Thank you for the invitation to appear before the Liaison Committee and give evidence on the Role and Structure of Committees.

I hope it might be useful if I were to expand some of the points from the session, especially regarding enhanced member engagement in Committee activities of the House of Lords.

Choosing Topics
On the question of choosing topics for ad hoc committees to consider as part of post-legislative scrutiny, Members should contribute more to suggestions for Post Legislative Scrutiny giving them a greater and more direct interest in the topics/ issues for discussion.

Appointment to Committees
The Law Society of Scotland suggested more transparency in the appointment of Members to Committees and that the process should be more inclusive i.e. involving more members in the work of Committees. I support these remarks.

Increasing the Size of Committees and Appointing Substitutes:-
I believe the membership of Committees could be larger, perhaps up to 20 in number.

In addition, I raised the proposal of appointing substitute members on Committees who could attend Committee meetings of the Lords, but not speak or vote, unless the principal member could not be present.

This suggestion would have the advantage of involving more members in the Ad Hoc and other Select Committee proceedings. There are currently probably fewer than 100 Peers who are fortunate enough to serve on a Committee.

Follow up to Committee Reports
The Liaison Committee is, in my view, the best vehicle through which to hold Ministers to account as a formal follow up to a report. At present, even the best and immediate recommendations, which could be swiftly implemented, seem to fall off the edge of a cliff.
The process could be either through sub-committees of the main Committee or by co-opting a small number of former members of the original Ad Hoc Committee to have a meeting six to twelve months after the Report was originally adopted to hold the Minister to account.

Another suggestion would be for the Liaison Committee to name and shame those Departments who have failed to implement any of the recommendations of an Ad Hoc Committee.

Role and Lack of Scrutiny of Delegated Legislation (Statutory Instruments)
In many instances, as was the case with the Ad Hoc Committee considering the Licensing Act 2003, the Act had been amended substantially since being initially enforced, often through delegated legislation/statutory instruments. This procedure illustrates how the original intention of the Act could be clouded or distorted, and the original intention of the Act thwarted, without adequate parliamentary scrutiny.

I believe there is need for greater and more in depth scrutiny of statutory instruments which so often contain the detail as to how a Bill is to be implemented.

I would also urge the House to consider the ability to amend the content of statutory instruments which can still be used to gold plate and add onerous provisions at the stage of the implementation of the Act, often hindering its effective application.

Albeit statutory instruments are delegated legislation, there are circumstances in which they should be amended and thereby improved.

Increasingly too much detail is being left to be implemented by S I s which are not subjected to the same scrutiny as draft bills.

The need for greater scrutiny will be paramount in transposing existing EU legislation into UK law. There is a specific need for scrutiny of the Framework Agreements, how they will be agreed and how decisions brought back from the devolved administrations under Westminster control will be reviewed.

There is also more generally a grey area as regards planning decisions whereby planning inspectors or increasingly Government Departments are usurping the role of Local Authorities in taking planning decisions. There appears to be no review or scrutiny as to how these decisions are taken yet they can have huge ramifications for local communities.
In this regard, I support the comments made by Lord Blencathra in his evidence to you.

I believe pre-legislative scrutiny is performed well already in the House of Commons and bearing in mind the legislation gives effect to the manifesto commitments made by the Government, the Commons is best placed to undertake pre-legislative scrutiny, leaving the Lords better placed to do post-legislative scrutiny.

I would argue there should be more post-legislative, with perhaps an additional Committee each year, with more Members sitting on it and with the power to appoint substitutes.

I entirely endorse the suggestion of a Lessons Learned Document to be drafted at the end of each Ad Hoc Committee enquiry.

These changes would encourage and enhance member participation and invite greater scrutiny on existing legislation.

All the above has resource issues at a time when I appreciate the House resources are under increasing review.

Best wishes

Anne

Baroness McIntosh of Pickering

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