

Committee on Procedures

Review of Public Petitions Procedures

Written Submission from Professor Derek Birrell

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Comparing Devolved Governance (2012), Basingstoke: Palgrave Macmillan.
Direct Rule and the Governance of Northern Ireland (2009), Manchester: Manchester University Press.
The Impact of Devolution on Social Policy (2009), Bristol: Policy Press.

Online Written Evidence

1. Comment on the existing Northern Ireland procedure for submitting public petitions which is a limited recording system.
2. Comment on the Westminster e-petition system which offers the possibility of a parliamentary debate to selected petitions which gather 100,000 signatures, which has proved popular. This procedure does include the Northern Ireland Office.
3. Analysis of the public petition system in Scotland through the Scottish Parliament, including comment on: the process; topics of petitions; outcomes; problems and value.
4. Analysis of the public petition system in Wales through the National Assembly for Wales, including comment on: the process; the topics of petitions; outcomes; problems and value.
5. The introduction of a similar petition system as Scotland and Wales to Northern Ireland. Issues and questions to be addressed. The value and advantages of such a public petition system. Some potential barriers to the operation of an effective system.

This evidence makes particular use of the following academic work as well as government publications.

C. Bochel (2012), 'Petitions. Different Dimensions of Voice and Influence in the Scottish Parliament and the National Assembly for Wales', *Social Policy and Administration*, Vol. 46, No. 2.
C. Carman (2014), 'Barriers are Barriers: Asymmetric Participation in the Scottish Public Petitions System', *Parliamentary Affairs*, Vol. 67.
D. Birrell (2012), *Comparing Devolved Governance*, Manchester: Manchester University Press.

1. *Public Petitions in the Northern Ireland Assembly*

The only existing provision allows the presentation of written petitions but only through an MLA. The role of the MLA is limited to; stating who the petition is from, how many signatures it has, the nature of the action requested and reading the prayer of such a petition. Petitions must be within the competence of the Assembly. If validated by the Business Committee an MLA has three minutes to present the petition, after which it is forwarded to the relevant Minister and Assembly committee. However, there is no further mechanism to progress them. A petition in 2007 had 120,000 signatures opposing any change in the abortion law. Other topics have related to; autism, abuse in institutions, badger culls and retaining Enniskillen Collegiate Grammar School. There have been a total of 28 public petitions up until September 2014. This is a limited system for obtaining Assembly consideration and impacting on policy. It appears not widely known and its only value may be in the presentation raising media, Assembly and public awareness. Northern Ireland is different from Scotland and Wales in not having a well developed public petition system. The existing system is known as a descriptive or accept and record system as opposed to a substantive system.

2. *Petitions and the UK Government and Parliament*

An e-petition system was introduced in 2011 by the Coalition Government following the Wright Committee, which aimed to find ways of restoring the public's faith in the workings of parliament after the MPs' expenses scandal. An e-petitions system operates under the DirectGov portal which is overseen by the Leader of the House of Commons, a government minister. Anybody can create a petition and seek support and if they obtain 100,000 signatures the petition may be debated in the House of Commons. The Backbench Business Committee, if an MP makes representations in support of such a petition, decides whether to allocate a debate. It makes this decision on the basis of; topicality and importance, the number of MPs likely to attend, and if no debate on the topic is likely through another route. Pressure on parliamentary time led to debates taking place in Westminster Hall on Monday afternoons. To date some 20 debates have taken place in the Parliament, including topics on: west coast rail provision; full disclosure of government documents on Hillsborough; children's cardiac services; the badger cull; dropping the health Bill; and stopping Bulgarian and Romanian immigration. Some 98 per cent of petitions receive less than 1,000 signatures and it is not until they receive 10,000 signatures that they will receive a response from Government. Petitions may remain open for a year. At present a petition on lowering the age for smear tests has 326,740 signatures, and one on cervical screening 41,116 signatures, while a petition on tougher prison sentences for cruelty to animals has 21,236 signatures. There is also a more long standing system allowing individuals to submit paper petitions to the House of Commons or the House of Lords, where they are presented in Parliament, recorded in Hansard and receive a response from a government department.

A few petitions have applied to the Northern Ireland Office, and can be initiated by Northern Ireland residents. Examples with 2015 closing dates for signatures are: a

petition calling for an amnesty for all British troops in the Northern Ireland troubles, one calling for devo max for Northern Ireland, one calling for the suspension of the NI Assembly, and another petition calling for a full judicial inquiry into the members of Sinn Féin and their involvement with the I.R.A. All have attracted few signatures.

The e-petitions system has proved popular but has been subject to a number of criticisms. These relate to confusion between the role of Government and Parliament; the public expecting too much from the system; little impact on policy outcomes; dependence on the numbers of signatures as the measure of importance and the need for more flexible responses. It can be seen as mainly giving petitioners an opportunity to air their views. The cost of operating the system has been examined but is not seen as excessive and has not been the subject of criticism.

There may not be many advantages to applying the e-petition system to The Northern Ireland Assembly and Executive, for example, with a proportionate signature threshold of 5,000 and any debate at the discretion of the business committee. It can be suggested that it is actually not too difficult to lobby MLAs to sponsor a motion to be debated in the Assembly, although an individual based e-petition system may make the petitioners feel more involved. It is likely that the House of Commons Procedure Committee may amend the e-petition system in the next parliament, to make it wholly parliament based.

3. *Public Petitions in Scotland*

3.1 The system

The Scottish system stemmed from a desire to make devolution more open and participative. The system gives the public a way to raise issues directly with Members of the Scottish Parliament. Petitions can be presented by one person under a number of conditions:

- the petition must state clearly what action is wanted
- additional information to justify action should be provided
- a public interest must be demonstrated
- it must be demonstrated that the issue has been raised with an MSP, department or local council
- it must not relate to a judicial matter
- it must not name individuals or be abusive
- the petition should refer to a devolved matter, but in practice some reserved matters may be accepted if legislative action is not being sought
- there has to be a one year lapse between similar petitions.

The process for dealing with petitions is quite extensive and mainly involves a specialist parliamentary Public Petitions Committee. The Committee has six members, with an opposition chair and is representative of the main parties. It normally meets around 20 times a year. All admissible petitions are considered by the Committee to decide what action to take; to accept and pursue; to take no action or to

seek further information. The latter action is taken in relation to most petitions. This can involve a referral to a relevant subject committee for further investigation or an investigation by the Petitions Committee. With other committees in danger of being overburdened the task is mainly now undertaken by the Petitions Committee. Normally further evidence is taken: in person from the petitioner and other witnesses; from organisations with an interest; from commissioned research; round tables may be held; and, on occasions, ministers have agreed to give evidence.

3.2 The topics

Some forty topics are accepted for further investigation each year and usually forty would be ongoing. Health and education issues tend to dominate the process but with a substantial number of rural, local and other issues. Recent health petitions have related to: isolation in single room hospitals; respite services for young adults; mental health legislation; insulin pump therapy and tackling chronic pain. Education issues have included Primary One class sizes and school bus safety. Rural issues have included; rail travel improvements, Hebrides ferry plans, flood insurance problems, saving Scotland's seals and culling wild geese. Other current petitions relate to such diverse matters as equal rights for unmarried fathers, making Flower of Scotland the official national anthem and renaming Prestwick airport the Robert Burns Airport.

3.3 Outcomes and Influence

The Petitions Committee will produce its final recommendations after taking and considering the evidence. The recommendation may include taking no further action.

The Petitions Committee has carried out major inquiries which have been high profile and led to policy changes following their recommendations. The report on child sexual exploitation was conducted over eight months and made 28 recommendations, was debated in parliament and led to a ministerial statement. Also influential was a petition on NHS cancer treatment and on mandatory sentences for persons found carrying knives, a petition initiated by a father whose son was stabbed to death. The recommended action by the Petitions Committee can be diverse. It may ask a public body to review a decision, recommend a debate in parliament, ask a body to keep a matter under review, often try to incorporate evidence into an ongoing policy process or legislative process. Even if petitioners do not achieve their declared aim they may be satisfied with the publicity and attention given to their cause.

3.4 Problems with the Scottish system

While some criticisms of the system have been made there has been overall support for continuing with the system. There has been criticism of a gender and class bias in petitioners and a need identified to promote the use of petitions by hard to reach groups. Petitions submitted online tend to have an advantage, in attracting signatures and support. There is some risk of the system being taken over by organisations but some 62 per cent of Scottish petitions are submitted by individuals. Overall there is still a public lack of awareness of the system.

3.5 Value of the Scottish System

The rationale and justification for having the Scottish Petitions system can be considered as realising the following values:

- a means through which members of the public can have a direct influence on policy
- giving direct access to MSPs and other key policy makers, including ministers
- as a commitment to more open, participative and responsive forms of government
- as a form of power-sharing involving the public directly
- as enhancing public accountability
- as treating all citizens as of equal worth in the eyes of government
- raising awareness of issues in parliament and with the media and the public
- stimulating parliamentary debate
- contributing to better informed and evidence based policy making.

4. *Public Petitions in Wales*

4.1 The Process

The petitions system in Wales was set up in 2006 with an Assembly Petitions Committee to increase the Assembly's engagement with the people of Wales. The system is very similar to that in Scotland. A difference is that the petition must have ten signatures or be supported by a corporate body. Otherwise the petition must ask the Assembly to do something it has the power to do, not be a judicial matter, not be offensive or defamatory, not interfere in the operational matters of local authorities and not address a matter that has been considered in a petition less than a year ago. The admissibility is assessed by the Committee clerk who may request further information. Admissible petitions are considered by the Petitions Committee which consists of only four Members, one from each of the four main parties and with the chair from an opposition party. The Committee meets every two weeks when the Assembly is sitting. Discretion rests with the Committee to close the petition and take no further action, however, it is more usual to scrutinise the issue further. The Petitions Committee can seek further evidence from the petitioner and other relevant parties and bodies; commission briefings from the Assembly Research Services; obtain the views of government ministers; obtain legal advice, and undertake visits. It is possible, but not common, unless in the case of a need for legislative action, to refer a petition to another committee but it may prove appropriate to link petitions to the work of other committees.

4.2 The topics

The more restricted form of devolution in Wales has made little difference to the range of petition topics compared to Scotland. Health and education topics dominate, with

almost half relating to health and over a quarter to education. Other topics cover mainly children, employment, transport and equality. Current health topics include: helping babies born at 22 weeks; disability awareness training; treating pernicious anaemia; e-cigarettes ban for under 18s; eating disorders. Education matters have included: the review of school admissions criteria and allowing children to take family holidays in term time. Other topics have included bus services and fire stations. Petitions often call for executive action to initiate change or stop government action and can range from the very local, additional trains to Fishguard, to the very wide, saving Welsh universities.

4.3 Outcomes

Each year there has been a number of major inquiries carried out by the Petitions Committee leading to full reports, debates in the Assembly and acceptance of recommendations. In 2011 a full inquiry on opportunities for disabled young people led to increased funding. In 2012 there were four such reports, including a major inquiry into the incineration of waste, with four main recommendations for action by the Welsh Government. A full report on noise from wind turbines also made four recommendations for new guidelines and meaningful consultation. Petitions have also led to significant policy change when committees have taken up petitions. The Sustainability Committee carried out a full inquiry on a petition for a levy for single use plastic bags and the Welsh Government accepted the recommendation to impose a charge.

4.4 Problems

A number of problems have been identified with the Welsh system but as in Scotland there is overall support for the continuation and development of the system. A need is perceived to increase public awareness of the system and promote the use of petitions by hard to reach groups. It is accepted that there is some confusion concerning the role of the Assembly Government, the UK Government, and local authorities and a need to clarify the role of the Assembly and the Welsh Government in the process. It has been noted in the Petitions Committee that the committee is a 'spotlight' committee rather than a 'solutions' committee. Some concern also exists at the role of lobbying groups using the system when they could use other methods to get their views across.

4.5 Values

The rationale and justification for the petitions process in Wales is largely similar to Scotland, if sometimes expressed a little differently. Key factors mentioned are:

- providing participation in the policy process in a meaningful way
- giving petitioners opportunities to engage with ministers
- making government responsive to citizens' demands
- heightening the profile of an issue that may not have previously been on the political agenda
- influencing the development of new approaches to social problems and public issues

- the value of the Assembly and Government taking the work of the Petitions Committee seriously.

5. *Republic of Ireland*

A similar system to Scotland and Wales was introduced in 2012 to the Irish Parliament. Only one signature is needed for a petition. The admissibility criteria is similar to Scotland and Wales except that a substantially similar petition can not be introduced in the lifetime of a Dial and a petition must not be frivolous, vexatious, or abuse the system. Petitions are processed by a joint sub-committee on public petitions drawn from the Dial and Senate. This is a large committee, composed of 15 deputies and 5 senators with a chair from an opposition party. The sub-committee may take further evidence from the petitioner and other bodies and people, including the relevant minister. It is too early to assess the impact, except to state that there have not been many petitions. To date petitions have covered: pensions, flood prevention, water fluoridation, US military use of Shannon airport, uninsured aircraft operations, directly elected mayors, and appointments to the Garda Ombudsman Commission.

6. *Petition System for Northern Ireland*

There is a strong case for introducing a petitions system based on the Scottish and Welsh systems.

6.1 *Potential value*

There are a number of potential advantages to the Northern Ireland Assembly and Executive

- as a way of engaging individuals more fully with the Assembly and political institutions
- making the Assembly and Executive more responsive to the needs and views of the public
- improving the public's perception of the value of the Assembly
- raising the awareness of the public's main concerns with politicians and the media and the rest of the public, probably regarding health and education issues
- bringing attention to issues that may be ignored
- contributing to improving the quality of policy making
- increasing the workload and output of the Assembly
- making more direct use of work by the Assembly Research and Information Service.

6.2 *Issues and Questions*

There are a number of issues and questions to be settled in setting up a Northern Ireland system, using Scotland and Wales as a model

- can an individual submit a petition or should there be ten signatures and can organisations submit petitions?
- should background information be attached and should Assembly assistance be provided?
- should e-petitions and paper petitions both be accepted and should there be a facility to record signatures of support?
- what criteria should be used to assess the admissibility of petitions?
- would there be agreement on a four person or five person committee, representing the main political parties? As the Assembly has fewer committees than the Scottish Parliament and Welsh Assembly it should not be particularly demanding to establish a Petitions committee.
- what range of recommendations would be open to the Petitions committee?
- what should be the relationship between the Petitions Committee and other Assembly committees.

6.3 *There are a number of special Northern Ireland factors that might present barriers to an effective system.*

- there could be a tendency for a substantial number of petitions to reflect communal divisions
- the question arises if petitions of concern could be used in relation to recommendations from the Petitions Committee
- organisations may try to make more use of the system than individuals
- would there be a commitment to take the system seriously in the Assembly and by ministers?
- the public may need guarantees that their petitions will be treated with respect and most will be accepted for an investigative process.