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Ray McCaffrey

Pre- and post-legislative scrutiny – consideration of approaches
in other legislatures

1 Background

This paper has been prepared following a request from the Chairpersons' Liaison Group (CLG). It follows the CLG's consideration of RaiSe paper 134-20, which provided a broad overview of how committees in other legislatures undertake their scrutiny function.

That paper touched on the issues of pre and post-legislative scrutiny and the CLG subsequently commissioned this paper to explore those topics in greater detail. The CLG specifically sought information on the following:

- Based on approaches taken in other legislatures, if Assembly committees were to seek to play a role in the scrutiny of legislation from its introduction, or indeed prior to its introduction, in a form of pre-legislative scrutiny, what form might this additional scrutiny take?
- What benefits might the proposition of committee involvement in pre-legislative scrutiny, in advance of its introduction in the Assembly, bring to the effectiveness of the scrutiny process; and might there be any disadvantages to earlier involvement?
- What are the benefits and drawbacks of post-legislative scrutiny and do the extra resource implications justify the impact that committees can have in ensuring legislation delivers its intended purpose?
- Based on experiences in other legislatures, what might post-legislative scrutiny look like?

The paper is divided into two parts. Part 1 addresses pre-legislative scrutiny and part 2 examines post-legislative scrutiny.

Part 1: Pre-legislative scrutiny

1 Introduction

Pre-legislative scrutiny (PLS) is the detailed scrutiny of draft legislation by a parliamentary committee before it is formally introduced.

Pre-legislative scrutiny has not received the same level of consideration as post-legislative scrutiny, but there is increasing recognition of its potential benefits. Much of the existing literature focuses on the UK Parliament with limited study to date of the devolved legislatures. Indeed, recent research noted that: "With one or two notable

exceptions, there is little quantitative analysis or independent assessment of the effects of PLS".¹⁰⁴

However, detailed research has been undertaken in relation to pre-legislative scrutiny in Dáil Eireann, and this section of the paper has drawn extensively on that work.

2 Development of pre-legislative scrutiny in the UK

In the UK, draft Bills have been published since the 1990s, although they were not necessarily subject to structured parliamentary scrutiny. When it came to power in 1997, the Labour Party committed to "improve the quality of legislation by better pre-legislative consultation".¹⁰⁵ This was reflected in the first report of the Modernisation Committee, published in June 1997, which stated:

There is almost universal agreement that pre-legislative scrutiny is right in principle, subject to the circumstances and nature of the legislation. It provides an opportunity for the House as a whole, for individual backbenchers, and for the Opposition to have a real input into the form of the actual legislation which subsequently emerges, not least because Ministers are likely to be far more receptive to suggestions for change before the Bill is actually published. It opens Parliament up to those outside affected by legislation. At the same time such pre-legislative scrutiny can be of real benefit to the Government. It could, and indeed should, lead to less time being needed at later stages of the legislative process... Above all, it should lead to better legislation and less likelihood of subsequent amending legislation.¹⁰⁶

Erskine May, the guide to Parliamentary Procedure and Practice, describes the evolution of pre-legislative scrutiny as follows:

Since 1997, following a report from the Select Committee on the Modernisation of the House of Commons, the Government has undertaken to work with Parliament to ensure a systematic approach to pre-legislative scrutiny with a view to improving legislation and reducing the need for subsequent amending legislation. As a result, each session, several public bills are published in draft form for pre-legislative scrutiny by a parliamentary committee.

This approach largely replaces a previous practice, whereby the introduction of legislation by Ministers had been preceded by some form of public consultation, including the publication of proposed clauses in draft for

¹⁰⁴ Jessica Mulley and Helen Kinghorn, *Pre-legislative scrutiny in Parliament*, in *Parliament: Legislation and Accountability*, 2016

¹⁰⁵ The Law Commission, *Post-legislative scrutiny: a consultation*, 2006: http://www.lawcom.gov.uk/app/uploads/2015/03/cp178_Post-legislative_Scrutiny.pdf

¹⁰⁶ Select Committee on Modernisation of the House of Commons, *The Legislative Process* (1997-98)

consultation with those likely to be affected by them, and in some cases publication of the entire text of a draft bill.

A select committee has been specifically appointed to examine a draft bill, but it is now more usual to establish a joint committee. Select committees may also on their own initiative conduct inquiries into a draft bill. The core tasks of departmental select committees include conducting pre-legislative scrutiny of draft bills.

When a draft bill is considered by a select or joint committee, the committee does not formally go through it clause by clause, but takes evidence on the merits of the draft bill and reports its conclusions and recommendations, to which the Government responds. When a bill is later introduced into one or other House, generally in a subsequent session, its passage through Parliament is not formally affected by its having undergone pre-legislative scrutiny, and it is required to pass through the same stages as any other bill.¹⁰⁷

House of Lords inquiry

In October 2017 the House of Lords Select Committee on the Constitution published its report *The Legislative Process: Preparing Legislation for Parliament*. The report addressed the issue of the effectiveness of pre-legislative scrutiny and reiterated the points made by its predecessor committee that:

- pre-legislative scrutiny of draft legislation by parliamentary committees has proven effective at improving such legislation;
- the reports published and evidence taken by pre-legislative committees contribute to parliamentarians' understanding of the legislation and enhances the quality of scrutiny during the formal legislative process;
- pre-legislative scrutiny can resolve potential points of conflict early on and save time during later legislative stages; and
- it provides ministers, who may well be largely dependent on civil servants who consider it their task to defend the legislation as drafted, with alternative views.

The Committee found continued support for the concept of pre-legislative scrutiny, but there was not consensus as to whether bills should routinely undergo such scrutiny. The Bar Council wished to see more widespread use, while an academic view stated that:

¹⁰⁷ Erskine May's treatise on the law, privileges, proceedings and usage of Parliament (25th edition, 2019):

<https://erskinemay.parliament.uk/section/4988/prelegislative-scrutiny-of-draft-bills/>

*...some process of pre-legislative scrutiny with strong parliamentary involvement either through Select Committees or Joint Committees ought to be the default setting for new legislation and the pathways for such scrutiny ought to be formalised.*¹⁰⁸

A more cautious view came from former and current ministers who highlighted that the effectiveness of pre-legislative scrutiny depended on the context within which the legislation was being considered. For example, where a department had made extensive efforts to engage and consult with stakeholders before publishing a draft bill, then the value that additional scrutiny by a committee might be limited.

Addressing the issue of resources, the 2017 report went on to say:

*There is a case for greater resources to be made available for committees undertaking pre-legislative scrutiny, in order to facilitate a detailed legal, policy and financial examination of the proposals in a draft Bill and its associated documents, including impact assessments.*¹⁰⁹

The process in the UK Parliament

Pre-legislative scrutiny can be carried out by departmental select committees or by dedicated PLS committees. Erskine May has commented on the increasing use of these latter committees:

*In recent years it has become common for the two Houses to appoint ad hoc joint committees to scrutinise government bills published in draft. Such committees function as investigative committees, taking oral and written evidence and then making an evidence-based report. It is a regular practice for the committees to invite the Delegated Powers and Regulatory Reform Committee to submit observations about the draft bill, and other committees have been consulted from time to time, or have made their own reports on the draft bill.*¹¹⁰

Research from 2016 examining pre-legislative scrutiny in the UK Parliament noted that:

Each committee either charged with or agreeing to scrutinise draft legislation is largely free, within parameters, to decide for itself how best to do that. This is a valuable freedom, but not one that is unconstrained...Convention almost as much as Standing Orders...impose practices and expectations on all parliamentary committees...

¹⁰⁸ House of Lords Select Committee on the Constitution, *The Legislative Process: Preparing Legislation for Parliament, October 2017*: <https://publications.parliament.uk/pa/ld201719/ldselect/ldconst/27/27.pdf>

¹⁰⁹ As above

¹¹⁰ Erskine May, pre-legislative scrutiny committees: <https://erskinemay.parliament.uk/section/6164/prelegislative-scrutiny-committees/>

...those [committees] charged with PLS have to navigate more practical limitations as well, such as members' time, finite resources, deadlines and competing priorities...

A PLS committee usually starts its work by agreeing a 'call for evidence', inviting interested parties to submit their views on the draft Bill to the committee.

Although there are examples of departmental and other committees doing so, PLS committees frequently issue tight guidance or ask for responses to specific questions in their call for evidence to ensure that the evidence they receive is well targeted to the particular topics they wish to examine in detail. The call for evidence is usually followed by a series of public meetings at which the committee examines experts and interested parties.¹¹¹

The research drew a distinction between how departmental select committees processed evidence in comparison to dedicated PLS committees:

Departmental select committees often wait to commence their public examination of witnesses until they have a bulk of written evidence, so that it can be used to inform decisions on the selection of witnesses and priority areas for exploration. Tight deadlines mean that PLS committees can rarely afford to do this, and often they do not need to because...they often inherit a bulk of documentation. As a result, PLS committees tend to gather their written and oral evidence concurrently. In a practice largely exclusive to PLS, a committee may invite one or more officials from the team in charge of the Bill in the relevant government department to attend oral evidence sessions on a 'speak if spoken to' basis, enabling them to respond immediately to straightforward and factual queries about the draft Bill.

As well as gathering evidence formally, PLS committees use more informal means to inform their deliberations and frame recommendations, such as visiting relevant organisations, hosting or contributing to other events, or commissioning bespoke research. In the mode of other select committees (and unlike public bill committees), PLS committees usually publish at the end of their PLS a narrative report which typically contains reflections on the adequacy of the draft Bill and aspirations for any subsequent substantive Bill.

Ad hoc PLS committees cease to exist at the point at which they report their findings...¹¹²

It then went on to discuss the support available to PLS committees:

¹¹¹ Jessica Mulley and Helen Kinghorn, *Pre-legislative scrutiny in Parliament*, in *Parliament: Legislation and Accountability*, 2016

¹¹² As above

Although PLS can look and feel similar to their non-legislative, policy-driven work, committees conducting PLS may need to draw on particular skills and expertise...In-house staff include those with relevant specialisms, for example, in financial and legal areas. Staff with these skills make up a large part of the House of Commons Scrutiny Unit, which was established in 2002 with provision of support for PLS as one of its two primary purposes.

It is practice for a legally qualified and experienced staff from the Scrutiny Unit to be assigned to support each PLS exercise undertaken by a Commons or Joint Committee. The advice provided by the Legal Specialist is akin to non-litigious legal advice provided to clients in private practice...the Legal Specialist's role normally involves: statutory interpretation and legal research on case law, EU and European Convention on Human Rights law, international treaties and academic opinion; fact-checking of legal examples and precedents; and legislative drafting, perhaps of amendments or exemplar clauses.¹¹³

The research highlighted the pros of such scrutiny but also sounded a cautionary note as to when pre-legislative scrutiny may not have the desired impact. It cited examples of when draft Bills were too large or where portmanteau¹¹⁴ Bills put pressure on committee resources and deadlines. There is also the risk that government might publish a Bill that is far removed from the actual policy intentions.

The most significant problem faced by committees is a lack of time. The Cabinet Office's *Guide to Making Legislation* advises that three to four months should be allowed for pre-legislative scrutiny and several parliamentary committees have argued that 12 weeks should be the usual period, or even the minimum timeframe.

Use of pre-legislative scrutiny in the UK Parliament

Despite an increasing focus on pre-legislative scrutiny, its use remains limited. Lord Norton of Louth, who was Chair of the House of Lords Constitution Committee when it produced its 2017 report on the scrutiny of legislation, asked a parliamentary question on the number of bills that had received pre-legislative scrutiny since 2015.

The response revealed that from May 2015 to July 2019, 13 Government Bills were published in draft and referred for pre-legislative scrutiny by a joint committee or committee of either House; this constituted 14.43% of all Government Bills introduced in that period.¹¹⁵

¹¹³ Jessica Mulley and Helen Kinghorn, *Pre-legislative scrutiny in Parliament*, in *Parliament: Legislation and Accountability*, 2016

¹¹⁴ Large, multi-topic bills, also known as omnibus bills or Christmas tree bills.

¹¹⁵ The Norton View, *The need for more pre-legislative scrutiny*, July 2019: <https://nortonview.wordpress.com/2019/07/05/the-need-for-more-pre-legislative-scrutiny/>

Research from the House of Commons identified that it is within the purview of the government whether or not to publish bills in draft form and to which committee pre-legislative scrutiny should be assigned. It noted the Cabinet Office guidance which stated:

Pre-legislative scrutiny is normally carried out by the relevant Commons departmental select committee, or an ad-hoc joint committee of both Houses. This will be subject to negotiation with the usual channels¹¹⁶ but agreement in principle should be obtained before seeking final PBL (Parliamentary Business and Legislation) Committee approval to publish the bill in draft.¹¹⁷

There remains no formal obligation on committees to carry out pre-legislative scrutiny, nor is there is a defined process setting out why certain bills are selected and which type of committee will be assigned a bill for scrutiny: "...rather, the allocation of draft Bills to committees is done case by case and on the basis of discussion."¹¹⁸

4 Dáil Éireann

The Programme for Government 2011-16 contained proposals to introduce parliamentary reforms to improve the efficiency and effectiveness of the Oireachtas.¹¹⁹ This included a commitment to "enhance the democratic process by involving public representatives at an earlier stage of the legislative process, particularly before Bills are published".¹²⁰

Subsequently, in November 2013 Standing Orders were introduced to allow for formal pre-legislative scrutiny:

As a result, Ministers are now required to forward draft legislation – the General Scheme or Heads of a Bill -to the relevant Oireachtas Joint Committee for possible scrutiny except in exceptional circumstances.

Updated Oireachtas procedures view PLS as standard practice, unless otherwise agreed (save in exceptional circumstances and by permission of the Business Committee).¹²¹

Figure 1: Standing Order of Dáil Éireann – pre-legislative scrutiny

¹¹⁶ The 'usual channels' describes the working relationship of the whips from the different parties and the leaderships of the Government and opposition parties.

¹¹⁷ House of Commons Library, *Pre-legislative scrutiny under the 2015 and 2017 Conservative Governments*, November 2018: <https://researchbriefings.files.parliament.uk/documents/CBP-7757/CBP-7757.pdf>

¹¹⁸ Jessica Mulley and Helen Kinghorn, *Pre-legislative scrutiny in Parliament*, in *Parliament: Legislation and Accountability*, 2016

¹¹⁹ Irish Political Studies, Catherine Lynch and Shane Martin, *Can Parliaments be Strengthened? A Case Study of Pre-Legislative Scrutiny*, Volume 35, 2020

¹²⁰ Programme for Government 2011-16

¹²¹ Irish Political Studies, Catherine Lynch and Shane Martin, *Can Parliaments be Strengthened? A Case Study of Pre-Legislative Scrutiny*, Volume 35, 2020

SO 173 Pre-legislative consideration of Bill by Committee

(1) Prior to its presentation or introduction to the Dáil, the general scheme or draft heads of a Bill shall be given by a member of the Government or Minister of State to the Committee empowered under Standing Order 95 to consider Bills published by the member of the Government: Provided that the Business Committee may waive this requirement, in accordance with Standing Order 30, on foot of a request by the member of Government or Minister of State. Such a request for a waiver shall be in accordance with guidelines adopted by the Committee on Standing Orders and Dáil Reform, and subject to notice having been given to the Business Committee not later than 11 a.m. on the fourth day preceding its weekly meeting: Provided that, by permission of the Ceann Comhairle, a request for a waiver may be made on shorter notice

(2) A general scheme or draft heads which have been given under paragraph (1) shall be considered by the Committee empowered under Standing Order 95 to consider Bills published by the member of the Government: Provided that the Committee may decide in relation to a particular Bill that such consideration is not necessary, and in such cases, need not consider the general scheme or draft heads.

Research undertaken into pre-legislative scrutiny in the Dáil measured its impact on legislative outcomes by conducting a content analysis of pre-legislative scrutiny reports and subsequent Government bills introduced to the Dáil between 2011 and 2016. It identified 31 reports from joint committees which contained at least one recommendation in relation to a draft bill. These were matched against the content of the published bill and the findings indicated that “146 of 350 recommendations arising from PLS during this period were accepted by Ministers.”¹²² This equates to an acceptance rate of just over 40%.

Part of the research also examined the process followed by a committee during consideration of the Gender Recognition Bill. The key points from the case study are reproduced below:

43. Case study – the Gender Recognition Act 2014

44. On 29th August 2013, the Joint Committee invited interested individuals and groups to send written submissions on the General Scheme. Three individuals and eight groups responded to the call. Public Hearings on PLS were held on 23th October 2013 (lasting approximately 2.5 hours), and 24th October (lasting approximately 1.5 hours).

45.

46. It was noted in interviews that it can be challenging to find time in the parliamentary schedule for Committee business. The PLS process adds greatly to the work of some Committees, particularly

¹²² Irish Political Studies, Catherine Lynch and Shane Martin, *Can Parliaments be Strengthened? A Case Study of Pre-Legislative Scrutiny*, Volume 35, 2020

where the Committee is associated with a Department engaged with multiple legislative proposals. Dáil deputies noted in several interviews that it could be difficult to balance the policy-making and oversight demands with other work in the chamber and their duties and responsibilities to constituents.

47.

48. The Committee also had available expert opinion. In managing the PLS process, Committee members and parliamentary officials indicated they are mindful to seek a balanced perspective on the issues before the Committee.

49.

50. Identifying relevant actors can be challenging, including alerting potentially interested parties to the PLS process.

51.

52. In some cases, the Oireachtas Library & Research Service is called upon by committee clerks to identify relevant experts and interested groups. In other cases –as in this case –an open call is made to solicit submissions.

53.

54. Who gets to speak at PLS Committee hearings is important, in part because attendees can be very influential in shaping the content of the Committee's PLS report.

55.

56. The Committee's PLS report had such a significant impact on the General Scheme that it could no longer be employed to prepare the full draft of the Bill.

57.

58. There is clear evidence that significant changes were made to the substance of the proposed legislation as a direct result of the PLS process. However, the Ministers did not simply accept all seven recommendations from the Committee. From the Department's perspective, PLS -resulted in "a lot of learning" and this learning formed the basis for the changes to the General Scheme. These changes necessitated bringing the General Scheme back before Cabinet, with significant consequences for the content of the subsequent Bill.

59.

60. Interviews with parliamentarians and parliamentary staff suggest that the composition of the Committee, in terms of which individuals that serve, is very important for the success of PLS – and Committee activity in general. Where one or more members of the Committee have a pre-existing interest in the substance of the proposed legislation, the PLS process tends to be more active. This, it was suggested, was the case for the Gender Recognition Bill.

The research drew a number of conclusions around the efficacy of pre-legislative scrutiny in the Dáil, based on its wider examination of the process:

- attempts to strengthen the capacity of national legislatures can be effective, even in legislatures that tend to be dominated by the executive;
- given the overall rate of acceptance of PLS proposals (41.7%), and notwithstanding some individual cases where no recommendations were accepted or made, it appears that PLS in the Irish Parliament has had a direct impact on the content of Government legislation.
- where Committee amendments (at formal committee stage) were compared for Bills subject to PLS, against Bills not subject to PLS, the argument that PLS pre-empts a Committee's later role can be discounted. Both PLS and non-PLS Bills were amended at the formal committee stage, therefore, it is not the case that PLS merely replaces a Committee's role in the formal legislative process.

- issues raised in submissions and hearings for PLS and/or the recommendations of the Committee can frame subsequent legislative debate on the issue
- PLS does not always lead to significant changes in legislation. While this may be related to the piece of legislation in question, other factors may be at play. The research found some correlations between the time available to a committee to undertake PLS and its capacity to influence the outcome, which may indicate that PLS may be more effective when built-into the legislative drafting process i.e. government waits for committee report before formally drafting the bill.

5 Scottish Parliament and Welsh Parliament

To date, pre-legislative scrutiny has not been a consistent feature of the work of committees in either the Scottish Parliament or the Welsh Parliament. The Commission on Parliamentary Reform in Scotland highlighted that:

...there is considerable scope for Parliament to engage with the policy making process before a bill is introduced without compromising its scrutiny role in the legislative process. We consider Parliament should take a more proactive role. Pre-legislative scrutiny allows a committee (and wider society) to prepare ahead of a bill's introduction, especially in terms of keeping a 'watching brief' on the issue and enabling proactive planning of background briefings or engagement activities which may be useful in informing members of the key issues. It also provides the opportunity to clarify the outcomes the bill is expected to achieve.¹²³

It also emphasised concerns around committees being involved at both the policy development and scrutiny stages of bills and noted that the Convenors' Group (equivalent to the CLG) had previously rejected pre-legislative scrutiny on that basis.

Although the Commission recommended the inclusion of two additional stages in the committee scrutiny process to facilitate formal pre and post-legislative scrutiny, this was not accepted by the Presiding Officer's Advisory Group in its response. Instead, it noted that the Programme for Government provides an opportunity for committees to identify potential areas for pre-legislative work.

The report of the Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, also highlighted the benefits of pre-legislative scrutiny but did not make any formal recommendations.

¹²³ Report of the Commission on Parliamentary Reform (Scotland), June 2017: <https://parliamentaryreform.scot/>

Figure 2 is an overview of some pre-legislative scrutiny carried out by the Children, Young People and Education Committee on the Draft Additional Learning Needs and Education Tribunal (Wales) Bill.

Figure 2: Pre-legislative scrutiny by the Children, Young People and Education Committee on the Draft Additional Learning Needs and Education Tribunal (Wales) Bill

July 2015: Government publishes draft Additional Learning Needs and Education Tribunal (Wales) Bill
14 th October to 11 th November 2015: Committee issues call for evidence – 23 responses received
Informal roundtable discussions held with stakeholders
Formal oral evidence taken from other stakeholders
December 2015: Committee publishes response to draft Bill (letter to relevant Minister)

6 Issues for consideration

There is no definitive answer as to whether pre-legislative scrutiny leads to better quality legislation, although on balance the potential benefits do appear to make it a worthwhile exercise. The House of Lords’ Constitutional Committee commented that:

At present, pre-legislative scrutiny is seen as an optional extra to the legislative process: it may or may not take place and it does so in relative isolation to the other stages of scrutiny which legislation undergoes. Pre-legislative scrutiny should be considered an integral part of the wider legislative process. This may mean adapting other parts of the process to take account of pre-legislative scrutiny when it occurs.¹²⁴

Increased pre-legislative scrutiny will have an impact on the resources of legislatures as more time would need to be allocated to it, which means less time for other issues. Staff resources would need to be diverted or increased and it would further stretch members’ time.

¹²⁴ House of Lords Select Committee on the Constitution, *The Legislative Process: Preparing Legislation for Parliament*, October 2017

The detailed research that looked at the process of pre-legislative scrutiny in the Dáil found that it can have a positive impact, but that factors such as the time available to committees can limit this influence.

The ability of a committee to undertake this work is of course reliant on the government publishing a draft bill. This then raises the appropriateness of a scrutiny committee becoming involved in the policy development of legislation, something that the Commission on Parliamentary Reform highlighted and on which basis pre-legislative scrutiny had previously been rejected by the Scottish Parliament.

Part 2: Post-legislative scrutiny

1 Introduction

The issue of post-legislative scrutiny (PLS) has gained traction in recent years across European parliaments and is more widely developed than pre-legislative scrutiny. Recent research has noted that:

*This phenomenon comprises a vast range of activities, supports rather differentiated approaches and unfolds through a large variety of organisational and procedural solutions.*¹²⁵

In 2004, the House of Lords Constitution Committee published a report on the legislative process¹²⁶. In a submission to the Committee, the then Chair of the Joint Committee on Human Rights said:

*As legislators, we need to pay as much attention to what happens after we have finished our specialised task of making the law as we do to the processes by which we achieve the law. The professional deformation against which we perhaps have to be most wary is supposing that legislating is the most effective way to achieve our ambitions, and that lawmaking is a precise science which can result in a perfect product. Our responsibility does not begin with a Bill's introduction to Parliament or end with the royal assent. Improving the efficiency with which we process legislation is only a small part of improving our effectiveness*¹²⁷.

¹²⁵ Journal of Southeast Asia Human Rights, Parliaments in Europe engaging in post-legislative scrutiny, June 2020

¹²⁶ House of Lords Constitution Committee, *Parliament and the Legislative Process*, 2004: <http://www.publications.parliament.uk/pa/ld200304/ldselect/ldconst/173/17302.htm>

¹²⁷ As above

The Committee concluded that Parliament frequently ended its legislative scrutiny at the point of Royal Assent with little or no evaluation of whether the legislation had achieved its aims.¹²⁸

In response, the Government agreed that there should be more post-legislative scrutiny and asked the Law Commission to examine the issue. The Law Commission undertook an inquiry and reported in October 2006. It identified a number of reasons why this type of scrutiny was desirable:

- to examine whether the legislation was working in practice;
- to contribute to better regulation;
- concentrating minds and sharpening the focus on implementation and its likely effects, including whether original policy aims have been met;
- identifying and disseminating good practice; and
- improving the quality of legislation.¹²⁹

Research from 2019 identified four separate categories of parliamentary approaches to post-legislative scrutiny as follows:

Figure 1: Categories of parliamentary approaches to post-legislative scrutiny

Passive scrutinisers	<ul style="list-style-type: none"> • Lack of parliamentary administrative capacity and procedures to conduct own PLS analysis. • Reliance on PLS information or reports from government or independent agencies, no own monitoring or impact assessment by parliament. • Parliament considers legal assessment only (no impact assessment). • Information on the PLS work is not easily accessible to the public.
Informal scrutinisers	<ul style="list-style-type: none"> • Ad-hoc administrative parliamentary capacity for PLS activity, possibly through research units assigned with the additional task to conduct PLS. • Non-systematic connection with formal parliamentary procedures. • No identified or established criteria or triggers to select legislation for PLS review, but it is decided on an as-needed basis. • Parliament Committees may adopt conclusions or recommendations related to PLS.

¹²⁸ As above

¹²⁹ The Law Commission, *Post-legislative scrutiny*, 2006: https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2015/03/lc302_Post-legislative_Scrutiny.pdf

<p>Formal scrutinisers</p>	<ul style="list-style-type: none"> • Vested in specific parliamentary administrative departments or units assigned to conduct PLS. • There are specific procedures for identifying laws for PLS. • Often there is an explicit legal basis to conduct PLS. • Formal PLS on the legal aspects of legislative enactment prevails over impact assessment. • Limited follow-up to the PLS findings and few procedures providing for a debate or voting on the report in committee or plenary. • There is no explicit requirement for the government to respond in writing to the PLS conclusions of parliament. • PLS reports are accessible to the public.
<p>Independent scrutinisers</p>	<ul style="list-style-type: none"> • There are specific administrative structures and committees assigned to conduct PLS. • Based on their own criteria, triggers and priorities, parliament and its committees decide independently which laws to select for PLS. • Parliament has a more proactive approach in identifying sources of analysis • The PLS work is legally grounded, covering both legal and impact assessment • The institutionalised PLS work results in specific PLS reports. • There is ‘procedimentalisation’ of reports, which means that parliament has put in place procedures for debating or adopting the PLS report and conclusions. • There is an established follow-up to the PLS reports, including by requesting a government response in writing. • PLS work is transparent, PLS reports are published online and thus accessible to the public.

The research placed the UK Parliament in the ‘Independent scrutinisers’ category, meaning that it is deemed to have robust procedures in place to undertake this work.

2 UK Parliament

Post-legislative scrutiny is included within one of the core tasks of select committees:

Policy: To examine the policy of the department, including areas of emerging policy or where existing policy is deficient, and make recommendations. This may include legislative scrutiny, post-legislative scrutiny, and scrutiny of delegated legislation where relevant.¹³⁰

Since 2008, successive governments have published memorandums assessing the impact of legislation three to five years after its implementation. These memorandums should include a preliminary assessment of how the Act has worked in practice, relative to objectives and benchmarks identified during the passage of the bill and in the supporting documentation.

Departmental select committees can use these memorandums as the basis for post-legislative scrutiny, although committees are free to pursue this work in other ways.

A recent study of post-legislative scrutiny in the UK Parliament¹³¹ looked at two case studies in the House of Commons and two in the House of Lords. The research benefitted from interviews with staff and members and the key points from the House of Commons case studies are discussed below.

Culture Media and Sport Committee – Gambling Act 2005

- the Act was selected because the committee received a large number of representations from the gambling industry;
- a member of the committee noted that it is common for organisations to approach committees with their concerns and problems; and
- the Department was not one that generally sponsored a lot of legislation

Justice Committee – Freedom of Information Act 2000

- the Act was selected because the Committee had received the memorandum from the Ministry of Justice and these memoranda often act as a trigger for post-legislative scrutiny;
- the issue was also salient at that time as “the government was proposing to make changes to the Act in terms of narrowing the scope of and restricting the use of it”;

¹³⁰ House of Commons Library, *Select Committees - core tasks*, April 2020:
<https://researchbriefings.files.parliament.uk/documents/SN03161/SN03161.pdf>

¹³¹ Tom Caygill, *A Tale of Two Houses? Post-legislative scrutiny in the UK Parliament*, Paper prepared for the Academic Seminar on Post-Legislative Scrutiny: <https://core.ac.uk/download/pdf/327367617.pdf>

- it was urgent to get the report out as quickly as possible, on the basis that the committee wanted to share its assessment of the challenges before the government made a decision; and
- there was also a reasonably high level of interest among the Members.

Despite the Cabinet Office guidance and the introduction of this systematic approach, "...it is yet to become a regular part of committee work, at least from the perspective of published reports".¹³² Between 2008 and 2017, post-legislative scrutiny formed a small percentage part of those Commons' committees that engaged in this work. Not all Commons committees engaged in post-legislative scrutiny.

In the slightly expanded timeframe of 2008 to 2019, 91 Departmental memorandums were produced.¹³³

3 Scottish Parliament

In October 2013 the Standards, Procedures and Public Appointments Committee (SPPAC) of the Scottish Parliament published a report on post-legislative scrutiny. The following are some of the key points from the Committee's report:

- post-legislative scrutiny is a fairly wide-ranging concept that can mean different things to different people and could range from a technical analysis of legal drafting to a wider policy review;
- the committee believed that the picture was not as bleak as had been suggested and pointed to a number of good pieces of work emanating from Scottish Parliamentary committees;
- MSPs regularly had the opportunity to embed mechanisms for post-legislative scrutiny into legislation during the passage of bills (High Hedges Act 2013 provided for a review of the operation of the Act to take place within a specific timeframe);
- it was ultimately a matter for individual committees to decide whether or not to carry out post-legislative scrutiny and that the merits of conducting post-legislative scrutiny need to be balanced against the other demands on the Committee's time;
- there are a number of possible trigger points which could prompt a committee to undertake post-legislative scrutiny, including:
 - representations from individuals or organisations that a piece of legislation needed reviewed due to a particular policy impact. As part of

¹³² Journal of Legislative Studies, Tom Caygill, *The UK post-legislative scrutiny gap*, volume 26, 2020

¹³³ Journal of Legislative Studies, Tom Caygill, *The UK post-legislative scrutiny gap*, volume 26, 2020

this review, committees could scrutinise how the Scottish Government had responded to any concerns;

- publicity in the media indicating that post-legislative scrutiny is required;
- members of the judiciary commenting that a piece of legislation should be revisited;
- a petition being brought forward calling for a review of current legislation in a particular subject area;
- a committee inquiry being undertaken into an issue which includes an examination of current legislation;
- a sunset clause or a statutory review period being included in legislation requiring it to be revisited by the Parliament;
- a bill being passed containing a requirement that the Scottish Government must report to the Parliament on a particular provision; and
- committees deciding that they will undertake scrutiny of the implementation of a piece of legislation.

Public Audit and Post-legislative Scrutiny Committee

In September 2016 the Parliament agreed that the Public Audit Committee should include post-legislative scrutiny (PLS) within its remit, meaning that:

...the Committee can consider previous Acts of the Scottish Parliament to determine whether they have achieved their intended purpose. This could involve examining a specific part of an Act rather than examining the legislation as a whole. Other committees of the Parliament have always been able to undertake PLS and will continue to do so.¹³⁴

The Committee consulted with stakeholders and members of the public on how it might undertake this new area of work and provided a checklist to assist respondents:

Figure 2: Checklist used to inform Public Audit and Post-legislative Scrutiny Committee's post-legislative scrutiny

Do you consider that the Act has had sufficient time to have made a difference? The Committee is unlikely to consider Acts that have only recently come into force.

¹³⁴ The Scottish Parliament, Post-legislative scrutiny: <https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/105094.aspx>

Does the Act have a measurable outcome or policy objective, and has it fulfilled its intended purpose? When a Bill is introduced, a separate document called the Policy Memorandum explains why the Bill has been proposed and describes the objectives and outcomes it is designed to achieve. Has the Act been effective in delivering these objectives and outcomes?

Has another committee of the Parliament already carried out post-legislative scrutiny of the Act? Other committees of the Parliament have always been able to undertake post-legislative scrutiny and will continue to do so. It is therefore important to avoid possible duplication; having said that, if the scrutiny was undertaken more than five years ago, we may wish to revisit the legislation.

Does the Act contain an in-built mechanism for post-legislative scrutiny? The High Hedges (Scotland) Act 2013, for example, was amended to allow for a review of the operation of the Act to take place within a specific timeframe. It is anticipated that the relevant subject committee would therefore undertake post-legislative scrutiny at the appropriate time.

Has the Act been subject to, or could it be subject to, significant revision? The Scottish Government outlines its legislative programme on an annual basis, which may contain proposals for Bills that would alter existing Acts or perhaps even repeal an Act. MSPs and Committees can also seek to introduce bills. If the Government has said it will be reviewing or is planning to amend the legislation, we would not want to duplicate that work.

Would there really be merit in undertaking post-legislative scrutiny of the Act? For example, does the Act deal with a very technical or minor issue?

Is the Act subject to legal challenge? The Committee is not allowed to consider any matter that is sub judice; in other words, the Committee would not consider an Act that is being reviewed in the courts

The Committee shortlisted five Acts which met the criteria and these formed the basis of its post-legislative scrutiny work programme. This was in addition to two Acts that the Committee decided to address on the basis of public interest.

In total, the Committee was able to undertake six pieces of post-legislative scrutiny. Reviews of two pieces of legislation that had originally been shortlisted were not taken forward due to the Committee's workload.¹³⁵

Figure 3 sets out the process followed by the Committee in assessing the Control of Dogs (Scotland) Act 2010. The Committee carried out this work across 2018 and 2019.

¹³⁵ Public Audit and Post-legislative Scrutiny Committee, *Session 5 Legacy Paper*. <https://sp-bpr-en-prod-cdnep.azureedge.net/published/PAPLS/2021/3/15/4f0f838b-3e50-479a-8721-621037bca0a0/PAPLS052021R2.pdf>

Figure 3: Post-legislative scrutiny of the Control of Dogs (Scotland) Act 2010

PROCESS

Legislation originally introduced as PMB – passed in April 2010 and came into force in February 2011.

Debate in Chamber in May 2018. It raised concerns that recent figures suggested that the number of dog attacks was rising and questioning the effectiveness of the 2010 Act.

June 2018 – Committee agreed to undertake post-legislative scrutiny of the 2010 Act. The Committee subsequently launched its call for evidence which ran from 3 July to 5 October 2018.

49 consultation responses received, three evidence sessions (hearing from six panels) and three public engagement meetings held.

REPORT

Lack of available and consistent data, which has been exacerbated by the failure to establish a Scottish Dog Control Database, prevented the Committee from accurately determining the effectiveness of the Control of Dogs (Scotland) Act 2010.

The Committee believes that current dog control law is not fit for its purpose and calls on the Scottish Government to undertake a comprehensive review of all dog control legislation as a matter of urgency. The report identifies a range of issues that should be

The Committee considers that, from the evidence it has received and the data available, the Control of Dogs (Scotland) Act 2010 has had limited effect in preventing or reducing the number of dog attacks in Scotland.

OUTCOMES

March 2021 – Public Safety Minister gives evidence to Committee. Working Group set up to consider and progress the report's recommendations. Out of the 21 recommendations, five have now been delivered, one partially delivered, 14 are in progress and one not started. National dog control notice database should be in place by end of the year.

Committee not happy with what it saw as lack of progress. concerns in particular about the continuing lack of accurate data on dog attacks on humans and other dogs, the poor engagement from councils and the absence of a notable increase in dog wardens. Committee convenor urged Government to get on with it, rather than having working groups.

In its Session 5 Legacy Report, published in March 2021, the Committee recommended that the post-legislative function be removed from its remit. Its comments bear repeating:

Figure 4: Extract from Legacy Report of the Public Audit and Post-legislative Scrutiny Committee

The Consultative Steering Group recommended that the Scottish Parliament should have all-purpose Committees, combining the Westminster Select and Standing Committee role on the basis it would enable Members to develop an expertise in particular areas and to bring an informed view to the consideration of legislation and scrutiny of the Executive.

The same approach does not appear to have informed the decision to add post-legislative scrutiny as a discrete area to the remit of one committee. The Committee's audit scrutiny focuses on those areas where it can best add value to the work of the subject committees, such as financial management and governance and other cross-cutting issues. It was difficult for the Committee to select items for post-legislative scrutiny where it was better placed to undertake such scrutiny than the relevant subject committee, given the latter's subject knowledge and expertise. There was also a lack of clarity as to whether the Committee could introduce legislation to give effect to its recommendations (in the way that a subject committee could) in the event that the Scottish Government chose not to legislate.

While the Committee considered more audit reports than its predecessor committee this session its post-legislative scrutiny inquiries inevitably impacted on the Committee's ability to carry out more detailed scrutiny of individual audit reports and its broader key audit themes work and improvement agenda. This was an unfortunate consequence of the remit change, particularly given continued pressures on public services and public funding.

Recommendations

The Committee recommends that post-legislative scrutiny is removed from the remit of the Public Audit Committee in session 6.

The Committee recognises that post-legislative scrutiny is an important element of parliamentary scrutiny. However, before adding this aspect to another committee's remit, the Committee strongly recommends that the Standards, Procedures and Public Appointments Committee be invited to undertake a thorough examination of post-legislative scrutiny, including considering what it means; expected outcomes and how it is best and most effectively undertaken in the parliamentary setting.

4 Welsh Parliament

In its October 2015 report, *Making Laws in Wales*, the Constitutional and Legislative Affairs Committee addressed post-legislative scrutiny in the National Assembly for Wales (as it was then known). It recognised the benefits of this scrutiny but noted that it was not something that had routinely been carried out by committees, perhaps because of issues of capacity.

The Committee's report pointed to the work carried out by the Health and Social Care Committee in its evaluation of the Mental Health (Wales) Measure 2010, which could act as a best practice model of how to carry out post-legislative scrutiny. The approach taken by the Health and Social Care Committee in relation to the 2010 Measure is set out below.

However, it was "acutely aware of the work pressures that committees are under, trying to juggle legislative and general policy scrutiny."¹³⁶ Nevertheless, it recommended that committees incorporate consideration of post-legislative scrutiny into their scrutiny work.

There is no formal requirement on committees to undertake post-legislative scrutiny.

Figure 5: Health and Social Care Committee's evaluation of the Mental Health (Wales) Measure 2010¹³⁷

May 2014: Committee agrees to undertake post-legislative scrutiny on the Mental Health (Wales) Measure 2010

Committee used the Law Commission's four key objectives of PLS as the basis of its review:

- to see whether legislation is working out in practice as intended;
- to contribute to better legislation;
- to improve the focus on implementation and delivery of policy aims; and
- to identify and disseminate good practice so that lessons may be drawn from the successes and failures revealed by the scrutiny work.

Committee added its own, fifth principle:

¹³⁶ National Assembly for Wales, Constitutional and Legislative Affairs Committee, *Making Laws in Wales*, October 2015: <https://senedd.wales/laid%20documents/cr-ld10379/cr-ld10379-e.pdf>

¹³⁷ National Assembly for Wales, Health and Social Care Committee, *Post-legislative scrutiny of the Mental Health (Wales) Measure 2010*, January 2015: [https://senedd.wales/laid%20documents/cr-ld10069%20-%20report%20by%20the%20health%20and%20social%20care%20committee%20on%20the%20post-legislative%20scrutiny%20of%20the%20mental%20health%20\(wales\)%20m/cr-ld10069-e.pdf](https://senedd.wales/laid%20documents/cr-ld10069%20-%20report%20by%20the%20health%20and%20social%20care%20committee%20on%20the%20post-legislative%20scrutiny%20of%20the%20mental%20health%20(wales)%20m/cr-ld10069-e.pdf)

- to assess whether the legislation has represented, and will continue to represent, value for money.

On the basis of these principles, the Committee decided to assess the implementation and operation of the Measure by:

- assessing the extent to which the stated objectives of the Measure are being achieved;
- identifying whether there are any lessons which can be learned or good practice shared from the making and implementation of the Measure and the associated subordinate legislation and guidance; and
- assessing whether the Measure has represented, and will continue to represent, value for money.

The Committee issued a structured call for written evidence, aimed at: statutory mental health providers (local authorities, local health boards); relevant professional bodies; relevant third sector organisations; regulatory/inspection bodies; and those who responded to the consultation issued by the Third Assembly's Legislation Committee No.3 when it scrutinised the proposed Measure in 2010.

Consultation ran from 26 June to 12 September 2014, and 22 written responses were received. The Committee also held a scrutiny session with the Minister for Health and Social Services.

January 2015: Report published which included 10 recommendations.

5 Dáil Eireann

As with pre-legislative scrutiny, the Standing Orders of Dáil Eireann provide for post-legislative, or post-enactment scrutiny. This followed a commitment in the 2016 Programme for Government for "mandatory...post-enactment review of legislation by Oireachtas Committees".¹³⁸ Standing Order 164A states:

Twelve months following the enactment of a Bill, save in the case of the Finance Bill and the Appropriation Bill, the member of the Government or Minister of State who is officially responsible for implementation of the Act

¹³⁸ A Partnership Programme for Government, May 2016:

https://merriestreet.ie/merriestreet/en/imagelibrary/programme_for_partnership_government.pdf

*shall provide a report which shall review the functioning of the Act and which shall be laid in the Parliamentary Library.*¹³⁹

This places the onus on the government to report on them, but Oireachtas committees have the power to consider them and “to require a Minister or Minister of State to appear before them to discuss post-enactment reviews.”¹⁴⁰

Research produced by the Oireachtas sets out the information required to carry out a piece of in-depth post-legislative scrutiny. It is based on analysis of post-legislative reviews carried out in other legislatures. This is reproduced at Appendix 1.

6 Issues for consideration

The House of Lords Constitution Committee justified post-legislative scrutiny on the basis that it improved the quality of law and government:

*Regular scrutiny will determine if Acts have done what they were intended to achieve; if not, it may then be possible to identify alternative means of achieving those goals. Scrutiny may also have the effect of ensuring that those who are meant to be implementing the measures are, in fact, implementing them in the way intended.*¹⁴¹

Previous research has suggested that:

*The growing impetus for PLS coincides with the rationalisation of the law-making process, and a growing demand for the quality of legislation to be reviewed as well as procedures that can support parliaments to manage contemporary ‘legislative complexity.’*¹⁴²

Post-legislative scrutiny can support this by:

*...institutionalising and systematising a moment of analysis and assessment focusing specifically on improving the quality of legislation passed. As such it should improve a parliament’s understanding of the causal relations between a law and its effects as the accuracy of assumptions underlying legislation are tested after its enactment.*¹⁴³

However, in its 2006 report the Law Commission of England and Wales cautioned that there were limitations associated with post-legislative scrutiny:

¹³⁹ Oireachtas Library and Research Service, Post-enactment scrutiny by Parliament, December 2017:

https://data.oireachtas.ie/ie/oireachtas/libraryResearch/2018/2018-01-08_spotlight-post-enactment-scrutiny-in-parliament_en.pdf

¹⁴⁰ Oireachtas Library and Research Service, Post-enactment scrutiny by Parliament, December 2017

¹⁴¹ House of Lords Constitution Committee, *Parliament and the Legislative Process*, 2004

¹⁴² De Vrieze ad Norton, *The significance of post-legislative scrutiny*, *Journal of Legislative Studies*, Volume 26, 2020

¹⁴³ As above

- **risk of replay of arguments:** post-legislative scrutiny should concentrate on the outcomes of legislation. Unless self-discipline is exercised by the reviewing body, and those giving evidence to it, there is a clear danger of it degenerating into a mere replay of arguments advanced during the passage of the Bill;
- **dependence on political will:** the evolution of a more systematic approach to post-legislative scrutiny will depend on a combination of political will and political judgement; and
- **resource constraints:** post-legislative scrutiny will place demands on resources that could be used elsewhere.

Expanding on this final point, recent research commented that post-legislative scrutiny:

...carries a cost not only in time and expenditure on the part of the legislature, but also on the part of those called on to provide evidence. Consultation with key stakeholders is generally necessary if relevant data are to be obtained and an accurate evaluation of effectiveness is to be made. In these circumstances, it is usually beyond the capacity of parliaments to conduct a systematic evaluation of entire legislative schemes.¹⁴⁴

Ultimately, the experience of both pre and post-legislative scrutiny in the UK shows that it is largely up to committees to decide if they wish to undertake additional scrutiny beyond the usual stages of a bill. Successive reports have encouraged the practice in the UK Parliament, Scottish Parliament and Welsh Parliament but it has not yet become embedded within the work of committees.

A number of factors can come into play that will impact the ability or willingness of committees to take on additional scrutiny functions. These might include the interest of members in pre and post-legislative scrutiny compared to plenary and constituency matters, the time available to engage in this work and the committee's work programme. There is also the question of which legislation is selected for review. It is probably more desirable to divert limited resources to detailed review of a few Acts each year, rather than attempting to cover too many pieces of legislation in a less thorough manner.¹⁴⁵

The decision of the Scottish Parliament's Public Audit and Post-legislative Scrutiny Committee to recommend that it be relieved of its post-legislative scrutiny remit reflects the potential strain such work can place on members with already busy workloads.

The consensus view that such scrutiny is valuable and contributes to better law has yet to be reflected in the attention given to it by the UK legislatures.

¹⁴⁴ De Vrieze ad Norton, The significance of post-legislative scrutiny, *Journal of Legislative Studies*, Volume 26, 2020

¹⁴⁵ Westminster Foundation for Democracy, *Principles of Post-Legislative Scrutiny by Parliaments*, January 2018: <https://www.wfd.org/wp-content/uploads/2018/07/Principles-of-Post-Legislative-Scrutiny-by-Parliaments.pdf>

Appendix 1 – proposed information required for post-legislative review

Information needed	Possible Sources of data/information
Purpose: To allow the reviewer to assess how the policy objectives of the Act have been/are being achieved	
Set out the key policy objectives of the legislation, including the policy problem/issue it is designed to address (ideally with evidence which demonstrates the extent of the problem/issue) and how the legislation was expected to address it (i.e. through what specific actions). This is tied to the evaluative framework (see below) which is ideally developed <i>prior to</i> enactment.	Government consultation; Green Paper, White Paper; Regulatory Impact Assessment; Pre-legislative scrutiny process and report; Dáil debates on the Bill (especially Minister's explanation); Independent, impartial analysis usually supplied parliamentary research offices
Purpose: update of the legislative context – to set the scene	
Sets out factual information about progress in implementation of the Act such as: <ul style="list-style-type: none"> - When and how different provisions of the Act were brought into operation; - Any provisions not yet in force; - Any SIs and guidelines issued; - A list of (and access to) any reviews of Act undertaken. 	Minister's Department Reviews by other bodies (see Box 4, p. 16))
Purpose: focus on implementation, identify any possible improvements in delivery of policy aims, any un-intended policy or legal consequences of the Act	
Further information on how provisions have been brought into operation and, if provisions have not been, why not? Are there un-intended policy consequences as a result of the Act's implementation? Are there un-intended legal consequences and, for example, are there issues arising from the interpretation of the Act or provisions which have been the subject of litigation (past and pending?) In both cases, are possible solutions available to minimise their effect? The consequences of the Act's implementation for different groups of stakeholders (e.g. those who were/were not the original focus of the Act).	Minister Stakeholders and experts in the policy area (via consultation and/or Questions and Issues paper) Legal experts such as Law Reform Commission Legal cases Other departments/committees Data gathered for the evaluative framework.
Purpose: to create an evaluation framework and gather information and data to enable a reviewer to make a value judgement on the Act	
One, a framework for evaluating whether outputs (actions) are being implemented in a way which leads to the outcomes envisaged in the legislation and accompanying regulations. The framework should ideally identify indicators of the achievement of outputs and outcomes and data and/or information which can be used to measure/monitor these indicators. Two, a framework with which to evaluate the extent to which the policy objectives behind the Act are being achieved. This framework, which is required for an Impact-Assessment, should identify indicators with which to assess whether the Act is achieving its policy objective , i.e. the overall impact of the Act.	An evaluative frameworks, including indicators and the type of information needed to monitor them, should be agreed before implementation; Information may come from all the documents mentioned above, including any external reports and/or consultations. The Library and Research Service's Bills Digest may include suggested performance indicators. The Reviewer may develop <i>Questions and Issues Papers</i> to gather data where necessary (via call for public submissions, targeted or open).
Purpose: Cost of implementing the Act (Financial implications)	
Data on the cost of implementing the legislation Are they in line with projected costs? Are there enforcement and compliance costs (anticipated/not anticipated)? Who is bearing the cost?	Minister and Department; Public bodies involved in implementing the legislation; Public Accounts Committee and C&AG reports.