



Liaison Committee

Corrected oral evidence: Review of Investigative and Scrutiny Committees

Wednesday 27 June 2018

11.20 am

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Members present: Lord McFall of Alcluith (Chairman); The Earl of Courtown; Baroness Garden of Frognal; Baroness Hayter of Kentish Town; Lord Lang of Monkton; Lord Smith of Hindhead; Lord Williams of Elvel.

Evidence Session No. 16

Heard in Public

Questions 116 - 125

Witness

I: Ken Hughes, Assistant Chief Executive, the Scottish Parliament.

Examination of witness

Ken Hughes.

Q116 **The Chairman:** Mr Hughes, welcome to the Committee. Could you identify yourself for the record, please?

Ken Hughes: I am Ken Hughes from the Scottish Parliament.

The Chairman: Are you assistant chief executive?

Ken Hughes: I am indeed.

The Chairman: Would you like to make an opening statement and update the Committee on the key themes and progress relating to the Commission on Parliamentary Reform's *Report on the Scottish Parliament*, published on 20 June 2017, and to which I gave evidence on behalf of the House of Lords?

Ken Hughes: Surely, and thank you for the opportunity. I shall explain briefly who I am. I hold the strategic lead for constitutional issues that relate to both the Scottish Parliament and to parliamentary reform. In a way, they are quite complementary topics, because they are all about building parliamentary capacity and the furtherance of the Parliament's scrutiny objectives. There is quite a synergy between the two big topics.

The commission was chaired by an independent chairman and it had a 50:50 balance between representatives of the political parties in Scotland and representatives of young people, organisations, universities, churches, the private sector and those with diversity expertise. We tried to create this balance of expertise and knowledge from both inside the Parliament and externally to get a view of the Parliament.

The commission's report contained 75 recommendations and, as the Chairman has just said, it reported almost exactly a year ago. The Parliament is currently working through all 75 recommendations, with a view to agreeing and implementing or at least to agreeing the majority of the recommendations before the end of this calendar year. We want to keep some impetus in the scrutiny and implementation of the recommendations and not just let things run into the sand. That is why we have put a firm deadline on that piece of work to finish by the end of this year.

I would categorise the key themes as relating to Chamber business. That may have come more from an external perspective, as that is the showcase of any parliament and is what people see the most. There are quite a few recommendations on parliamentary business and in particular—again, you will not be surprised—a focus on First Minister's Questions and how they are perceived. We have worked through the recommendations concerning that.

The Chairman: You extended the time for that, did you not?

Ken Hughes: We did two things immediately: we extended the time and did away with the diary question preamble. We ditched that and it is now straight into Questions.

A lot of the recommendations could be grouped under the theme of stronger committees. At least part of the impetus for setting up the commission was that in previous years we were coming under increasing criticism about party of government dominance on committees and whether committees were truly independent, and that point was addressed in some of those recommendations. Perhaps the biggest visible change that we are still working through, and we are quite a bit of the way through it, is how we improve public engagement.

A subset of that is working with young people. There were quite strong recommendations on how we should improve our engagement. Lastly, there were recommendations on equality and diversity. That preceded slightly the current agenda on diversity and inclusion and the recommendations in the commission's report have been slightly subsumed by all the later events that have occurred. The Parliament is responding independently to that as well. I am happy to leave it there.

Lord Lang of Monkton: Arising from what you have said, Mr Hughes, I am interested in the profile that the Select Committee seeks to achieve. You are a unicameral parliament and that creates quite a different environment from Westminster, for example. You have pre-legislative scrutiny committees and I believe you have post-legislative scrutiny committees, both of which I am very much in favour of and I wish we had more.

In the interests of pluralism, does the Select Committee system see itself as the plaything of the Administration or as an independent source of advice, criticism, information, et cetera? Do Select Committees see themselves as standing out from government and criticising it as necessary?

Ken Hughes: It would be fair to say that some committees do and some committees do not. In part it depends on the make-up, the Chair and the subject matter of each committee. In this Session of Parliament, where there is no government majority, I can confidently say that most committees, if not all, would see themselves as fulfilling that independent scrutiny role.

Lord Lang of Monkton: Does the Administration respond by replying quickly and effectively, taking seriously committee reports?

Ken Hughes: Yes. In fact that has never varied through the 20 years of our existence. We have a protocol between committees and Government that sets down the expectations of behaviour and relationships on both sides. Part of that protocol is the amount of time that the Government have to respond to committee reports. We have never got into a situation where a Government have been so dilatory that they have actually interfered or held up parliamentary business.

Lord Lang of Monkton: How fortunate you are.

Q117 **Baroness Hayter of Kentish Town:** I am finding it quite hard to get a handle here on a very similar issue, which in a sense is the purpose of your committees. At one point earlier you were going to go down what for some of us is the old-fashioned way. They were described at that stage as the engine room; in other words, that is where the majority of the work was done, which would be familiar to those who were in local government a hundred years ago, and it then went to plenary, or whatever.

That is also how the European Parliament works. That was the early description of the committees. However, that is very different from having a scrutiny role and watching over what others do. We are struggling with what exactly the committees do. I think that form ought to follow function, so I am really interested in what you see as the core function, which will then help to explain the form. Could you explain it slightly more so that I can work it out? It is partly because different committees do different things, but could you describe how you see them now?

Ken Hughes: The theory has always been to have an amalgam of functions in committee so that a subject committee with a stable membership can build up subject expertise in whatever the subject matter is, and when it comes to scrutinising legislation that falls within its remit there will be a body of knowledge among the membership as well as among all the officials supporting that committee. Those functions are complementary, and by and large I do not think anybody has criticised that dual functionality. Most people see the benefit in that.

The problems we have had in past, almost for the whole time we have been in existence, is that some committees, most notably the Justice Committee, get so many government Bills through that they do not have the time to do any inquiry work of their own. That has eased slightly in this Session, but that has been a problem. Does that explain it?

Baroness Hayter of Kentish Town: It is quite hard from my experience, which is much more of the European Parliament, to see how those two roles go together, and whether a committee, by its own resources, can generate its own ideas or whether it is responding to an agenda set by someone else. It is quite interesting to see how it works in reality.

Another question I wanted to raise is this. Having viewed all this, what do you think is the right size for a committee? I do not know what your average size is at the moment. Presumably you have worked there for over 20 years, so what do you find is the best size for a committee?

Ken Hughes: You should bear in mind the context, which is that we have 129 Members and when you take out office holders and Ministers, we have fewer than 100 potential members of committees. From time to time some political parties—

The Chairman: How many committees are there?

Ken Hughes: It is usually around 16. That means that the committees invariably meet weekly. Membership of a committee varies from seven up to 11, although we have had 13-member committees. The number of members dictates the number of committee places. Usually you have members on two committees that meet weekly. They have all their other constituency and Chamber duties to do as well.

It is quite onerous on Members to fulfil all the parliamentary duties that are put on them. When it comes to, for example, determining the committee's own agenda, again that is slightly interfered with by the Government's legislation agenda, but on average, as a rule of thumb, committees do about three or four major inquiries per year in among all the other business they are doing.

Baroness Hayter of Kentish Town: I am struggling to see whether what the committees do is endorsed by the whole Parliament, which often argues for bigger committees—otherwise there is not the same political balance and recommendations can be overturned—or whether the inquiries merely act as an influence on the discussion and the committees' recommendations do not need to be adopted by the whole of the Parliament. Which is it in your case?

Ken Hughes: When I make occasional speeches or even speak to Members about this, I try to get across the message that, yes, committees are there to scrutinise the Government and legislation that is put before them, but when you drill down, committees are there to improve public policy through scrutiny. It is about exposing objections or views on extant public policy and gathering those views.

I suppose the litmus test would be if committees published reports and the majority of them were ignored. Again, that is not the case. They have impact, and if the report is particularly important, in the eyes of the committee, it will take that report to the Chamber and debate it in Parliament, and you will end up with a resolution.

Baroness Hayter of Kentish Town: Thank you.

Q118 **Lord Williams of Elvel:** Has a procedure for the election of convenors been put in place now?

Ken Hughes: We are working on it. Our Standards, Procedures and Public Appointments Committee has looked at that issue once, if not twice, before. There has never been a majority view, frankly. There is an underlying concern or feeling of disquiet about it that since we have such a small electorate, an election might be just window-dressing and it might still be manipulated behind the scenes and what is the point of it? Not to pre-empt the Parliament's decision, but if I had to guess and speculate where it is going, I think it may well vote this time around for elected convenors.

Lord Williams of Elvel: Has there been any reaction from the public

about all this? Are people marching in the streets demanding the election of convenors?

Ken Hughes: No.

Q119 **Baroness Garden of Frognal:** What has worked best in the Scottish Parliament's training and continuing professional development for committee chairs and members? I see in your report on page 55 the comment that there are some areas that the current CPD programme does not fully address. How are you responding to the areas that you have identified as being lacking in that?

Ken Hughes: The thing that works best is probably the just-in-time training. At the start of each parliamentary Session, when committees are scrutinising their first piece of legislation or when they are scrutinising the budget for the first time, we will precede the committee meeting with training—sorry, I should not say training—with continuous professional development—

Baroness Garden of Frognal: We accept either.

Ken Hughes: —leading Members through the process and informing them of the process. As I say, that is just in time so that information is fresh and they then go into scrutiny mode. We do online training for Members, but that is more on housekeeping matters such as health and safety and GDPR training. That is effective, because again for the former we are getting Members in a committee room who are there for another purpose already, but with online training they can do it whenever they want. We have found that if we say, "Here's a training event on X", and expect Members to come, as I explained before with their diaries, it is almost impossible so we have to go to them, and we do that.

Lord Low of Dalston: What is just-in-time training? Is that like the way I deal with my committee papers where I struggle to read them just in time?

Ken Hughes: I hesitate to agree, but, yes, that is what I mean. The biggest success has probably been the induction training that we did for all new Members. I still get feedback from Members who are almost two to two and a half years in, and the thing they enjoyed and got the most benefit out of was that we did it on a cross-party basis. They saw the huge benefit at a very early stage of being able to converse on a cross-party basis.

Lord Lang of Monkton: When you say cross-party basis, I had always assumed that a Select Committee would automatically adopt a cross-party attitude, as they tend to do here.

Ken Hughes: They do, but I am talking about the induction training.

Lord Lang of Monkton: You are talking about the training and not about the actual behaviour.

Ken Hughes: Yes. It is within the first two weeks after the general election and the committees are not formed at that time.

Baroness Garden of Frognal: I see from your recommendations that you recommend that training should include diversity and equality, financial and analytical skills and human rights. How are you progressing with including those elements in your CPD?

Ken Hughes: At the top of the list now, as I referred to earlier, is diversity and inclusion training. Again, we are working on a cross-party basis. We have formed a cross-party group, not necessarily involving Members, to take forward the diversity and inclusion agenda. We will by the end of this summer have an awareness-raising training programme in place in which all occupants of Holyrood will take part.

The Chairman: Before I call on Lord Low to ask a question on witness diversity, I would just say that this afternoon I am meeting Professor Hugh Bochel from Lincoln University, who helped the Scottish Parliament very much on this issue, so we are following your lead on that.

Q120 **Lord Low of Dalston:** We are anxious to hear from you how your committees go about ensuring the diversity of witnesses so that you are not just talking to the usual suspects and how you encourage interaction countrywide. How do you get the committees to engage with stakeholders throughout Scotland so that they are not just Edinburgh-centric?

Ken Hughes: On the first part of the question, at the moment we are running a pilot study to gather data on how we are performing on witness diversity. We thought that would be a robust starting point to see where we are at the moment. We are aiming to conclude this pilot study and data-gathering this week and through the summer we will be working on the evidence we get back, with a view to, by September, putting in guidance that will inform committees on how they should be selecting witnesses, how they should be issuing calls for evidence and how they should be approaching organisations to provide witnesses, because part of it is that we can be beholden on those organisations to supply the witnesses for us.

If we see all-male representation year on year and month on month, I think the time will have come for the Parliament to do more to guide those providing us the witnesses to say, "Look, this is the profile we are looking for". At the moment, even on the data gathering and monitoring we have done, we are not saying that everything is consistent in the way we identify protected characteristics and gender. Again we hope to put that in place by the end of the summer. Thereafter, we will be monitoring the impact of the changes we have put in place from early autumn.

In terms of reaching out to all parts of Scotland, I had a map in my office, which I do not think I have now, which had wee dots and stickers on it of all the places in Scotland that we had reached out to. The map was pretty much obliterated with little dots. Just like my Welsh colleague

said, it is a matter of how you do it and what your approach is. All members of a committee going to, say, Shetland is quite a big undertaking, especially if it is a formal meeting and you have to have broadcasting and the *Official Report*. There is quite a bit of infrastructure to it. We may do that from time to time, but we may well send delegations from committees to do more informal work, which is a far more agile approach and you can get around far more parts of the country by doing that.

We also have an outreach section in our engagement unit. The geography of Scotland makes it difficult, especially for further-flung schools, to come to visit the Parliament. The further north you go, it is not a day trip but an overnight trip, and that is a barrier. We have four outreach workers dotted about further-flung places in Scotland and they visit schools. We also have an active updated website and Twitter and Instagram accounts to reach out, which are obviously not on a geographic basis either.

Lord Low of Dalston: What techniques have you found most effective for tracking the impact that your committees are having? We have found particularly with ad hoc committees, which are set up for a year or so and have a finite life, that they tend to die off once their term is up, and people are concerned to maintain the momentum on implementing the recommendations of these committees. It has been quite difficult to maintain the impact, because people go away and do other things. How have you dealt with this?

Ken Hughes: The commission itself was in part an answer to that, because we genuinely wanted academics' and the general public's view on how we are doing. At the end of the day we are all here to serve the people of the country. The commission itself got out around a huge amount of places in Scotland to ask people about the impact they see of committees. A lot of the evidence that we got back from that fed through into recommendations in the report. We have done academic studies before, admittedly not for quite a while, on committee impact and other parliaments do the same sort of academic study from time to time as well, but there is nothing more methodical than that I can offer.

Lord Low of Dalston: I suppose some committees are a bit more assiduous than others in extending their life. Would that be a fair statement?

Ken Hughes: Perhaps I should have clarified that we do not usually have ad hoc committees at all. Once committees are set up, they are there for the length of the Session.

The other thing I should have added is that, in terms of measuring performance, the oft-quoted Public Petitions Committee is led entirely by members of the public, and a resolution one way or another is usually achieved within a period of nine months to a year. The performance of that type of activity is quite easily measured.

Q121 **The Earl of Courtown:** You have stressed the importance of public engagement in all areas of your work. It appears to me that it is very

difficult to compare the committee structure here in the House of Lords with the committee structure in Holyrood. A unicameral system has different demands. It could be argued that it is more important to have public engagement with your unicameral system than on some of the specialist issues that are debated and considered in our EU committee structure.

In looking at this, the commission emphasised the importance of interaction with young people. You mentioned social media in the previous answer. On top of that, you emphasise in your report the need for closer working with the Scottish Youth Parliament and how MSPs should meet their counterpart MSYPs to facilitate closer links between the work of each Scottish Parliament committee and its relevant SYP committee.

How important do you think this is? Will there be much to be gained from this? How long will the Scottish Youth Parliament meet for? I did not see that in the evidence.

Ken Hughes: It has quite a high turnover, as you might expect, and it is a creature of government rather than parliament. It gets its money from government and I think the periods of office are perhaps two years.

The Earl of Courtown: How will this help the committee work at Holyrood, and how much do you think we should be looking at this issue as well?

Ken Hughes: First, the voting age in Scotland is 16, so even when we are talking about school children, they are voters. That is also the age at which people start going to the Scottish Youth Parliament, so if you needed motivation, there is that in part.

We are looking at that in an even wider sense at the moment and we have been thinking about how the Parliament addresses the issue of young people. The Scottish Youth Parliament absolutely has a role in that, but so do other Scottish youth organisations. Again, the spirit of that report is not to say, "Here we are", or indeed, "Here's what we are going to do for you". At the moment we are working with youth groups including the Scottish Youth Parliament to co-design events that will happen in the Parliament at the end of the year, to smoke out and elucidate what young people think the agenda should be and what the Parliament should be looking at.

Putting social media to one side, when I was asking around among committee colleagues before I came down, what I got back was that the most valuable and prized benefit derived from any engagement activity with young people was through meeting them and not through Facebooking them, for example. That seems to be old hat with young people anyway. Again as my colleague from Wales said, part of that is about going to where they are and not expecting them to come to us all the time.

Lord Low of Dalston: Did 16 year-olds have a vote in the referendum in

Scotland?

Baroness Hayter of Kentish Town: Not both referendums.

Ken Hughes: No, not the UK referendum.

Lord Low of Dalston: The independence referendum but not the Brexit one.

Ken Hughes: Yes, because that was UK legislation.

Q122 **Lord Lang of Monkton:** I am interested in the communications strategy once a Select Committee's report is finished and published. Presumably each committee differs in the strength and purpose of its report and therefore its potential interest to the media. Do they each have their own communications strategy? Is there a central press officer, or does the Government helpfully offer to do it for them and some things never see the light of day?

Ken Hughes: Not the latter.

Lord Lang of Monkton: You surprise me.

Ken Hughes: We were perhaps a wee bit weak on this in the early years, but we have developed a system now whereby each committee has a dedicated media relations officer attached to it. Those media relations officers might have more than one committee, but they tend to sit in on most if not all committee meetings, so they are building up a media narrative themselves and thinking about what the media lines could be when it comes to the publication of reports.

Lord Lang of Monkton: Just while we are on that point, is that part of their job or are they dedicated to the work of the committee?

Ken Hughes: It is part of their job.

Lord Lang of Monkton: It is part of their job and they do other press-related matters or other civil service jobs.

Ken Hughes: They do other press-related matters.

The Chairman: How many do you have in the Parliament?

Ken Hughes: I am sorry, I should know this because they are next door to me. There are around eight media officers covering all committee activity.

The Chairman: Communications and press. How many are there in total?

Ken Hughes: There are eight press officers.

Lord Lang of Monkton: Do they develop relationships with the media or with public relations firms outside? Do you ever employ public relations firms or is it all done internally?

Ken Hughes: No.

Lord Lang of Monkton: Always internally.

Ken Hughes: I would be wary of that. We employ them directly and, yes, part of their purpose is to build up relations. We have media people in Holyrood and they build up relationships with media representatives.

Lord Lang of Monkton: Do they promote coverage in some other way? Do they encourage the setting up of a conference to debate the matter in public, possibly with local academics or experts in the field, or is that all taken care of at the evidence-taking stage and they are not involved there?

Ken Hughes: They are not involved there, but over recent years, when the press and media have generally seen their numbers being depleted and we were perhaps early in doing this, we have thought that the way to help them and to get our message across was to create packages. We create media packages so that when a committee report is launched, depending on what the report is, media colleagues and the convenor and perhaps the deputy convenor of a committee will do a piece to camera and we will package that up, put it on the website and offer it to media outlets.

The Chairman: How many in total do you have in the communications department, press and media, other than just the eight media officers for the committees?

Ken Hughes: No, sorry, that is eight in total, and there are some administrative staff.

The Chairman: You have press officers there as well.

Ken Hughes: Again, they have all the functions. They do the news releases and the packages.

The Chairman: How many do you have in total?

Ken Hughes: Still eight.

The Chairman: Eight in total.

Ken Hughes: Yes.

The Chairman: That is not the information I got when I went up to give evidence, but do not worry, we will have a look at that.

Ken Hughes: Is it wildly different?

The Chairman: It is quite a bit different, but we will explore that.

Q123 **Baroness Hayter of Kentish Town:** I want to return to Brexit, I am afraid. I put the same question to your colleague from Wales. I know there is a bit of an issue between the Scottish Parliament and the UK at

the moment. However, assuming that we will go ahead with what the Act says—and it is now an Act—as the Parliament, and I guess a committee in the Scottish Parliament, is looking at the legislation becoming Scottish law, or the bit that will remain in the frameworks, what would be the most useful thing that the House of Lords could do with your Parliament to oversee those aspects of Brexit?

Ken Hughes: I will preface what I say by observing that there has always been interparliamentary co-operation between the Scottish Parliament, the Lords and the Commons, and Wales and Northern Ireland. The level and benefit of that activity has risen so much since Brexit, because again the common ground is scrutiny. We are all about scrutinising as best we can what is put before us.

The Interparliamentary Forum on Brexit has been mentioned already. Individual committee relationships have built up. I sit on a group called the deputy clerks' group, which includes Simon Burton from here, and we try to take a strategic view on parliamentary capacity for all the Brexit challenges that are coming our way.

The greatest benefit of the Lords, or any other institution that we have links with, is co-operating and collaborating on the scrutiny, because again our concern is that we might not see enough to scrutinise. It is partly about trying to put forward an agenda that protects the role of the Parliaments.

Baroness Hayter of Kentish Town: Related to that, will your committee structure have to alter now, or will it be the same committee that has been looking at the European issues that will do Brexit?

Ken Hughes: We thought about that a year or 18 months ago. We are keeping the same structure, but the main committee until now has been the Finance and Constitution Committee chaired by Bruce Crawford. That has the lead, and then there is the Culture, Tourism, Europe and External Relations Committee working alongside that. As we now see, post-Summer Recess, all the waves of policy and Brexit-related legislation coming through, I can see our environment and agriculture and fisheries committees seeing a lot more of the action, so to speak.

Q124 **Lord Smith of Hindhead:** Your Commission on Parliamentary Reform's fascinating 100-page report published in June last year says that criticism was levelled against committees because they did not allocate sufficient time to post-legislative scrutiny. As a result, the Public Audit Committee's remit was widened to include post-legislative scrutiny, thus becoming the Public Audit and Post-legislative Scrutiny Committee. One year on, how is that developing?

Ken Hughes: To be honest, a year out it has developed better than perhaps had been thought. Again, I was worried about the committee's capacity to find the time to do it. It went out and almost had a call for evidence and asked what Acts should be scrutinised in a post-legislative sense. It got quite a response back.

It has been working through a list of five Acts that it chose to scrutinise from that consultation. It has now set up a process for itself to continue that work on. It will become—perhaps it has already become—part of the normal work of that committee. That will just roll forward through the years.

Lord Smith of Hindhead: Have you found that legacy reports help to improve committee scrutiny?

Ken Hughes: If you referring to the reports that committees do at the end of each parliamentary Session and leave to their successor committee, the one benefit I see is that it certainly adds a degree of continuity between Sessions of Parliament. If there are any outstanding issues where the Parliament ran out of time and the committee did not have time to look at them, or there are outstanding issues from a previous issue that it scrutinised, it highlights that, which is the benefit. It is up to the successor committee to choose whether it takes up those suggestions or not.

Lord Smith of Hindhead: Going back to post-legislative committees, have there been any committee recommendations to improve legislation as a result of post-legislative committee meetings?

Ken Hughes: It is still early days on that one, but we have now created a system whereby that is a performance measure, and I would have thought that will come quite quickly. Again, to clarify, the post-legislative scrutiny aspect is about the effectiveness of the policy intention, because the Law Commission will look at defective law or law that needs that consolidative action, so we are not so much in the technical area; we are more in the policy intention area and whether that has been effective or not. I would expect that to come quite quickly.

Q125 **Lord Smith of Hindhead:** Could I ask you the same question that I asked Mr Warner in the previous session about what you accept as evidence at committee inquiries?

Ken Hughes: The answer is almost the same. We will accept anything. The world is changing and there are so many different ways to communicate and engage now. In addition to the normal ways of submitting evidence, from time to time we will run events and get people's views. We will do online quantitative or qualitative surveys.

One example relates to the Social Security (Scotland) Bill. The constituency that was more interested in that was less likely to be able to come to the Parliament, and on occasion we send clerks out to people's houses to talk. That type of activity is not automatically put in the record, but there will be clerks' and researchers' notes, and in cases where Members witness that they will often refer to that experience.

Lord Smith of Hindhead: Sometimes staff will go out of Parliament to visit groups or individual people in their homes and they will bring that evidence back and submit it to one of your scrutiny committees.

Ken Hughes: Yes. That is perhaps an extreme example, but we have done it. We do a lot more activity such as sending clerks out with Members to community groups or interest groups on a particular topic to talk to people. That is then brought back to the committee in a clerk's note.

The Chairman: That evidence is privileged.

Ken Hughes: Anything said or done in proceedings is privileged.

The Chairman: So the videos are also privileged.

Ken Hughes: Yes, that is a record.

The Chairman: If there are no other comments, can I thank you for that evidence? It has been hugely evidence helpful to us. You mentioned Bruce Crawford. He has been very helpful on the Interparliamentary Forum on Brexit, and we have a strong link there, which is really good. You can take back our thanks to him for that. Thank you very much.