

## REPORT OF THE VISIT TO WESTMINSTER 7-11 DECEMBER 1998

### Background

1. Liz Benson, Tom Evans, Joe Reynolds and John Torney visited Westminster between 7 -11 December 1998. The visit provided an opportunity:
  - to observe the work of the Committee Office at Westminster,
  - to sit alongside committee staff in the preparation and delivery of a committee session and, more generally,
  - to observe the operation of the House of Commons and the work of those staff responsible for a variety of procedural issues.
2. The visit was arranged and facilitated by Ms Alda Barry, Clerk to the Scottish Affairs Committee to whom we are indebted.

### Committee Office Staffing

3. Helen Irwin described the collegiate system of staffing the Committee Office. She argued persuasively for a tiered management structure which provided a Senior Clerk to oversee the work of several (3 or 4) Clerks, each in turn supported by a Committee Assistant and secretarial/administrative support. In some Committees Committee Specialists and Specialist Advisers and additional support staff were also attached.

### Recommendations

4. The availability of a Senior Clerk to advise and monitor the performance of Clerks was regarded as important both to support and develop the work of the individual clerks and to provide the opportunity to moderate work standards across a work area. This is absent from the current proposals for Assembly Secretariat staffing and needs to be re-considered. It was clear that the quality and experience of Committee

staff were key factors in the confidence of Members that the Committee Office could perform effectively.

5. The position of Committee Assistant was generally filled by high quality, graduate entry, staff who were able to lead on some areas of work, especially research, proofing evidence scripts and the logistics of travel. Committee Assistants were expected to initiate as well as support the work of the Committee unit. Committee Assistants were generally regarded as 'Clerks in training'. This may have a bearing on the recruitment of Staff Officers to the Assembly Committee Office.
6. It may be useful to re-consider the allocation of AOs to Assembly Committees. The experience of Westminster Committees suggests that professional secretarial skills (arranging meetings, handling visitors and providing readily available word-processing and DTP skills) were vital to the successful operation of the Committee. These skills were more typical of a personal assistant/PS role than the usual role of an administrative officer.

### **Conduct of Committee Business**

7. Most routine Committee enquiries followed a simple plan:
  - Set terms of reference
  - Call for papers
  - Sift responses for Key Issues
  - Determine Questions
  - Identify Witnesses
  - Record formal evidence in Committee
  - Draft and Agree Report
  - Publish findings
8. At any particular time a Committee may be involved in 3 or 4 enquiries each of which will be at a different stage in this continuum. The Chairman of one Committee recommended that Committees should meet, as often as possible, in the

morning, as Members are more likely to be able to devote longer and, according to him, be more focused than if meetings were held in the afternoon. Clerks regarded the relationship with the Chairman as central to the conduct of business. The roles of Committee Specialists, often seconded for up to 2 years from Departments, and Committee Advisers, recruited for particular enquiries on a daily fee basis, were also important.

## Recommendations

9. There would be merit in support staff visiting a Committee:
  - to see how it handled the logistics of the meeting: booking rooms and notifying appropriate personnel from Members and witnesses to Hansard, the Journal Office etc.; and
  - to learn how to deal with processing evidence, paying expenses to witnesses, arranging visits by Committees.
10. Committees compile a Sessional Report which gives details of the Committee's activity, quantifying the numbers of meetings, witnesses, submissions received, reports produced, etc. It may be useful to consider such an arrangement here for Annual Reporting and efficiency scrutiny purposes.
11. A potential task for the Secretariat was the production of a booklet, similar to that produced by the New Zealand Parliament, on 'Effective Select Committee Membership'. Such a booklet could be helpful to Members who were inexperienced in the operation of a Committee system of Government.

## Role of Standing Committees

12. Bill Proctor and Roger Sands spoke to us about the role of standing committees in the scrutiny of legislation. It was notable that Standing Committees always meet in public. More recently a Special Standing Committee had been established on an experimental basis to look at draft legislation. This Committee had invited witnesses to make presentations and offer evidence to the Committee about the background to the need for legislation. The Committee then debated the key principles to be

enshrined in legislation as well as looking at the detail of legislative drafting. Whilst this latter approach was closer to the evidence gathering/scrutiny interface which is likely to describe the work of Assembly Committees, it was unclear the extent to which the experiment had been successful. Moreover many issues about the complications of the policy/legislation overlap remain to be uncovered. The experiment did not involve gathering evidence for policy scrutiny or formulation. A similar experiment in the Social Security Committee (Clerked by Liam Lawrence Smyth) had provoked interest but no clear conclusions.

13. Mr Proctor was eager to define the role of the Clerk as a lay extension to the Committee and to ensure that its findings and intentions were easily understood. The Clerk was not expected to be an informed specialist and certainly not a legal expert. However there remained a number of issues about gaining consensus on Committees, differentiating between the generally homogenous approach to policy scrutiny and the usually party political approach to scrutinising legislation. Members, perhaps not surprisingly, discriminated between the ability to call Ministers to account on an all-party basis and the need to operate the partisan approach which ensured that the Government got its legislative programme through the House. Most of the Commons staff thought that the combined policy/ legislation role suggested for Assembly Committees was, at least, daunting.

### **Recommendation**

14. The Secretariat needs to take soundings from the parties on how they expect the Committee system in the Assembly to operate. The Committee Office needs to establish some general rules of engagement and a clear timetable for the work programmes of Committees to avoid the Assembly's legislative and the Executive's policy programmes becoming 'bogged down' in Committees. A simple flow-chart, along the lines set out in Annex A, might be helpful.

### **Visit to another Legislature**

15. It was clear that much of the practice at Westminster was based on, or had its roots in, longstanding conventions and traditions. It was less clear how these would

translate readily to a new legislature. In this regard it was suggested that Assembly staff, as Parliamentary staff, might benefit from both membership of one of the parliamentary staff associations, there is a Commonwealth and a wider International Body, and from a visit to another 'newer' legislature. For obvious reasons, a visit to Dail Eireann might be both sensitive and contentious. However some consideration to this and/or a visit to another European system that employs a Committee based approach to legislative and policy scrutiny might be of considerable merit.

### **Recommendation**

16. The Committee Staff should arrange to visit a committee system operating in another European jurisdiction to consider the logistics of dealing with policy and legislation together.

### **Dealing with European Legislation**

17. Elizabeth Flood described the bureaucratic entanglement of considering EU papers on behalf of Parliament. Further work is necessary, on foot of the Report of the Ad Hoc Committee, on how the Assembly should relate to the work of the Select Committee on EU Legislation to provide NI input to the UK's responses to Brussels.

### **Relationship with Business Office**

18. It was clear that the Westminster system depended on a clear understanding of the relationships between the Bill, Table and Journal Offices and the interaction between these and the work of the Committees. It would appear that a lot of work on the comparable relationships within the Assembly is needed as a matter of urgency. In particular the agreement of Standing Orders for the legislative process, outlining the relationship between Committees and the Assembly, needs to be clearly established before Committees begin consideration of draft legislation. Many procedural questions about the locus of responsibility have not yet been asked and there appears to be few answers.

## Public Accounts Committee

19. Ken Brown (Clerk to PAC) described the work of the PAC from the agreement of a programme of investigations with the C&AG through to the receipt of a response from Departments on PAC's recommendations. Copies of relevant literature were also provided (see Annex B). He noted that the agreement of Audit Office reports by Departments was a vital aspect of the enquiry, Departments could not later, eg in Committee, challenge the factual contents of the Report. He noted that PAC was regarded as the 'senior' Committee. When its programme was agreed it was unusual for Departmental Committees to pursue similar topics of investigation.
20. There were several references to the role of the Audit Commission. Mr Brown noted the inclusion of provision for an Audit Committee in the Assembly. Its role, terms of reference and modus operandi will need to be taken forward by the Secretariat.

## Members' Privileges and Register of Interests

21. Roger Willoughby (Registrar of Members' Interests) told us about some of the differences in the arrangements proposed for the Assembly from the practice at Westminster. Primarily he noted that under the NI Act 1998 a failure to declare an interest was not only a disciplinary but also a criminal offence. However it was clear that the registration of interests at Westminster relied almost entirely on Members' personal integrity, which seems odd given that the need for a register is, presumably, predicated on the supposition that Members may sometimes be less than transparent about the basis for some of their decisions. There is no cross-referencing to other public records. Mr Willoughby suggested that the introduction of the Code of Conduct and the implementation of the 'Nolan' recommendations had improved the record of Members interests and improved the reputation of the House. In a uniquely English manner, this judgement was based on the paucity of allegations or revelations about Members in the recent past (ie not based on a scale of honesty but an absence of accusations of dishonesty).

## Recommendations

22. The Secretariat should look at the requirements to maintain a register of Members' interests. In particular it should be possible to establish arrangements for cross-referencing Members' interests to other public documents, eg Companies Register. Consideration needs to be given to how or whether Interests will be reported on the Order Paper, and what modification to Standing Orders might be needed.
23. Further monitoring of changes at Westminster in the arrangements for registering the interests of party parliamentary staff will also be helpful if the Assembly decides that a similar monitor is necessary. A Code of Conduct, elaborating on Annex A to Strand One of the Belfast Agreement and incorporating some of the principles of conduct in plenary or committee sessions may be required. In particular the Assembly will require a 'sub judice resolution' to prevent Members from interfering in the due process of law.

## Arrangements for Visits

24. Contact was made with the Parliamentary Liaison Officer in the Foreign and Commonwealth Office (FCO). She offered to initiate contacts with FCO posts in countries which Assembly Committees intended to visit. Whilst the cost of interpreters, hotels, receptions etc would fall to the Assembly, FCO would be available to assist with identifying appropriate services locally. She noted the importance to FCO of paying bills on time and issuing appropriate acknowledgements to those visited during foreign tours.

## Departmental Liaison Officers (DLOs)

25. We met with a DLO from the MoD. He described the value which close liaison with Departmental staff offered to both the Departments and also Committee staff, particularly for identification of witnesses, sites for visits and the prompt exchange of evidence memoranda. Whilst some of the suggestions were clearly

of more benefit to the Department than Parliament, it was clear that DLOs had an important role to play.

26. Considerable weight was given to the operation of the 'Osmotherly Rules' - a written convention on how and in what capacity civil servants present evidence to Committees. Copies of this Cabinet Office document were circulated.

### **Recommendation**

27. There would appear to be merit in arranging a seminar or perhaps a pamphlet for DLOs at an early stage to set out some of the range of functions they could perform to benefit the relationship between the Committee and the Department. Some consideration to producing guidance on Civil Service evidence to Committees is needed from Central Secretariat.

### **Domestic Arrangements**

28. Passes were issued promptly and efficiently on arrival at Westminster. The passes were simple but effective with the holder's name prominently displayed in an easily read line across the top. Colour coding was simple but effective at discriminating between different levels of clearance. It was notable that Officer of the House status was afforded to Officers on detachment. Privileges of this status included free access throughout Parliament on a par with Members. Mr Winnifrith (Clerk of Committees) was anxious to reinforce the notion that Officers (particularly Committee Clerks) were there to serve Parliament but were not subservient to individual Members. The successful operation of the Parliamentary system relied on a relationship between Clerks and Members which respected the differences and also the respective importance of both positions.

### **Conclusion**

29. The visit to Westminster was well planned and executed by colleagues at Westminster. Whilst informative, it also stimulated numerous areas for further consideration and action by the Assembly Secretariat. The full value of the visit can only be realised if at least some of these action points are taken forward

before the Assembly forms Committees and the need to have structures and processes in place becomes crucial.

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Committee Office

5 January 1999

## Summary of Recommendations

1. The staffing needs of the Committee Office needs to be reviewed. A structure of 'Senior Clerk - Clerk - Committee Assistant - Secretarial Support' may be preferable. (paras 4-6)
2. Support staff should visit a Westminster Committee in operation. (para 9)
3. A sessional report of activity should be produced by the Committee Office. (para 10)
4. A booklet on the operation of Committees for Assembly Members should be produced. (para 11)
5. The political parties should be asked for their views on how the Assembly's Committee system should operate. (para 14)
6. The Committee Clerks should visit a committee system which deals with policy AND legislation. (para 16)
7. Further work is needed on how the Assembly will deal with EU legislative proposals. (para 17)
8. Standing orders need to be completed on the legislative procedure and relationships between the Committee and other Offices of the Assembly. (para 18)
9. The role, terms of reference and modus operandi of the Audit Committee need to be clarified. (para 20)
10. The requirement to maintain a register of Members' interests needs to be addressed. (para 22)
11. The Assembly will require a 'sub judice' ruling and a possible elaboration of the Code of Conduct for Members. (para 23)
12. A seminar with Departmental Liaison Officers may be useful. (para 27)

## READING LIST OF PAC RELATED PAPERS

National Audit Act 1983

The Public Accounts Commission (Ninth Report)

Committee of Public Accounts (PAC) - Eighth Report - The Proper Conduct of Public Business

Report by the Comptroller and Auditor General Sales of the Royal Dockyards HC748 Session 1997-98

Committee of Public Accounts of the House of Commons - a short guide to the Committee's background, powers and responsibilities (8 August 1994)

Committee of Public Accounts Thirty-second Report - Cataract Surgery in Scotland (27 April 1998)

Committee of Public Accounts Forty-third Report - The Privatisation of Belfast International Airport (10 June 1998)

Committee of Public Accounts Forty-fourth Report - NI Social Security Agency: The Administration of Disability Living Allowance (10 June 1998)

Committee of Public Accounts Fifty-seventh Report - The PFI Contracts for Bridgend and Fazakerley Prisons (15 July 1998)

Committee of Public Accounts Sixty-first Report - Getting Value for Money in Privatisations (15 July 1998)

Committee of Public Accounts Annual Lists and Alphabetical Index of Reports Sessions 1983-84 to 1996-97

Treasury Minute on the Twenty-first, Twenty-fourth, Twenty-fifth and Twenty-seventh Reports from the Committee of Public Accounts 1997-98 (Cm 3955) (May 1998)