



Northern Ireland
Assembly

Research and Information Service Briefing Paper

Paper 48/25

May 2025

NIAR 84-2025

Ray McCaffrey

Cross-cutting scrutiny in other legislatures

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1 Introduction

This briefing paper has been prepared following a request from the Assembly & Executive Committee (AERC). The committee asked for comparative research on the arrangements for cross-cutting scrutiny in other applicable legislatures.

The research looked at arrangements in the following legislatures:

- House of Lords
- House of Commons
- Scottish Parliament
- Houses of the Oireachtas
- Senedd

2 House of Lords

The House of Lords provides probably the best example of joint working and cross-cutting committees. In 2019 the House of Lords Liaison Committee published its report *Review of House of Lords Investigative and Scrutiny Committees: towards a new thematic committee structure*. The report followed an 18-month review on the effectiveness of Lords' committees. It "proposed the start of a significant change in the positioning of our committees to begin to put in place a thematic approach designed to ensure more effective scrutiny of all the major areas of public policy".¹

The Liaison Committee identified 5 principles that should inform the work of Lords' committees going forward. It believed that House of Lords committees should be:

- Cross-cutting
- Comprehensive

¹ House of Lords Liaison Committee, *Review of House of Lords Investigative and Scrutiny Committees: towards a new thematic committee structure*, July 2019:
<https://publications.parliament.uk/pa/ld201719/ldselect/ldliaison/398/398.pdf>

- Flexible
- Open and outward-looking
- Effective

The report was informed by evidence from a number of stakeholders, including the Hansard Society, which commented that the House of Lords committee system:

...more easily accommodates and encourages scrutiny of cross-departmental topics than its counterpart in the Commons, where ‘siloed’ scrutiny has been a perennial weakness.²

This view was reiterated by the Convenor of the Lords Spiritual, who said that:

One of the advantages of Lords committees has always seemed to be their distinctiveness from the committee system in operation in the Commons. Their emphasis on subject areas that cut across departments ensures that the Lords complements the work of the Commons, instead of competes with it.³

The report recommended that...:

House of Lords committees should continue to be cross-cutting in nature, working across a number of Government departments and with the ability to consider major policy issues with the requisite degree of breadth and depth. This is a strength of the current arrangements and should be maintained going forward. This approach helps to ensure that our committees complement, rather than duplicate, the departmental approach of the House of Commons.⁴

Research from 2021 examined the Liaison Committee’s attempts at recalibrating the committee system, recognising that the reforms possessed a

² See footnote 1

³ Written evidence from the Bishop of Birmingham and the Convenor of the Lords Spiritual, July 2018: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/liaison-committee-lords/review-of-investigative-and-scrutiny-committees/written/86866.html>

⁴ See footnote 1

“transformational dynamic that was difficult to deny”. It also cautioned however, that “the challenge...is likely to emerge from the existence of a largely hidden disjuncture between the accountability ambitions embedded within this reform agenda and the institutional, constitutional and political matrixes within which the ‘new’ committee system in the Lords is expected to operate.”⁵

Furthermore, the research highlighted that:

...while the premise of a thematic and cross-cutting approach to scrutiny is straightforward, the practical adoption of such an approach is fraught with complexity. In the UK, an historic organisational structuring of Whitehall around departments, silo-based working patterns, norms, cultures, and resource allocation has been reinforced by conventions of responsibility which confine the accountabilities of ministers and their officials to departmental silos and has inhibited the delivery of cross-cutting commitments...

...if the ‘systems architecture’ for joined-up working in government has been, and continues to be, deficient; then a scrutiny system designed to ‘take the systems architecture view’ would be constrained by the very departmental modes and norms that thematic scrutiny is designed to address. This disjuncture has the potential, therefore, to become more pronounced in a committee system which has as one of its key purposes ‘holding the executive to account and ‘providing scrutiny of government policy, actions and legislation’.⁶

Nevertheless, the research went on to say that such problems should not be a barrier to positive outcomes. It cited the example of the House of Commons Environmental Audit Committee as having impacted on the way government departments approach their work:

⁵ Connolly, Flinders & Judge, Reviewing the review: a three-dimensional approach to analysing the 2017–2020 review of the House of Lords investigative and scrutiny committees, *The Journal of Legislative Studies*, Volume 29, 2023: <https://www.tandfonline.com/doi/full/10.1080/13572334.2021.1978762#abstract>

⁶ As above

Established in 1997, as the world's first cross-cutting parliamentary committee for environmental policy and sustainable development, the EAC has had a 'galvanising effect on departments' in prompting improved departmental processes for reporting, appraising and presentation of their contributions towards meeting government commitments on the environment and sustainable development. This effect has taken the form of providing 'additional analysis' and 'acting as a kind of consultancy resource' for civil servants; while also enabling departments to use committee reports 'to air some of their concerns to other departments' or 'to build a case for further research in particular areas'. The very process of interacting with the EAC, in preparing documentation, providing oral evidence and writing responses, has 'nudged' departmental officials to consider the cross-cutting implications of broad environmental commitments for specific departmental policies and programmes.

Extrapolating from this experience, a systematisation of cross-cutting committee scrutiny in the Lords holds the potential, therefore, to foster reactive changes across Whitehall and induce more sustained implementation of cross-departmental initiatives and the practices of joined-up governance.⁷

3 House of Commons

House of Commons committees are established by Standing Orders of the House. There is a Commons select committee for each government department, examining three aspects: spending, policies and administration.⁸ The House of Commons appoints general committees on a routine basis to consider proposed legislation in detail. These are usually referred to as Public Bill Committees.

Standing Order 137A sets out provisions for joint working:

⁷ See footnote 4

⁸ House of Commons, General Committees (including Public Bill Committees): <https://www.parliament.uk/about/how/committees/general/>

137A. Select committees: power to work with other committees

(1) Any select committee or sub-committee with power to send for persons, papers and records shall have power—

(a) to communicate its evidence to any other select committee or sub-committee of either House of Parliament or to the Scottish Parliament, the Welsh Parliament/Senedd Cymru or the Northern Ireland Assembly or to any of their committees; provided that evidence from the National Audit Office shall first have been agreed between that Office and the government department or departments concerned;

(b) to meet concurrently with any committee or sub-committee of either House of Parliament for the purpose of deliberating or taking evidence;

(ba) to agree with any other select committee or sub-committee of this House on the exercise of any power which each of those committees, or sub-committees may separately have to appoint specialist advisers, to authorise witnesses to publish written evidence submitted by them, or to adjourn from place to place;

(c) to meet concurrently with any other select committee of this House for the purpose of considering a draft report;

(d) to agree in the choice of a chair for any concurrent meetings; and

(e) to invite members of any other committee to which this order applies to attend any meeting and, at the discretion of the Chair, ask questions of witnesses or otherwise participate in its proceedings; but no member of another committee so invited may move any motion or amendment, vote or count towards the quorum.

(2) Where two or more select committees have agreed reports to the House in identical terms, those reports may be published as a joint report.

(3) The Welsh Affairs Committee may invite members of any specified committee of the Welsh Parliament/Senedd Cymru to attend and participate in its proceedings (but not to vote).⁹

In May 2024 the House of Commons Liaison Committee published its report *Promoting national strategy: How select committee scrutiny can improve strategic thinking in Whitehall*¹⁰. The main purpose of the report was to “address how select committees can better scrutinise and thereby encourage strategic thinking in government.”¹¹

The committee recognised the good work undertaken by committees but also “received some constructive criticism on how select committees scrutinise strategic thinking.”¹² Evidence from the Institute for Government (IfG) suggested that:

the traditional departmental focus of House of Commons select committees could impede the effective scrutiny of strategic questions, leading to the piecemeal examination of major strategic challenges, albeit the increased use of joint working and guesting had helped to mitigate this.¹³

‘Guesting’ is discussed further below.

The IfG also argued that a committee could be established with “responsibility for conducting high-level scrutiny of the government’s broad strategic approach.”¹⁴ This reflects the approach taken in the Finnish Parliament, where

⁹ Standing Orders of the House of Commons:

https://publications.parliament.uk/pa/cm5901/cmstords/so_829_05072024/so-2024i.pdf

¹⁰ House of Commons Liaison Committee, *Promoting national strategy: How select committee scrutiny can improve strategic thinking in Whitehall*, May 2024:

<https://committees.parliament.uk/publications/45149/documents/223586/default/>

¹¹ As above

¹² See footnote 9

¹³ See footnote 9

¹⁴ House of Commons Liaison Committee, *Promoting national strategy: How select committee scrutiny can improve strategic thinking in Whitehall*, May 2024

the role of the Committee for the Future is to “track the government’s success at dealing with long term issues during the Parliament”¹⁵, including reporting on the success of the Government’s report on the future, which it is required to publish once every parliament.

‘Guesting’ in this context refers to Standing Order 137A(1)(e), set out above. The provision for guesting had been recommended by the Liaison Committee in a 2018 report. At that time the committee set out the potential benefits of allowing a member of another committee to participate in a committee’s proceedings:

The Standing Order [137A] is designed specifically to facilitate joint working between two or more committees. For most formal proceedings it requires a quorum of two from each participating committee, and for the choice of a Chair or consideration of draft reports a quorum of three (or the quorum of the relevant committee if greater). There are, however, examples of inquiries where a committee would have found it useful to be able to involve a single member of another committee in a piece of work rather than conduct a joint inquiry or evidence session. For example, the Chair of the International Development Committee attended an evidence session of the Foreign Affairs Committee on the violence in Rakhine State, but was not able formally to participate in proceedings. The Petitions Committee almost always invites the relevant subject committee to take part if it is going to be taking evidence on a topic within the remit of that committee. Our proposal is modestly to add to the provisions of S.O. No. 137A to enable a committee to invite a “guest” from another committee without the procedural and practical barriers of convening a full joint sitting or setting up a joint inquiry. For example, it would also be helpful for members of the Petitions Committee to take part in another Committee’s evidence session, if it was relevant to a petition, helping petitioners’ voices to be heard in a wider range of parliamentary business, as well as raising the profile of committee work with petitioners.

¹⁵ See above

5. We discussed this proposal with the Procedure Committee which agreed with our case but highlighted the importance of any invitation to a member of another committee to participate in proceedings being made on the basis of a formal resolution of the host committee. We agree.¹⁶

This is now reflected in Standing Order 137A 1(e):

(e) to invite members of any other committee to which this order applies to attend any meeting and, at the discretion of the Chair, ask questions of witnesses or otherwise participate in its proceedings; but no member of another committee so invited may move any motion or amendment, vote or count towards the quorum.

4 Scottish Parliament

The Rules (Standing Orders) of the Scottish Parliament provide for cross-committee working. Rule 6.14 states:

1. Where a matter falls within the remit of more than one committee, the committees concerned may, with the agreement of the Parliamentary Bureau, consider that matter jointly. The Parliamentary Bureau shall consult the Conveners Group before giving such agreement.
2. Where a matter is to be considered jointly under paragraph 1, any meeting to consider that matter shall be held jointly by the committees concerned. Such a meeting may be convened by the convener of any of those committees. At such a meeting the convener of any of those committees may take the chair.
3. Any report on the joint consideration of a matter shall be produced jointly by those committees.

¹⁶ House of Commons Liaison Committee, Changing committee practice and procedure: enhancing effective working, March 2018:
https://publications.parliament.uk/pa/cm201719/cmselect/cmliaison/922/92204.htm#_idTextAnchor001

4. Any of those committees may establish a sub-committee under Rule 12.5 to consider the matter jointly with a sub-committee of another of those committees.¹⁷

The Scottish Parliament's *Guidance on Committees* provides further context on joint committee working:

4.8 If any matter falls within the remit of more than one committee, the committees concerned may, if they wish, seek the agreement of the Bureau to meet jointly. The Bureau must consult the Conveners Group before agreeing (Rule 6.14.1).

4.9 At joint meetings, both (or all) of the committees involved must be individually quorate, i.e. there must be at least three members from each committee in attendance (Rule 12.2.1). The meetings are chaired by one of the conveners of the committees involved (Rule 6.14.2), by agreement between the conveners concerned. A joint agenda and joint minutes are produced of any meeting held jointly, and any report that results is also published in the joint names of the committees involved (Rule 6.14.3). As an alternative to full joint meetings of two or more committees, the committees concerned may each seek to establish sub-committees in order for those sub-committees to consider a particular matter jointly (Rule 6.14.4).

4.10 Joint consideration is an alternative to having one committee designated as the lead committee (to which the others report). It is therefore appropriate when no single committee's remit gives it an obvious primacy in relation to the subject, or where there are real advantages in involving members of the different committees in questioning the same witnesses or discussing together a subject of mutual interest.¹⁸

¹⁷ Standing Orders of the Scottish Parliament, July 2024: <https://www.parliament.scot/about/how-parliament-works/parliament-rules-and-guidance/-/media/09d6d8adf8cd4dd3be3b274fa800a361.ashx>

¹⁸ Scottish Parliament, *Guidance on Committees*, January 2023: <https://www.parliament.scot/-/media/files/parliamentary-guidance/guidance-on-committees.pdf>

A current example of committees taking a joined-up approach to scrutiny is the Criminal Justice Committee, Health, Social Care and Sport Committee, and Social Justice and Social Security Committee, which has examined progress on the implementation of recommendations made by the Scottish Drugs Death Taskforce. This approach “reflects the need to consider aspects of the criminal justice system, as well as health policies and wider social and economic matters such as poverty, unemployment, unstable housing, and family breakdown.”¹⁹

The committee first met in February 2022 and continues to meet.

4.1.1 Convenors Group

The Convenors Group of the Scottish Parliament is made up of the Convenors (Chairpersons) of the Parliament’s 15 committees and is chaired by a Deputy Presiding Officer. The six primary functions of the Convenors Group are set out in Standing Orders:

- consider and make recommendations in connection with the operation of committees;
- report to and be consulted by the Parliamentary Bureau on questions regarding competence under Rule 6.13;
- report to and be consulted by the Parliamentary Bureau on any decision on joint consideration by committees under Rule 6.14;
- decide with the Parliamentary Bureau on the approval of the place in Scotland of a committee meeting in accordance with Rule 12.3.2;
- decide with the Parliamentary Bureau on the approval of travel by a committee member outwith the United Kingdom in accordance with Rule 12.10; and
- refer matters to the Parliamentary Bureau, a committee or the Parliamentary corporation where it considers it appropriate to do so.

¹⁹ Note from the Clerk to the Criminal Justice; Health, Social Care and Sport; and Social Justice and Social Security Committees, February 2025: <https://www.parliament.scot/-/media/files/committees/social-justice-and-social-security-committee/reducing-drug-deaths-in-scotland-and-tackling-problem-drug-use/paper-1--note-from-the-clerk.pdf>

At the beginning of session six the Group agreed to “take a more proactive role when it comes to scrutiny of systematic issues, including championing innovative forms of scrutiny.”²⁰ It therefore decided to progress four strategic priorities:

- a) Cross committee working, with an initial focus on Net Zero and Post-EU issues.
- b) Participation, diversity and inclusion
- c) Post legislative scrutiny
- d) Supporting Members as parliamentarians: continuous professional development for Members.²¹

In setting the context for cross-committee working, the Convenors Group stated that:

The Group acknowledges that policy areas and remits have become increasingly complex over the last 20 years. The cross-cutting nature of public policy means there are many areas of scrutiny which would benefit from a cross-committee perspective. The need for cooperation and coordination is therefore important for a number of reasons, including: avoiding unnecessary duplication; ensuring that issues do not fall between different remits and making sure that policy is considered in a holistic way, rather than through a departmental silo.²²

A Scottish Parliament research service article summarised the approach of the Group:

The Convenors Group has recognised that climate change engages the remits of all parliamentary committees and that delivering more effective and enhanced scrutiny would require a collaborative and cross-committee

²⁰ Scottish Parliament, Annual Report of the Convenors Group, June 2024: <https://www.parliament.scot/-/media/files/committees/conveners-group/reports/annual-report-of-the-conveners-group-202324.pdf>

²¹ See footnote 20

²² As above

effort. Furthermore it would require capacity building across all engaged in the parliament's scrutiny function – MSPs, their staff and staff of the parliament. The Net Zero, Energy and Transport (NZET) Committee has a lead role, including supporting and encouraging other committees to effectively embed climate scrutiny in their own work. It has a role in assessing overall how well the Scottish Government and its agencies are collectively responding to climate change, including in meeting the 2030 and 2045 statutory net zero targets. This over-arching role rests alongside the Committee's more conventional portfolio responsibilities to measure progress in achieving net zero targets in relation to transport, energy and the environment. Behind the scenes, this means that the NZET convener uses the Conveners Group to update other conveners and suggest and encourage ways of joint working.²³

The *Guidance on Committees* provided further context for cross-committee working:

4.11 Early in Session 6, the Conveners Group identified cross-committee working as one of its strategic priorities for the session. It recognised the practical challenges involved in coordinating the work of multiple committees, but also the benefits, including avoiding duplication, ensuring that issues don't fall between individual remits, and providing a more holistic perspective than might be achieved only by working in departmental "silos". The Group agreed to put a focus throughout the session on scrutiny of climate change and "net zero" (work to meet the statutory target of making Scotland carbon-neutral by 2045) and on post-EU issues (policy and legislation at UK level in consequence of the UK's departure from the European Union). It also agreed to support ad hoc scrutiny of systemic issues that span multiple committee remits (for

²³ Scottish Parliament, SPICe Spotlight, Delivering a model for parliamentary scrutiny of climate change: drivers, actions and next steps, January 2024: <https://spice-spotlight.scot/2024/01/16/delivering-a-model-for-parliamentary-scrutiny-of-climate-change-drivers-actions-and-next-steps/>

example drug usage in Scotland, post-pandemic recovery and the National Planning Framework).²⁴

5 Oireachtas

There are three different types of committees in the Houses of the Oireachtas – departmental, thematic and special policy focused committees. Previous research provided an explanation of the remits of the different types:

- **Departmental committees (sectoral committees)**, which shadow the policy, legislation, governance, administrative and expenditure activities of government departments and their agents; sectoral committees operate in joint (TDs and senators) and select format (only TDs or only senators);
- **Thematic committees**, e.g. European Affairs Committee, Committee on Public Accounts, Committee on Budgetary Oversight (have specific remit and functions which cut across all departments);
- **Special time-bound, policy-focused committees**, e.g. Committee on the Future of Healthcare (Sláintecare) in the thirty-second Dáil, Joint Committee on Climate Action (thirty-second Dáil) and Committee on Assisted Dying (thirty-third Dáil).²⁵

Standing Orders of Dáil Eireann allows for joint meetings of select committees:

107. Joint Meetings of Select Committees

Each Select Committee shall have power to request of another Select Committee that a joint meeting of both Committees be held to consider a specific matter or matters of common activity and, in the case of any such joint meeting—

²⁴ See footnote 17

²⁵ Houses of the Oireachtas committees: <https://www.oireachtas.ie/en/committees/>

(a) the Cathaoirleach of the requesting Committee shall act as Cathaoirleach and, in the unavoidable absence of the Cathaoirleach, the provisions of Standing Order 113(3) and (5) shall apply;

(b) the quorum provisions of both Committees shall apply with the modification that each such quorum shall be halved and then rounded up to the next nearest whole number; and

(c) the orders of reference of the two Committees shall apply only insofar as they are common to both.

6 Senedd

Standing Orders of the Senedd allows for joint meetings of committees:

Meetings with Other Committees

17.53 Committees may meet concurrently with other committees of the Senedd.

17.54 Committees may meet concurrently with any committee or joint committee of any legislature in the UK.²⁶

²⁶ Standing orders of the Senedd, January 2025: <https://senedd.wales/media/n33df5ry/so-eng.pdf>