

The procedure of the House of Commons and the territorial constitution

Written evidence submitted by Dr Adam Evans (TTC 09)

While I am the Clerk of the Welsh Affairs Committee, this submission is purely a personal one and in no way should be considered to represent the views of the Welsh Affairs Committee. The analysis and suggestions contained below are my own work and have not been discussed by the Committee.

The focus of this submission is the third item of your inquiry's terms of reference: namely, the question of how inter-parliamentary relations between the four UK legislatures (principally at committee level) can be best facilitated.

Inter-parliamentary relations in the UK: a brief introduction

Inter-parliamentary relations (IPR), in this context the relationships and engagement between the four UK legislatures, has been generally regarded as an under-developed area in need of reform. In its 2017 report on *Inter-institutional relations in the UK*, the Public Administration and Constitutional Affairs Committee described IPR as 'arguably the poorer and less well-developed relative of IGR [intergovernmental relations]'.¹ As a recent report by the Institute for Welsh Affairs highlights, various committees from all four legislatures, as well as independent commissions, have called for improvements in IPR.²

This is not to say that IPR does not exist and is not in some areas well established. If we break down IPR into three different levels: official-official; committee-committee; and legislature-legislature, and consider activity across a spectrum that spans from informal to formal arrangements, we can find a number of examples of inter-parliamentary cooperation.

As I wrote in 2019, the real engines of IPR have been at the official-official and committee-committee levels.³ In terms of official-official level engagement, there are a number of semi-formal networks which have, over a number of years, brought together clerks and official officials from across the British Isles, in addition to more informal and ad hoc interactions.

At the political level, IPR has been predominantly driven by committees of the various legislatures. This includes the only example of formal intra-UK IPR: the power of the Welsh Affairs Committee under Standing Order No.137A(3) to meet jointly and hold joint evidence sessions with any committee of the National Assembly for Wales [sic]. However, committees other than Welsh Affairs have also sought to cooperate with committees from other legislatures and in recent years we have seen innovative attempts at joint working including the Scottish Affairs Committee's 'joint' sessions with the Scottish Parliament's Social Security Committee, the Inter-parliamentary Forum on Brexit (a strong example of semi-formal cooperation).

Facilitating IPR on demand

As PACAC found in 2017, while there had been goodwill expressed towards the principle of IPR engagement, there was "no consensus on any particular model of enhanced inter-parliamentary relations". There are serious barriers which limit the potential scope and ambition of IPR, most

¹ House of Commons Public Administration and Constitutional Affairs Committee (2017), [The Future of the Union, part two: Inter-institutional relations in the UK](#), Sixth Report of Session 2016-17, HC 839, para. 79

² See for a full discussion: M. Arnott (September 2020). [Missing Links: Past, present and future inter-parliamentary relations in the devolved UK](#), Institute for Welsh Affairs, pp.20-26

³ A. Evans (2019). [Inter-parliamentary relations in the United Kingdom: devolution's undiscovered country?](#) *Parliaments, Estates and Representation*, 39:1, pp.98-112

significantly the limited time in parliamentarians' diaries and the demands of their day to day roles.⁴ This is not to say that reform of IPR should not be attempted, that is a political question and not for me proffer a view, rather that it may prudent to couch any reforms within the practical realities of parliamentary life and demands.

An initial, modest, yet necessary (at least due to the change of name of the National Assembly for Wales to the Senedd Cymru – Welsh Parliament) would be to amend Standing Order No.137A(3). There was once an argument for the Welsh Affairs Committee to have a unique privilege to hold formal joint meetings with Committees of what is now the Senedd at a time when the structure of devolution meant that both Westminster and Cardiff Bay risked duplication of effort scrutinising the same policy proposals (initially as a result of the Assembly having only secondary legislative powers and then as a result of the legislative competence order process which saw the Assembly bid on a case by case basis for primary legislative powers – such bids then being scrutinised and needing the approval of Parliament). However, the move to full primary legislative powers in devolved (non-reserved) areas has ushered an end to such Welsh exceptionalism.

For proponents of better IPR, a reform of Standing Order No.137A(3) to enable Select Committees to meet with committees from other legislatures would appear a sensible first move. As PACAC suggested in 2017, “amending 137A(3) will provide for inter-parliamentary collaboration ‘on demand’, allowing Committees of the House that wish to undertake joint evidence sessions with the Committees of the other legislatures to do so at a time of their (and, of course, the relevant Committee of the other legislature) choosing”.⁵ This ‘on demand’ approach would be a reflexive and responsive approach to genuine demands for, and interest in, inter-parliamentary cooperation and may therefore have more chance of providing fruitful and successful cooperation than perhaps a more ambitious and top-down approach. It would also reflect the reality that it has been committees which have driven the IPR agenda (to the extent that such an agenda exists).

One question the Committee may wish to consider is how Standing Order No. 137A should be amended. Should any amendment be limited to committees of the three devolved legislatures, or should there be a more general power of IPR engagement? As has been noted elsewhere, IPR has not been confined to committees seeking to work with committees of the devolved legislatures, but has also included recent examples of international cooperation (e.g. Digital Culture Media and Sport Committee for its ‘international grand committee on disinformation and fake news’ and the Defence Committee’s ‘joint inquiry’ with the Assemblée nationale’s Standing Committee on National Defence and the Armed Forces).⁶

While I appreciate your inquiry’s terms of reference are limited to considering the territorial constitution and the House of Commons, a reform of Standing Order No. 137A might be an opportunity to reflect the broader interest in IPR. As such, I have suggested, as the starting point for any future discussion on this wider question, an amended Standing Order which includes the requirement of the Speaker’s approval as a quality control mechanism.

⁴ House of Commons Public Administration and Constitutional Affairs Committee (2017), [The Future of the Union, part two: Inter-institutional relations in the UK](#), Sixth Report of Session 2016-17, HC 839, para. 94

⁵ House of Commons Public Administration and Constitutional Affairs Committee (2017), [The Future of the Union, part two: Inter-institutional relations in the UK](#), Sixth Report of Session 2016-17, HC 839, para. 96

⁶ A. Evans (2020), [A Parliamentary Entente Cordiale? The House of Commons Defence Committee’s Joint Inquiry with the Assemblée Nationale’s Standing Committee on National Defence and the Armed Forces](#), *The Political Quarterly*, 91:1, pp.228-234

Option 1: IPR on demand within the UK

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, **as well as to meet concurrently with for the purposes of taking evidence**, any other select committee or sub-committee of either House of Parliament or to the Scottish Parliament, the **Senedd Cymru – Welsh Parliament** 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; and
 - (d) to agree in the choice of a chair for any concurrent meetings.
- (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.

Option 2: A broader power which includes international IPR

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, **as well as to meet concurrently with for the purposes of taking evidence**, any other select committee or sub-committee of either House of Parliament or to the Scottish Parliament, **Senedd Cymru – Welsh Parliament** 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; and
 - (d) to agree in the choice of a chair for any concurrent meetings.
- (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) **Subject to the prior approval of the Speaker, any select committee may invite members of any committee from another legislature to attend and participate in its proceedings (but not to vote).**