

I am writing further to my letter of 28 June 2023. I apologise for the delay in following up, for the reason set out below.

In your letter of 6 February 2023, which followed correspondence between the Conveners Group and the SPPA Committee, you asked the NZET Committee to consider the quality of information on sustainable development provided in Policy Memorandums accompanying Scottish Parliament Bills. You asked whether the level and type of information currently provided inhibits scrutiny of the net zero implications of legislation, measured against key Scottish Government policy commitments and if so, what type of information should be provided.

As I noted in my last letter, the NZET Committee welcomes the Conveners Group making climate change a strategic priority in this session and agrees that considering whether Standing Orders could play a role in strengthening net zero scrutiny is an important strand of this work. I also noted that we had agreed to use the Circular Economy (Scotland) Bill as a test case, and to provide a more substantive reply once Stage 1 was completed. I added that, to complement this work, and ensure a broader base of analysis, clerks and SPICe would undertake desk-based research, considering the quality of information on net zero being provided in Policy Memorandums, by reference to five Scottish Government Bills introduced over the past 8 years. There was a deliberate choice to pick Bills representing a broad sweep of policy areas, not just those with a clear environmental focus. The written analysis by SPICe is annexed to this letter.

Stage 1 of the Circular Economy (Scotland) Bill took longer than originally anticipated, which has delayed my response. But I can now share the results of this work and the Committee's reflections on it.

General conclusions

It appears to us that the level and type of information Policy Memorandums provide on a Bill's likely impact on sustainable development varies but, overall, there is a lack of clarity and consistency in how assessments have been undertaken, with little detail on what modelling, data, etc. have been used. In relation specifically to carbon emissions, little or no information tends to be provided on whether any modelling of the Bill's likely impact has taken place and, if so, what the estimated impact is. Whilst the sample size is too small to comment authoritatively on trends, there was no clear sign of the quality of analysis either improving or worsening over time.

Some of the six Bills that were considered, including the Circular Economy (Scotland) Bill, were, to a large extent, "framework" Bills, with the detail of important policy elements left to be determined under powers created by the Bill. Where a Bill is of a high-level or enabling nature, this perhaps understandably seems to make it more likely that the Policy Memorandum will avoid detailed comment on how the Bill impacts sustainable development or carbon emissions, or will simply suggest no significant impact.

Therefore, if it were agreed by the Parliament that some sort of formal change is required in order to improve the information provided in relation to the climate change and net zero impact of legislation, it would be worth reflecting on how this could be made to apply to *all* potentially impactful legislation, including secondary legislation.

Next steps

You asked the NZET Committee to reflect on what type of information should be made available in Policy Memorandums to support scrutiny of the net zero impact of legislation; to help the SPPA Committee better understand whether procedural change is needed and, if so, what form it could take.

We are not in a position to provide an authoritative response, as more dialogue and evidence-gathering would be needed, beyond the work we have undertaken. However, we strongly suggest keeping on the table the option of amending Standing Orders so as to impose a more specific requirement about the information to be provided in relation to the estimated carbon emission impact of new legislation. Keeping this option open is consistent with the importance the Conveners Group has, in this session, agreed to attach to scrutinising Scotland's net zero targets. In the meantime, we recommend that there should be dialogue with the Scottish Government about improving the consistency and depth of information they provide to the Parliament on the net zero impact of newly introduced legislation, so as to encourage them to "show their working", (and to show that this working has taken place). This should include information on whether an assessment was judged necessary (and if not, why not), on any modelling methods used, on what data or evidence assessments or modelling was relied on. We are of course happy for the information in the Annexe to be shared with the Scottish Government on that basis. Officials supporting the Committee would also be happy to help facilitate and take part in this dialogue.

As Convener, I would also be happy to take part in a Conveners Group discussion on next steps in relation to this strand of the net zero strategic priority in the near future, if that were considered useful, so as to solicit wider views from colleagues. To that end, I have copied the Conveners Group Convener into this letter.

Wider considerations – Scottish Government budget and Climate Change Plan

Finally, as I noted in my last letter, the NZET Committee sees complementarity between this matter and two other current work strands, as they all relate to the information and data the Scottish Government provides the Parliament on net zero:

- the ongoing joint initiative between the Scottish Government and Scottish Parliament to improve the quality of information on the net zero impact of each annual draft Scottish Budget (the Joint Budget Review), and
- scrutiny of the next Climate Change Plan, a key element of which will be considering whether the Plan has clearly set out the impact that policies and spending have had on emissions.

It may therefore be helpful to end with a short update on these strands from the NZET Committee's perspective:

Joint Budget Review: During our pre-Budget consideration of the Budget 24-25, the Scottish Government told us it intended to pilot a net zero assessment (Strand 3 of the Joint Budget Review) before the end of 2023. A letter to the Committee dated 19 December stated that the aim of this is to “support and influence the development of policies” and be “a tool to help establish structures and look at how it can be embedded into the policy making process” with “a proposed roll-out to the wider Scottish Government during Quarter 4”.

Climate Change Plan: It is first disappointing that the Parliament still does not know when the next Plan will be laid (other than by the statutory backstop of November 2024) despite the NZET Committee’s best efforts to get more clarity on this matter. In our annual session with Environmental Standards Scotland (ESS) on 5 March 2024, we discussed their recent report, which had found that the Scottish Government’s 2021 Climate Change Plan update failed to meet two statutory requirements:

- to quantify the emission reductions associated with all individual proposals and policies;
- to provide a timeline for all individual proposals and policies to take effect.

ESS told us that their report followed on from representations by the Climate Change Committee and from Audit Scotland’s report on climate change governance. They plan to follow up on this work, by reviewing and reporting on the next draft CCP. This will be important work and we expect committees will be interested in its outcome.

Potentially a third strand of relevant work would be the Parliament’s scrutiny of the National Performance Framework and the usefulness of data provided by the Scottish Government in support of its National Outcomes that are related to sustainable development and addressing climate change.

The NZET Committee expects to follow up on the general issue of the usefulness of information the Scottish Government provides to the Parliament, and the wider public, on meeting net zero targets, in an evidence session in the near future on climate change governance with the Cabinet Secretary for Wellbeing Economy, Net Zero and Energy and senior Scottish Government officials.

I hope you find this reply helpful. I would welcome a response in due course, indicating how the SPPA Committee’s envisages taking this work forward.