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Committee witnesses: gender and representation

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This briefing outlines evidence on the diversity of committee witnesses in the Scottish Parliament and elsewhere, with a particular focus on gender diversity. It also makes recommendations on how the diversity of voices heard by committees might be more consistently recorded, and in some instances enhanced.



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Contents

Executive Summary	3
About this project	10
Introduction	11
Methodology	11
Representation: of who, for what?	12
The political representation of women	13
Diversity of committee witnesses	15
Why does the diversity of committee witnesses matter?	15
The Scottish Parliament and diversity of committee witnesses	17
Parliamentary support for increased diversity	17
The Commission on Parliamentary Reform	18
Committees in the Scottish Parliament	18
Committees and witness diversity in other parliaments	20
The Nordic States, Northern Ireland and Wales	20
Westminster	22
Empirical research findings	27
Committee witnesses: exploring the numbers	27
The number and gender of witnesses	27
Witnesses by type of inquiry	30
Witnesses by type of organisation and position	31
The views of MSPs and parliamentary officials	35
The purposes of witnesses	35
The selection of witnesses	36
Hearing different voices?	38
Different forms of evidence and different voices	39
Summary	41
Recommendations	43
Appendix	47
Bibliography	51

Executive Summary

This briefing is the result of a collaborative project between SPICe and Hugh Bochel, Professor of Public Policy at the University of Lincoln, in the context of the SPICe Academic Fellowship Scheme. The project came out of a recommendation of the Session 4 Conveners' Group, and was commissioned by the Parliament's Committee Office. The research builds upon existing practices and recent initiatives in the Scottish Parliament, including the report of the Commission on Parliamentary Reform,¹ and reflects, where possible, other work done in this field, including *The Good Parliament* report on the House of Commons.² The project involved an examination of the literature associated with the diversity of committee witnesses, the position in other legislatures, and the views and experiences of MSPs, clerks and other parliamentary staff gathered through 38 interviews. The briefing makes recommendations on how the diversity of evidence heard by committees might be better recorded, and how it might in some instances be enhanced by engagement with a broader range of voices. While the focus of this project was on gender, and on oral evidence, much of the discussion and many of the recommendations are formulated in such a way as to be applicable to diversity more broadly.

Summary of findings

1. There are a variety of potential advantages for the work of committees in accessing a diversity of voices, including in oral evidence. These include:

- Increasing the extent to which parliaments are seen to be engaging with and representative of society;
- Enhancing participation and potentially contributing to reducing socio-economic exclusion;
- Hearing claims made on behalf of some groups which may not always be well represented in the legislature;
- Providing a variety of perspectives to improve scrutiny of policy and legislation;
- Demonstrating a commitment to broader democracy by hearing from a wide range of voices;
- Benefiting from additional insights providing external challenges to policy and legislation;
- Potentially improving both outcomes and legitimacy.

2. Reflecting its founding principles of power-sharing, accountability, openness, participation and equal opportunities, the committees of the Scottish Parliament utilise a variety of methods to gather written and oral evidence. However, despite hearing from an increasing proportion of female witnesses, around three-fifths of witnesses are male, while the proportions of witnesses that are men and women vary very considerably across committees. There are likely to be both 'demand' and 'supply' factors contributing to these figures.

3. Interviewees saw both the quality of information and hearing from a broader range of views as important in contributing to scrutiny. These perspectives are not necessarily incompatible, but rather reflect different views of the paths that committees can take in seeking to undertake informed, high quality scrutiny. In addition, some highlighted notions of representation and fairness that they felt should be taken into account in discussions on the identification of witnesses.

There were concerns amongst many interviewees about the extent to which Parliament should seek to persuade external organisations to provide a greater diversity of witnesses, as well as a general recognition that change outside Parliament might be required to truly reflect the diversity of Scottish society.

4. Many committees already hear from a diversity of voices, although frequently these are in less formal settings and are not always recorded significantly in official records. There is also a recognition that some initiatives in relation to engagement and diversity have been rather *ad hoc*, and that until recently there have not been sufficient means of testing processes and disseminating results and learning across committees.

5. There was also an awareness among many of those interviewed that efforts to engage with a wider range of groups and to hear different voices may require different approaches and additional resources.

Recommendations

It is important that witnesses and the evidence they provide can contribute to the work of the committees, and thus to the quality of scrutiny. It is therefore important that they represent both expertise and a variety of perspectives from those who are likely to be involved in implementing and who are affected by legislation and policy. As a result, the voices sought and heard will therefore be likely to vary with the issue being considered, and it is appropriate that committees should be free to decide which witnesses and forms of evidence are most useful for individual inquiries, while at the same time they should also recognise the benefits of and responsibilities for hearing from a variety of perspectives. Many of the observations and recommendations of the Commission on Parliamentary Reform in relation to diversity and the work of committees chime well with the findings of this research,¹ including:

- The greater availability of training for witnesses;
- The creation of a Committee Engagement Unit;
- Additional expertise being directed towards committees for a fixed period of time to assist in enhancing awareness of diversity issues for scrutiny work;
- The provision of meaningful feedback by committees to those who engage with them.

Possible actions for the Parliament include:

1. Producing guidance for committees on the processes of selecting witnesses and issuing calls for written evidence

This report outlines some of the different forms of representation described in the literature, and a variety of reasons why witness diversity matters. Committees may want to reflect on this and consider what range of evidence they require, why they seek to hear from witnesses, and what is meant by 'diversity' in the context of each inquiry, including reflecting this in calls for written evidence.

It should be made clear to those who are invited to provide evidence that Parliament seeks to work towards committee witnesses being broadly representative of Scotland's society. In addition, Parliament could continue and expand its input into training and development activities, as with the Women's Enterprise Network.

Parliament's Guidance on Committees should be reiterated regularly to committees, including that 'Where an invitation is issued to an organisation, it may specify the individuals from whom the committee wishes to hear', and that there is scope to combine seniority with the in-depth knowledge required to provide meaningful answers to members' questions, so that more than one witness may be sought from an organisation where appropriate; in some cases it may be appropriate to extend this to the users of an organisation's services.

2. Producing guidance for organisations providing witnesses to committees

In some instances, there may be little scope for varying witnesses. For example, where it is a matter of accountability to Parliament, then the person or role tends to be the deciding factor, as with a minister or a key named individual.

In other cases, however, where it is the perspective that matters, there would be greater scope for guidance to influence an organisation's choice of witness to send to committees, for instance if there is a need for someone with a particular experience, or someone speaking on behalf of or providing information for an organisation. The emphasis should be on the most appropriate person or persons to provide the evidence required by the committee.

This guidance could be provided by clerks with the invitation to the organisation to attend the committee.

Both for committees and organisations asked to provide witnesses to committees, it is arguable that the very act of requiring those who select witnesses to think about their diversity (or otherwise), may itself encourage them to think differently, for example about the representation of particular groups, and that might in turn increase diversity further.

3. Improving (online) access to documentation for (particularly first-time) witnesses

Considerable work is already being put into:

- Publicising the work of committees;
- Seeking to attract evidence for inquiries.

However, information on the full scope of the work of committees, including their inquiries, the submission of evidence and the possibilities of appearing as witnesses, and in particular advice for those new to such engagement, should be made easy to access, perhaps including by direct links from committee web pages. Information about live inquiries and calls for written evidence should be widely circulated and made visible both inside and outside the Parliament, including, for example, on the landing page of the Scottish Parliament website.

4. Improving support for (particularly first-time) witnesses

The formal provision of support for witnesses prior to appearance before a committee would be likely to be beneficial, perhaps along the lines of the support that the Commission on Parliamentary Reform recommended a Committee Engagement Unit provide.¹ Similarly, activities designed to provide training to potential future witnesses (perhaps targeted at particular groups) would contribute to widening the range of potential witnesses. In addition, as new people come into contact with Parliament and its committees, it is important to ensure both that their expectations of the impact of their appearance are managed, and that they are provided with opportunities to learn more about Parliament and how it works.

5. Careful assessment of the representativeness of 'representative' bodies'

The widespread use of representative bodies to provide witnesses is both understandable and valuable for the work of committees, but it should not overshadow the additional potential benefits of hearing from other voices. Claims by organisations to speak on behalf of the public, or particular groups, should be interrogated by committees.

6. Consistent recording of the gender (and, potentially, other protected characteristics) of witnesses to committees, which would provide valuable information

Given that this reflects both supply and demand factors, consideration should be given to the annual publication of results both by committee and by organisation (for example, where any one organisation or institution provides a witness on six or more occasions in a parliamentary year), as this would inform committees individually, Parliament as a whole, external organisations, and wider society; recording individuals' home postcodes would provide an indicator of geographical concentration or dispersion, and potentially enable some degree of linkage to socio-economic indicators, such as the Scottish Index of Multiple Deprivation. The data would have to be held securely and analysed and presented at a level that would not allow individuals' addresses to be identified.

While the initial emphasis on the gender of committee witnesses is understandable, in terms of the arguments for diversity outlined in this Briefing, other elements of diversity are also important, including other protected characteristics and, indeed, socio-economic differences. While gender is clearly an important contributor to diversity, it should therefore be viewed as a first step, and a plan for capturing, evaluating and extending diversity to other protected and other important characteristics should be developed.

Different committees could potentially trial different approaches to gathering data on witnesses, although that does bring the risks of delay, and of inconclusive results because of the different circumstances and policy areas in which they operate.

7. Recording informal meetings and similar events in the reports of enquiries

As noted above, collecting data on witnesses, including basic information about the number and gender of participants (and, over time, other protected characteristics), would allow for a better reflection of the nature of the evidence gathered by committees. Ideally, this should be extended to other forms of oral evidence, with such information being recorded unless that would potentially lead to identification or harm for the individuals involved, and with the requirement that where confidentiality and anonymity are important those should take precedence. Having a formal record would also help make clear to those who engage with committees that their voices are heard, and would potentially help in feeding back to those people.

8. Ensuring that there is sufficient time in each enquiry, where possible, for written evidence to be considered before the selection of invitees to give oral evidence

Wherever possible, written evidence should be collected prior to decisions being made about the selection of oral witnesses, and where that is not possible, committees should, at a minimum, seek to ensure that there is space in oral sessions for witnesses that might be identified from written evidence as potentially providing different voices and perspectives.

9. Exploring the potential benefits of emerging technology as a tool to increase witness diversity

As with other developments with regard to engagement and participation, there is likely to be scope for some greater use of technology in these processes. While the value of some forms of digital communication for the work of committees remains uncertain, they should be explored. It would clearly be possible to make greater use of video conferencing and similar technologies for oral evidence, as parliaments in Australia and Canada do, although this would be contingent on the facilities available for Parliament.

10. Providing feedback to witnesses

Building on the recommendation by the Commission of Parliamentary Reform, consideration should be given to providing some degree of feedback to witnesses on their appearance before a committee, particularly those who are new to the experience. In addition to helping individuals, taken collectively such feedback could also be fed into training sessions for potential witnesses, including any aspects that might be seen as of particular relevance to diversity issues.

11. Monitoring the impact of these changes

The impact of these changes should be closely monitored and the results fed back to Parliament, perhaps initially over a two-year period. While some elements of this would be quite easily achieved, for example through the collection and analysis of statistics on witnesses, others, such as any perceived impact on both the quality of evidence and MSPs' and officers' views on the wider workings of committees, would best be gathered through face-to-face interviews.

About this project

This briefing presents the results of a collaborative project between SPICe and Hugh Bochel, Professor of Public Policy at the University of Lincoln. The project came out of a recommendation of the Session 4 Conveners' Group, and was commissioned by the Parliament's Committee Office. It focuses on the diversity of witnesses giving oral evidence to the Scottish Parliament's committees, and on gender diversity in particular. It provides: a) a review of relevant literature and the position in other legislatures; b) the results of research carried out in the Parliament specifically for this project, drawing upon the analysis of data on witnesses and 38 interviews with MSPs and parliamentary staff; c) a series of recommendations to assist Parliament in enhancing a number of aspects of witness diversity.

From February to October 2017, Hugh Bochel worked in SPICe as an Academic Fellow to undertake the research and draft this report. Data on witnesses giving oral evidence to committees was compiled by the Enquiries Team in SPICe. The dataset developed included the name, gender and organisational position of each witness, the name and type of organisation they represented, the date of appearance, the committee, and the type of inquiry, for the parliamentary years 1999-2000, 2015-16 and the first ten months of 2016-17.

The work is intended to assist stakeholders and decision-makers in the Scottish Parliament in considering the purposes and means of witness selection and other associated forms of oral evidence-gathering, and to consider what changes might be made to better reflect and improve the diversity of oral evidence heard by committees. This is consistent with the founding principles of Parliament, including power-sharing, accountability, openness, participation and equal opportunities. It also supports and reflects the recommendations of the Commission on Parliamentary Reform, which called for a renewed vision for an equal and diverse Parliament offering a platform for the voices of all citizens to be heard.¹

Introduction

The diversity, or otherwise, of witnesses that appears before a parliament's committees can be seen as important for a number of reasons, including providing the information and perspectives that committees require in order to undertake the scrutiny of government actions and legislation, and in reflecting the ways in which they engage with wider society.

In Scotland, committees are an important part of the parliamentary structure – their combination of legislative and executive oversight means that they play a major role in scrutinising the policies and legislation of the Scottish Government, while they are also able to hold a variety of public bodies, and indeed others, accountable for their actions, not least through gathering written and oral evidence, the publication of reports and their access to the media. It can also be argued that the interaction between parliamentary committees and external actors is a potential form of representation between elections,³ as well as acting as an important linkage between the state and civil society⁴ by allowing the public to engage directly with their elected representatives.⁵ Committees can invite, and, as Parliament's 'Guidance on Committees' makes clear, also have the power to require witnesses to submit written evidence and attend to give oral evidence on any subject for which the Scottish Government is responsible, although there are some statutory limitations on that power, and in practice it has not yet been used. In addition, one of the consequences of committees having both legislative and executive oversight responsibilities is that the number and nature of inquiries that a committee can hold in each parliamentary year will inevitably be affected by the amount of time that it has to set aside to consider legislation.

For the Scottish Parliament, there are clearly a variety of drivers associated with concerns about the diversity of voices heard by committees, including oral witnesses. These include the Parliament's long-standing commitments to openness and participation, and more recent developments intended to reinforce these, such as the Parliament's Public Engagement Strategy⁶ and Diversity and Inclusion Strategy⁷, while the Commission on Parliamentary Reform has also highlighted the importance of diversity and equality of opportunity.¹

The research reported here involved examination of data on committee witnesses in three separate parliamentary years, together with 38 interviews with MSPs and parliamentary staff, and reviews of literature in related areas. The primary emphasis is on gender, and oral evidence, as set out in the original Fellowship call, although, equally, it is important to recognise that there are many other aspects to diversity, and this Briefing seeks, where possible, to highlight such wider issues.

Methodology

The work was conducted from February to September 2017. It draws upon a review of wide-ranging literatures, as outlined below, semi-structured interviews with sixteen MSPs (including ten current conveners), eight clerks and eight SPICe researchers, and six other parliamentary staff, and information acquired from other parliaments. In addition, SPICe staff categorised all committee witnesses in the first year of Session 1, 1999-2000, the last year of Session 4, 2015-16, and the first ten months of the first year of Session 5, 2016-17

using committee minutes - the last of these being an incomplete year given the resources available to carry out the data collection at the time of the project.

At present, committee witnesses are listed in committee reports by their name and organisation only, and from that information a dataset was produced classifying witnesses according to their position (see Appendix), organisation, organisation type, and gender.

Committees do not at present record the gender identity of their witnesses. Therefore witnesses were classified as male or female on the basis of name only when it appeared on paper unambiguously male or female (e.g. 'John', 'Mary'), and on the basis of Internet research for others (e.g. 'Sam', 'Ashley'), to the extent that this was possible (in a very small number of cases, no such information was available). The analysis does not include cases where a witness may potentially have notified the committee of their gender identity before an appearance unless this is explicit in the minutes, or unless the witness specified on the record that they were non-binary (this is the case of the only person identified as non-binary in the dataset).

This approach has obvious limitations and is prone to potential misidentification both in terms of gender and gender identity; this is an inevitable shortcoming of all analyses that use datasets where witnesses' gender identity is not defined by themselves.

Where possible, comparison has been made to information, including quantitative data, from other parliaments. However, such information is limited, at best, and in addition direct comparison can be difficult, not least because of the varying responsibilities of committees, and the practices that they use in undertaking them, but also because the same information often can be, and is, coded in different ways. Finally, of course, and perhaps particularly relevant in relation to the 'supply' of witnesses, the different economic, political and social contexts are likely to have a significant impact.

Representation: of who, for what?

One of the most influential works on representation is that by Pitkin,⁸ who identified a number of conceptions of representation, including:

- **Formalistic representation**, where representation is defined by the initial giving of authority, so that the representative is then able to do as they please, although there is usually some form of sanction on the part of the represented, such as being able to remove or replace the representative, usually through the holding of regular elections;
- **Representation of unattached interests**, where it is not people who are represented, but abstract ideas of what is right or good, with the implication that representatives will have great knowledge and wisdom and make decisions in the interest of the greater good;
- **Symbolic representation**, based upon the notion that the representative 'stands for' the thing that they represent, as with the representation of the working classes, women or ethnic minorities in legislatures. For symbolic representation, the representative does not have to act in a particular way, nor does their presence have to be comparable to the size of groups in society;

- **Descriptive representation** is where the composition of a body reflects the composition of the society that it represents, and, as with symbolic representation, has sometimes been supported by those who argue for the inclusion of previously excluded or ‘under-represented’ groups in legislatures;
- **Substantive representation** involves representatives ‘acting for’ those who they represent, with the extent or quality of representation being able to be assessed in terms of whether the outcomes advanced by the representative serve the interests of those that they seek to represent.

Pitkin’s framework has been criticised by some, in particular for focusing on the representative, rather than on the demands of those being represented (for example, by Saward⁹ and Severs¹⁰), but remains useful in considering ideas of representation in both elected and unelected contexts.

Saward takes arguments about representation in a somewhat different direction,^{11 12} although one that might be seen as being of considerable relevance to committee witnesses, arguing that it is possible to assess claims to represent particular interests as having a degree of democratic legitimacy where ‘there is evidence of sufficient acceptance of claims by appropriate constituencies under reasonable conditions of judgement’ (p. 145),¹¹ with a particular emphasis on the assessment of those citizens who are would-be constituents of claims. He argues that if representation is a political quality of an open society, of which electoral democracy is only one part, then ‘representative democracy’ is not simply a set of institutions, but is also an open set of relationships, encompassing representation on a broader societal, as well as the narrower statal level, and is able to encompass the latent potential of citizen self-representation and participation in multiple sites of representation in an open society.¹¹ The representative claim is therefore ‘a claim to represent or to know what represents the interests of someone or something’ (p. 38).¹¹ Saward argues that the formal equality associated with elections does not necessarily mean that equal votes will translate into equal influence, or that large and deep socio-economic inequalities will be addressed by political leaders, nor that those inequalities will not impact on who votes,¹³ and that the representative limits of electoral institutions^{14 13}¹⁵ ‘can by their very nature leave open the possibility for non-elective representative claims that can call on differing notions of interest and (not least) equality’ (p. 250).¹² For him, therefore, unelected actors can make representative claims, and indeed, such claims, originating largely outside the state, potentially conveying a sense of authenticity, carry the potential to enable new inequalities to have enhanced visibility.

The political representation of women

There is now an extensive literature on the political representation of women, much of which relates to electoral representation. Within this, a number of studies have shown that for elected representatives gender affects both attitudes and behaviour,^{16 17 18} so that female representatives can and do provide substantive representation. Some have also suggested that the different life experiences of men and women may lead to different positions and priorities, so that women may be more likely to raise policy issues such as domestic violence¹⁹ and women’s access to the labour market,¹⁶ or to support policies that might increase equality.²⁰

Clearly, beyond electoral politics, participation in non-electoral elements of democratic processes requires structures to engage with (parliamentary committees being one obvious and important example), but also the resources (including intellectual, social and perhaps financial) to enable engagement, and the confidence and expertise to present a position.^{21 22 23 24} However, as Rumbul, for example, points out, where there is significant social structural inequality, women (or indeed other groups), may not possess those resources to enable a critical mass in terms of presence or to ensure significant influence over policy making and legislation.²⁵ Given that legislators and policy makers make significant use of the expertise of those from civil society and the public and private sectors, either as individuals or as representatives of organisations, then 'presence' is also important in these arenas.

Diversity of committee witnesses

Why does the diversity of committee witnesses matter?

Drawing upon the ideas discussed above, and others, including those associated with representation and elected representatives, and with the making and scrutiny of policy, it is possible to identify a variety of reasons why (greater) diversity of witnesses may be important:

- Symbolic and/or descriptive representation⁸ – can increase the extent to which parliaments are seen as engaging with and representative of society^{26 27} ;
- Substantive representation⁸ – it can be argued that people may seek to act for those that they represent, which, in turn, may enhance participation and reduce socio-political exclusion²⁸ ;
- Representative claims¹¹ – there are potentially strong arguments that some groups in society, including perhaps those that are not descriptively represented, or whose views may not easily reach policy makers,^{29 30} may benefit from claims of representation made by those who are not themselves elected;
- A greater range of voices can provide different perspectives,³¹ including from those who have to implement and who are affected by policy and legislation,³² and that, in turn, may inform scrutiny by helping committee members develop expertise^{27 33} ;
- While input from those with expertise is clearly desirable, hearing from only a limited range of voices might be conceived to be counter-democratic³⁴ ;
- A wider variety of voices can provide additional external challenges to policy and legislation³² ;
- And these can potentially lead to improved outcomes,³⁵ more effective policy implementation,³⁶ and increased legitimacy,³⁷ including by providing greater awareness of society's views and responsiveness to public concerns.

As outlined later in this Briefing, most, if not all, of these viewpoints are represented in the ethos and among the members and officers of the Scottish Parliament. However, it is important to recognise that pursuing one of these will not necessarily result in achieving the others, that some may be given higher priority than others, and that different methods and approaches may be required in relation to particular aims.

Recent years have arguably seen a greater emphasis on the quality of evidence gathered by and the variety of voices that are heard by committees in a number of legislatures. However, even where there are deliberate attempts to open up processes (as, for example, with petitions systems, publication of draft bills, more open calls for evidence, or even greater use of ICT), challenges remain, including those associated with different

ideas of representation and existing imbalances of power,^{38 39 40} levels of empowerment,⁴¹ fairness of process⁴⁰ and the management of expectations, as well as the challenges of balancing attempts to develop more participative forms of democracy alongside traditional representative democracy.^{42 43}

Despite increased attention by academics and politicians to parliamentary committees, there has been relatively little attention paid to the ways in which committees engage with external actors and obtain information,^{34 44 45 46 47} although there is a growing amount of work in related areas, such as on the impact of committees.^{48 49 50 51 52 53} Yet, the drawing together of information and expert opinion and placing it in the public domain is widely recognised as one of the strengths of committees,^{48 54} frequently involving the use of evidence and witnesses from outside government, although for some committees that may be heavily reliant upon one source of information producing independent evidence-based reports may be more difficult.⁴⁸ The importance of witnesses was reiterated by Berry and Kippin,⁵⁵ who, looking at select committees in the House of Commons, argued that:

“ By calling witnesses to appear at hearings, select committees hold the government to account publicly for its policies and their implementation. Many witnesses come from outside government, including key stakeholders in a particular policy area or independent experts. These witnesses provide an important source of external input into parliamentary scrutiny and, ultimately, public policy (p. 3).”

In considering engagement, and the activities that witnesses may experience, it is possible to conceive of engagement with committees' evidence processes as having a number of elements, with different ones being of greater or lesser relevance to different individuals and groups:

1. being aware of the opportunity to provide evidence – perhaps most obviously when committees announce their work plans and inquiries and issue calls for evidence;
2. engagement through what are currently largely 'informal' mechanisms, which may vary considerably, but would include conversations with clerks, contributions through social media, or visits or meetings with the committee that are not formally recorded;
3. submission of written evidence;
4. giving oral evidence;
5. influencing, or at least being seen as contributing to, the committee's report.

To these elements, at least for some individuals and groups, and at some times, it might also be appropriate to add receiving 'feedback', both about the engagement itself and the outcomes of it.

Of course, while for some people these might be largely consecutive steps, for others, including representatives of government and some other organisations, or for some experts, engagement might primarily be at the written or oral evidence stage. However, as with any form of consultation process, people are clearly likely to differ in their ability to engage, not least because knowledge and resources tend to be concentrated in particular sections of society and in some organisations. This appears to be the case even with relatively 'open' forms of engagement with legislatures, such as petitions.^{56 57}

Although the focus of this report is on oral evidence, it is important to be aware that how that relates to the other elements is clearly significant. In addition, there are further important issues around the management of expectations, perhaps particularly for those not used to involvement with the political and parliamentary systems, including clarity about what may or may not be achieved and preparation for different forms of evidence-giving.

The Scottish Parliament and diversity of committee witnesses

Parliamentary support for increased diversity

The Scottish Parliament is widely recognised as having been created on the basis of founding principles of power-sharing, accountability, openness, participation and equal opportunities.¹ In recent years there have been both internal and external developments that have contributed to maintaining a focus on these, including the commitment to diversity.

Outside Parliament, for example, the Scottish Government's proposals for a 'gender representation objective' on the boards of public bodies, and its highlighting of women's continued under-representation in civil, political and public life, has arguably given added impetus to such debates.⁵⁸

Within Parliament, the *Diversity and Inclusion Strategy 2017-21*⁷ (see also the *Diversity and Inclusion Strategy Delivery Plan 2017-18*⁵⁹) emphasises the desire for an accessible and open Parliament 'as a place to work, to visit and to participate' (p. 2), and, with particular importance for this research, that 'public engagement activities enable people from diverse communities to engage with, and participate in the work of the Parliament' and that the Parliament has 'the knowledge and expertise to make better informed decisions about the needs and experiences of all diverse groups' (p. 6). In supporting this, and recognising that while there were many positive examples of engagement by committees, but that engagement did not always occur as routinely as it might,⁶ the Committee Engagement Strategy emphasises three aims: 'raising the awareness of the relevance of the Parliament to the people of Scotland'; 'promoting innovative communications between the Parliament and the people of Scotland, particularly those who have not previously engaged'; and 'increasing focus on engagement activities that lead to, or support, participation in the work of the Parliament', with priorities including involving 'more people from a broader range of communities in the work of committees'. The Strategy suggests that reflecting a wider range of knowledge and experience and reflecting the views of people who will be affected by policy and legislation will lead to better informed committee scrutiny and legislation that works better in practice.

While committees are required to report on equalities issues under Standing Orders, and frequently report on their engagement activities, in an innovative step, in its annual report for 2016-17 the Economy, Jobs and Fair Work Committee combined its reporting of engagement and equalities, summarising its engagement activities and the gender balance of witnesses (in its case, 90 men and 72 women over the full year).⁶⁰

The Commission on Parliamentary Reform

The report of the Commission on Parliamentary Reform, established by the new Presiding Officer in 2016 to reflect on the first eighteen years of the Parliament's existence and to consider how it could enhance scrutiny and engage better with the people of Scotland, placed substantial emphasis on both the effectiveness of committees and on diversity.¹ Where committees are concerned, it highlighted a number of issues that have limited their ability to hold governments to account, including: party discipline, which may have hindered committees' ability to develop cross-party consensus; some committees have had to deal with so much legislation that they have been unable to develop their own agendas and have had only limited opportunities to hold inquiries or focus on long-term or cross-cutting issues; there has been relatively little pre- or post-legislative scrutiny; and high levels of turnover of membership have limited the ability of members to develop expertise in their subject area.

In relation to diversity and evidence, the Commission suggested that over time committee scrutiny has 'become too focused on seeking views at committee meetings allowing those with time and resources a potentially greater influence on scrutiny and decision taking... at the expense of hearing from those more "remote" from Parliament, whether because of time, geography, language, finance, culture or accessibility' (p. 13). It noted that meetings can be a productive and effective method of gathering evidence and holding ministers to account, and that other benefits include the production of a formal record in the form of an Official Report of the meeting, and ensuring a level of transparency and accountability as they are accessible to members of the public and the media. It suggested that they 'are the appropriate place to hold the Scottish Government and public sector organisations to account' (p. 14). On the other hand, it recognised that formal meetings can be intimidating for some people, while the location in Edinburgh and the timing of meetings in working hours can make it difficult for some to attend. The Commission acknowledged that committees already use less formal techniques of gathering evidence. Nevertheless, it suggested that 'Introducing a better balance with less formal evidence taking sessions in the Scottish Parliament and more at a local level is one way committees can connect more directly with those who are hard to reach' (p. 14), and that the latter should be used more regularly during evidence gathering. While not all committee inquiries will involve seeking the views of those who are not engaged with Parliament, where they do, it suggested that 'efforts must be made to ensure all voices are heard' (p. 14). On similar lines, it argued for greater emphasis on local and regional perspectives in evidence gathering by committees.

The Commission recommended the creation of a Committee Engagement Unit, including to promote a wider range of engagement methods to committees at the start of inquiries. It also recommended that Parliament should review the dedicated resources available to committees to ensure that they are appropriate for meeting future needs and supporting more effective scrutiny.

Committees in the Scottish Parliament

Pedersen *et al.* note that the committees of the Scottish Parliament, in line with wider attempts to make the new Parliament more open, inclusive and transparent,^{61 62} were designed to enhance the role of civil society in the legislative process,^{63 64} and to engage the public proactively, including traditionally excluded groups, although, like others, they

argue that the 'usual suspects' remain the dominant players giving evidence to committees.^{65 34 3}

Indeed, Halpin *et al.*, examining participants in the legislative work of the committees in Sessions 1 and 2, found that different tiers of government were the largest single category of actor, whether measured by the number of individuals or organisations, or activity, in terms of the number of instances of evidence giving.³⁴ Individuals and citizen groups were the second and third most common types of actor, although the bulk of evidence from individuals was written, with few being invited to give oral evidence. However, they suggest that their work lends support for the argument that there is a concentration of usual suspects, and that they tend to engage heavily in work across a large minority of the issues debated in committee hearings. They also note that the process has typically sought to involve groups that have some form of representative mandate for their social constituency (as Geddes notes, this can also bring efficiency benefits, reducing the need for committees to collate information from a range of voices²⁷), although they also recognise that committees have sought to innovate within this format, including through holding various forms of engagement events or round-table discussions.

Looking at concerns that might be likely to have a discernible impact on the black and minority ethnic population, disabled people or children, they suggest that the most active contributors were generalist organisations, and particularly those from the public sector, supporting Bonney's claim that service users are less involved with committees than are more broadly-based, professionalised, generalist groups.⁶³

Halpin *et al.* (2012) noted that party differences play a major part in politics at Holyrood, and that efforts to gain party advantage may have constrained the activities in which committees engage, such as the nature and scope of enquiries,³⁴ a criticism that was also frequently made in the early years of the select committee system introduced at Westminster from 1979.^{66 67}

Davidson and Stark also argue that the aspirations of many of the architects of devolution stressed a more participative approach than existed at Westminster at that time,⁶⁴ with four 'key principles': power-sharing; accountability; openness; and participation.⁶⁸ They also suggest that there was a deliberative element woven in to this narrative, including references by the Consultative Steering Group to mechanisms such as deliberative opinion polls and citizens' juries. They analysed every committee report from September 1999 to July 2009, looking for broadly 'discursive' dimensions. They suggest that in the early years of the Parliament a significant number of deliberative events took place outside Parliament, and that this was a strong indicator of a shift towards a form of participatory democracy, although following the first session the proportion of events that have been held outside the Parliament fell (a pattern also noted by Commission on Parliamentary Reform¹). They also show that the committees 'have deliberated more with stakeholder groups than members of the public' (p. 178) (in her study, Maxwell identifies a broadly similar pattern³³), and while recognising that this can bring benefits, note that this pattern could be associated with the development of 'an exclusive class of participants who deliberate among themselves at the expense of a truly inclusive political dialogue' (pp. 179-180).

Committees and witness diversity in other parliaments

There is relatively little information available about the characteristics of witnesses that appear before the committees of legislatures, although in the United Kingdom, in particular, recent years have seen more interest in this topic. It is also important to recognise that the roles and methods of working of committees vary considerably across parliaments. This section is therefore intended primarily to provide a little comparative context.

The Nordic States, Northern Ireland and Wales

In many respects, the Nordic states (Denmark, Finland, Iceland, Norway and Sweden) appear to be appropriate comparators for the Scottish Parliament, having unicameral parliaments, strong party discipline, and committees that combine the role of scrutinising legislation and the work of the executive;⁶⁹ they generally also have a strong orientation to consensus, not least as they frequently have minority or multi-party governments. However, there is only a relatively limited amount of material that discusses their committees.

The Norwegian Parliament (the Storting), which reflects a country that is often viewed as highly egalitarian in terms of gender, and which draws very significantly on national organisations, collects information on the organisation or institution witnesses represent, their title, and their name (from which gender can be worked out). Following an inquiry for this research, it responded with the anecdotal impression that witnesses are largely evenly divided between men and women. Interestingly, the request for information prompted an examination of the witnesses for weeks 18 and 19 of the current session, which showed the percentage of female witnesses across committees as 53 and 51 per cent respectively, and which was seen as reflecting the level of equality between men and women in Norwegian society and the fact that many women hold senior positions in civil society organisations. Norway also requires that the Sámi people, and in particular the Sámi Parliament, should be given the opportunity to attend hearings about issues that might affect them; the Finnish Parliament also requires that representatives of the Sámi and the Åland Islands be given the opportunity to be heard in matters that concern them.

Pedersen *et al.* examined three national parliaments: Denmark, the Netherlands and the United Kingdom, which they argue reflect important similarities and differences in institutional design.³ In Denmark and the Netherlands, committees scrutinise both bills and other issues, while at Westminster bill committees and select committees undertake those tasks separately. In Denmark, the agendas are generally 'closed' for bill scrutiny and 'open' for other inquiries, although all procedures are open for external access (with external actors raising issues or problems and, while acceptance is necessary before giving oral evidence, most are accepted). In the Netherlands, bill scrutiny agendas are generally 'closed', while external access is limited only to invited witnesses (although anyone can write the committee about a bill), while for other inquiries there are 'open' agendas and open access (again, any citizen can write a committee about an issue).

They suggest that parliamentarians consider issues of both representation and information quality when selecting external actors to give evidence, with 'representation' being largely about engagement with the main stakeholders relevant to the topic being considered, and information quality reflecting a desire to be as fully informed as possible about the issue,

and therefore the preference is for engagement with those who are knowledgeable about the issue and who can contribute new knowledge and perspectives. They also recognise the existence of those who are interested in influencing public policy, whether individuals, companies, interest groups or public institutions.

They found that at Westminster, institutions (individual corporations, local authorities, universities, etc.), interest groups and other actors each constituted around one-third of participants when access is open (written evidence), but that institutions constituted nearly half of those asked to give oral evidence. A similar significant difference was found in the Netherlands, with interest groups that submitted written evidence being much less likely to be asked to provide oral evidence than institutions. In both countries, individuals are far less likely than institutions or interest groups to be asked to give oral evidence. In the Netherlands, in particular, there was a concentration of access in relation to invited evidence, with 24 per cent of actors accounting for 50 per cent of evidence.

In Denmark and the United Kingdom, they found, perhaps unsurprisingly, that ‘fewer actors were active in relation to the closed, legislative agendas of the committees’ (p. 424), that interest groups were even more dominant in Denmark (perhaps unsurprising in what is arguably a neo-corporatist state⁷⁰), but also that the evidence was somewhat more dispersed amongst those actors than in the case of the more open, non-legislative agendas.

From their research, they argue that where there is open access, interest groups tend to be more dominant and the provision of evidence tends to be concentrated in the hands of fewer actors; closed access procedures, they suggest, mobilise different types of actors (such as experts and private companies), while the evidence is less concentrated and comes from a broader number of actors.

Reflecting elements of the discussion above, in the Nordic states it has been argued that high levels of consensus can lead to a form of committee corporatism,⁷¹ a situation that might to some extent be argued to have developed at Westminster, where, over time, ‘an ingrained bi-partisanship grounded on evidence-based working’ has developed,⁷² with some diminution of party political conflict and competition, so that select committee members increasingly frequently appear to set aside partisanship in inquiries.

Like the Scottish Parliament, the National Assembly for Wales has had high levels of women’s representation as members, while values such as ‘equality’ and ‘diversity’ were prominent in its founding principles.⁷³ McAllister and Stirbu suggest that in the National Assembly committees have shown distinctive strengths in promoting civic participation, inclusivity and transparency, but that there are also weaknesses, partly systemic and partly human, such as the executive’s dominance conditioning some agendas, infrequent meetings and member overload.⁶⁹ Cole has also noted that the Assembly’s Finance Committee has experienced difficulties with some experts and organisations in civil society refusing to provide written or oral evidence as a result of their capacity limitations.⁷² Rumbul suggests that the focus on the substantive and descriptive representation of women in the Assembly has generally been on elected office, but that institutional structures, such as committees, are important in facilitating the representation of marginalised groups,⁷⁴ and that the politics of presence¹³ requires that women should be descriptively represented in giving evidence and advice to parliamentary committees at the very least, to increase the likelihood that their needs are substantively represented in the policy process.²⁵ However, Rumbul points out that during the first three assemblies,

women's descriptive representation in the form of the Assembly's subject committees has been less balanced than in its electoral politics (27 per cent of witnesses were women across 12 years, with 'only a very slight upward trend' (p. 71) over time).²⁵ That was particularly the case in what might be traditionally be considered to be 'male' policy areas, such as agriculture and transport, with only committees in education and health and social services having more than forty per cent female witnesses, and with many more male-only panels than female-only panels (over eighty per cent in the case of the economic committee). She also found that few women made repeat visits to the committees.

Drawing on a research examining five committees in each of the Northern Ireland Assembly, the National Assembly for Wales and the Scottish Parliament, Maxwell found that in each legislature male witnesses typically outnumbered female witnesses by around two to one.³³ She also noted that there were considerable differences in the proportions of female and male witnesses appearing before each committee (with those concerned with subjects such as agriculture or business having the smallest proportion of women, and those concerned with areas such as education and health having the smallest gaps in representation).

Westminster

Whilst in some respects committees in the Nordic states and the National Assembly for Wales provide potential comparators, the Westminster Parliament, and the House of Commons in particular, is also useful for such purposes, not least because in recent years it has started to emphasise equality and diversity, including gender diversity (see, for example, *The Good Parliament* report²) and in relation to its select committees; it is also the parliament for which most information is available on committee witnesses,^{55 45} and the House of Commons now publishes diversity statistics by gender for committees in its Sessional Return.⁷⁵ It is, however, worth noting that, at present, no equivalent information appears to be available for public bill committees (which undertake the scrutiny of legislation), and for which the selection of witnesses is largely controlled by the party whips.

At Westminster, broadly speaking, witnesses for oral evidence are invited after the submission of written evidence, with initial lists being drawn up by staff on the basis of the written evidence, existing (often informal) networks and contacts, and advice from committees' specialist advisers. Those who represent particular interests, who have done research in an area, or who have other knowledge that a committee seeks, will be likely to be represented. For some committees, the chair and/or other committee members will also suggest possible witnesses, although the extent of this varies considerably.⁴⁴ In general, there are attempts to achieve political balance and a breadth of views and evidence. There may also be areas where there may only be a relatively small number of individuals that the committee feels able to draw on as witnesses, while the timetable may also create challenges, with committee members frequently seeking to extend the number of sessions as an inquiry takes place. Geddes outlines 'committee factors' and 'witness factors' (Table 1), which might perhaps also be seen as associated with 'demand' and 'supply'.⁴⁴

Table 1: Dilemmas facing committee in taking evidence

Factor	Type	Comment
Committee factors	Agenda of inquiry	The committee's agenda or terms of reference limits the choice of witnesses who are able to constructively contribute to an inquiry
	Direction from MPs	Chairs and committee members' recommendations are not ignored by staff, but they may not consider the issue of diversity
	Political balance	Given the diversity of political opinion on committees, political balance, as opposed to other types of diversity, are privileged
Witness factors	Timetable issues	Some committees tend to be more reactive to the political agenda and therefore need witnesses to be available at short notice and/or flexible
	Small network	The pool from which committees can draw from a whole policy field may be unrepresentative
	Availability	Not all witnesses will be available for an evidence session, and formal powers of summoning are used as a last resort
	Performance	Witnesses need to be able to make evidence accessible and understandable to members, and not all will thrive in this environment

The work of Berry and Kippin was important in highlighting the make-up of select committee witnesses and stimulating interest in the topic, while elements of their findings and discussion also resonate with those from the current research.⁵⁵ Examining all witnesses at House of Commons, House of Lords and joint select committees from 8 October to 7 November 2013, they noted that of the 583 witnesses, only 144 (25 per cent) were women, with significant differences across the committees; indeed, of the 120 'independent experts' amongst the witnesses, only 17 per cent were women (including only 17 per cent of academics, although 45 per cent of academic staff in 2013-14 were female⁷⁶). Among the other characteristics that they examined, the public sector provided 41 per cent of witnesses, compared with 18 per cent from the private sector and 20 per cent for the not-for-profit sector, while witnesses from central government departments (officials and ministers) dominated.

They suggested that committees should work towards achieving a gender balance, but noted that they do not have a completely free hand, as 'When investigating a particular topic, committees will invariably invite ministers and senior officials from the relevant department or agency. There is little the committee can do to ensure the representativeness of these witnesses. The same can also be said of some witnesses outside government, for instance the chief executives of organisations that a committee needs to hear from' (p. 15). However, given the gender disparities among witnesses that committees have more control over, the independent experts, they suggest that the 'committees are contributing to this problem as well as being subject to its effects' (p. 15). Given the prominence of trade associations, while they exist to represent sectors politically, they also suggest that committees should consider whether they are too reliant on the 'usual suspects' for evidence; they note the propensity for House of Lords committees to have parliamentarians as witnesses; while academic witnesses are disproportionately drawn from London.

The House of Commons Liaison Committee has also commissioned research into select committees' effectiveness 'in using inquiries to further public understanding of political issues' (p. 1).⁴⁵ This argued that there has been a significant shift within the select committee system to taking public engagement more seriously, including with many examples of innovation, although this varies considerably from committee to committee, and that to sustain this increased resources will be necessary, together with further cultural change at Westminster. While engagement with witnesses was only one element of this

work, it suggested that change was needed in a number of areas, such as: building relationships over time, including through using committee staff and programmes of informal committee activity and visits; questioning the legitimacy of those who claim to speak on behalf of the public; moving away from the simple interrogation of witnesses towards more deliberative processes and engaging with disconnected elements of society; promoting engagement, including by getting out of SW1. The report also notes that select committees are already doing a considerable amount of work in their attempts to engage, including in gathering evidence, holding meetings away from Westminster, using video conferencing to take evidence, and using web-based engagement, as with the use of a thread on Money Saving Expert by the Public Administration Committee, using Mumsnet for an inquiry on women in the workforce by the Business, Innovation and Skills Committee, and a web forum for disabled transport users by the Transport Committee. However, the report suggests that this remains patchy, and the level of activity aimed at reaching those sections of society that are disenchanted with and disengaged with mainstream processes, 'seems out of kilter with the scale of the challenge' (p. 47).

Reflecting on the identification of witnesses, the report concluded that the general process is for committee clerks or specialist advisors to undertake an initial filter of the submissions of evidence and then recommend a set of individuals for the committee to consider inviting to give oral evidence. In making this selection the clerks will focus on achieving a range of viewpoints, including representatives from major organisations or pressure groups, and in identifying those individuals whose submissions suggest that they have something original or distinctive to contribute to the inquiry.

The research also involved a survey of those who had submitted evidence, which showed that most recognised that they had been listened to in a meaningful manner, and that for many that was itself an important outcome. Many also identified a sense of learning and a new perspective as a result of the engagement process, a similar result to that found by Bochel in relation to engagement with petitions systems and committees,⁷⁷ and suggested that engagement with Parliament appeared to promote confidence in the institution.

White, drawing on more than forty interviews, as well as roundtable discussions and informal meetings, noted a number of innovations by select committees at Westminster during the 2010-15 parliament, including the Defence Select Committee's use of members as rapporteurs to take the lead on specific inquiries and to undertake visits alone, before reporting back to the whole committee, thus expanding its capacity for work and also allowing members to focus on areas of personal interest; like some other select committees, the Defence Select Committee also used social media tools to gather evidence from witnesses that might otherwise be hard to reach, such as the online forum, the Army Rumour Service, to gather the views of service personnel and their families about the education of service children, which 'enabled them to present the MoD with new evidence from the perspective of personnel and their families' (p. 13).⁵³

Geddes, using mixed methods, has also considered witnesses to the Westminster Parliament's select committees, including quantitative analysis of the 2013-14 parliamentary session.^{44 27} He notes a considerable reliance on charities and campaign groups, business and trade associations and professional associations.²⁷ In addition to the gender balance of witnesses by committee, he also considered it by organisational distribution, showing that witnesses from the private sector (largely multi-national or large/national businesses) were most likely to be male, followed by those from government and the civil service. Witnesses from the non-profit sector (largely charities and campaign

groups, business or trade associations and professional associations) were the most likely to be female, although more than seventy per cent were still male, while politicians, the public sector, higher education and 'others' came between the two extremes. Geddes argues that part of the reason for this is that concerns to achieve a politically balanced set of witnesses means that the representation of political ideas trumps concerns over social diversity.²⁷

In relation to diversity, and gender in particular, *The Good Parliament* report, by Childs, has been an important influence² and has given increased impetus and direction, including through the establishment of the cross-party Commons Reference Group on Representation and Inclusion by the Speaker, with the intention of taking forward the recommendations of the report. Reflecting the skewed nature of select committee witnesses, Childs recommended that there should be a systematic and comprehensive collection of diversity data on witnesses for each session (for each committee and overall), with the results being published each year, and annual rolling targets for witnesses until a 40/60 position is reached, and proportionality for other major social characteristics, together with a rule change to require sex/gender diverse panels if a 40 per cent sex/gender threshold were not reached by 2020.² She suggested a number of changes that might help achieve greater diversity: the provision of additional resources to compile and maintain more diverse lists of potential witnesses; 'joining-up' different parts of Parliament that deal with external contacts and experts; and explicitly asking existing contacts to identify potential witnesses from under-represented groups. However, recognising that there may be exceptional circumstances where achieving gender diversity may be difficult, such as where a topic is highly specific or where the supply of witnesses may be limited, she noted that in such cases the chair of a committee could provide a reason that would be documented as part of the data collection process.

Since 2013, the Committee Office has collected data on the gender diversity of witnesses to select committees in the House of Commons. This shows that for each session around one-quarter of witnesses have been female and three-quarters male.⁷⁸ It also highlights the significant differences across committees, so that in 2015-16, six of the thirty committees (including Work and Pensions, Education and Women and Equalities) had 40 per cent or more female witnesses, while seven (including Defence, Treasury and Foreign Affairs) had fewer than 20 per cent of witnesses who were women. Clearly, as is discussed below in relation to the Scottish Parliament, some of these differences are due to the gender make-up of ministerial teams and heads of key public bodies within committees' remits. When taking into account the impact of 'non-discretionary' witnesses, some committees performed significantly better in terms of their 'discretionary' witnesses, with, for example, Home Affairs and Education both having women as more than half of their discretionary witnesses, compared with only around one-fifth for their non-discretionary witnesses. Equally, however, some committees did worse, with the Treasury Committee having seventeen per cent of their non-discretionary witnesses being women, but only seven per cent of their discretionary witnesses, while for Energy and Climate Change the figures were twenty-nine per cent and sixteen per cent.

In addition, for 2016-17, three select committees, Education, International Development and Science and Technology, took part in a pilot seeking to monitor and increase witness diversity across a broader range of protected characteristics,⁷⁸ with organisations being actively encouraged to send more diverse witnesses and witnesses being asked to complete a short diversity monitoring form. However, the calling of the 2017 general election meant that the sample size was particularly small. A broader pilot will now take

place involving witnesses completing a feedback questionnaire which includes a diversity monitoring form. In addition, committee teams have been pursuing a variety of other initiatives that might contribute to greater diversity, with the Defence Committee, which has had a low proportion of female witnesses, holding a seminar for early-career academics to encourage them to provide both written and oral evidence (of around 50 attendees, around half were from under-represented groups and around two-fifths were women).⁷⁸

Empirical research findings

This section draws upon information collated by the SPICe Enquiries Team from committee minutes, and the 38 interviews undertaken for this research.

As outlined above, there are a number of different purposes that are served by having witnesses appear before a committee. Equally, there are a variety of reasons why a greater diversity of witnesses should be valued. And, of course, there are likely to be different stances taken on the merits and priorities accorded to each of these. Perhaps unsurprisingly, therefore, there were a wide variety of perspectives expressed by interviewees for this research.

Respondents' views on the relative values of oral and written evidence varied widely, and it would not be possible to suggest that any one view was dominant. Some felt, for example, that because oral evidence comes later in the process, and because it can be interrogated, it might receive greater weight. Others argued that written evidence can be more powerful, not least because it can be used by others to inform their views and arguments, including other written and oral evidence. Some also noted that in some cases written evidence is best, as in oral evidence witnesses cannot control what they are asked, but 'in written evidence they have full control of what they say'. The summaries of written evidence were seen as being important, both in informing members who are unlikely to always have time to read all of the written evidence, and for those who submit evidence, as appearing in the summary and the report might show that they had been listened to. Overall, for those interviewed the values of different forms of evidence vary from time to time and subject to subject, but that in combination they are seen as fundamental in allowing the committees to undertake their work.

Committee witnesses: exploring the numbers

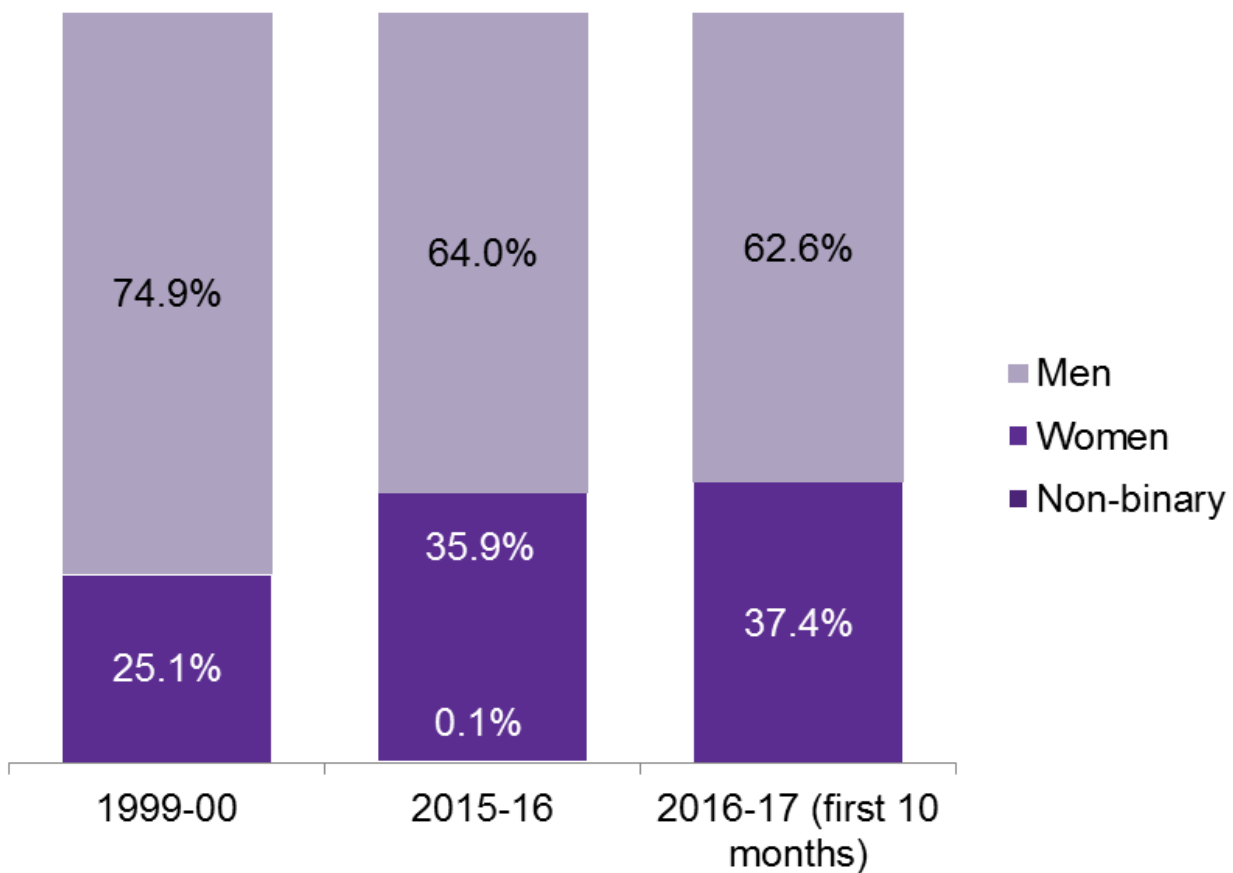
This section considers what is known about witnesses to Parliament's committees. While the retrospective collation of such data can be more challenging than ongoing data collection, it nevertheless allows the production of a series of 'snapshots' that allow the establishment of baseline information. The analysis here draws upon data gathered by the SPICe Enquiries team for 1999-2000, the first year of Session 1, 2015-16, the last year of Session 4, and the bulk of 2016-17, the first year of Session 5, from committee minutes. Absolute numbers should not be compared across these years, particularly for Sessions 4 and 5, as the data for Session 5 was not for the complete first year of the Parliament whereas Session 4 is for the complete last year of that session. They have nevertheless been presented in the figures in order to show the sample size for different categories (such as committees). Further figures drawn from this dataset, including percentages, are included in the tables in the Appendix. In addition, as is made clear throughout this report, there are a variety of factors that influence the composition of committee witnesses, some of which are noted further in the following discussion.

The number and gender of witnesses

Figure 1 shows the proportion of witnesses by gender/gender identity ('gender') for Sessions 1, 4 and 5, highlighting an increase in the proportion of female witnesses over time.

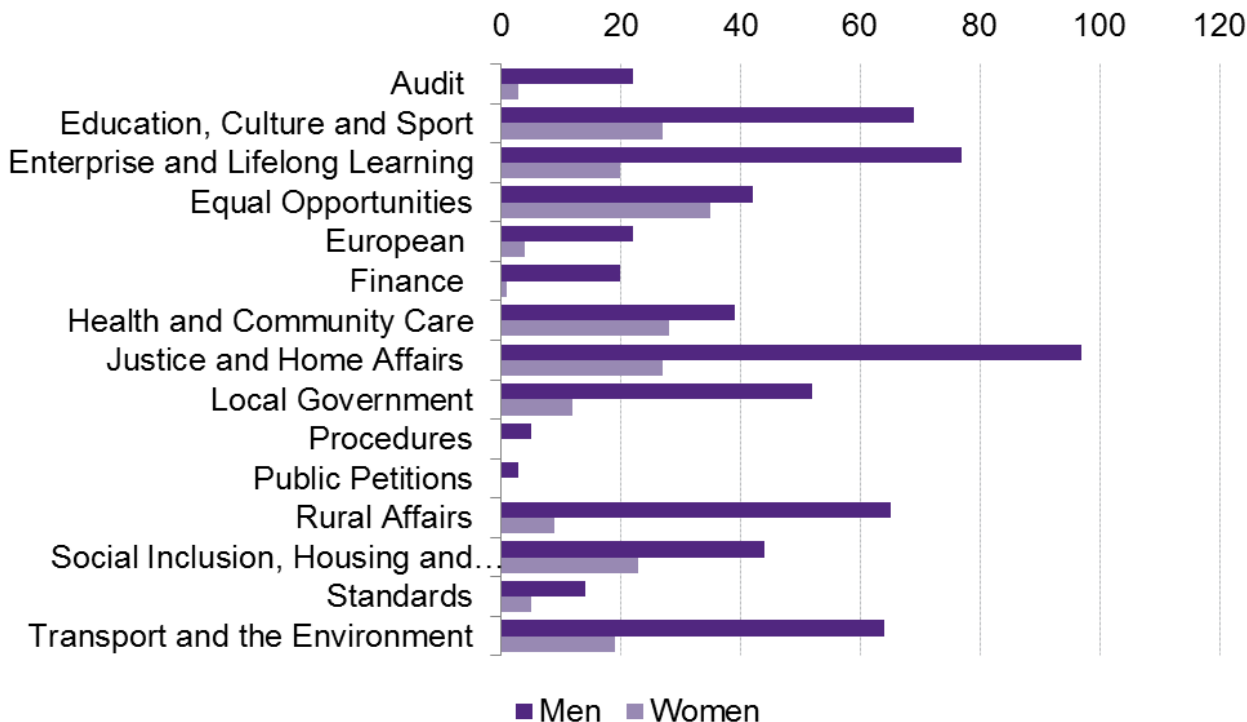
In the final year of Session 4, 2015-16, of the 1,931 witnesses, 36 per cent were female and 64 per cent male, with one person who stated in the evidence they provided to the committee that they identified as non-binary. For the first ten months of Session 5, up to March 2017, of 1,664 witnesses, 622 (37 per cent) were women (Figure 1). These figures clearly reflect a higher proportion of female witnesses than in the National Assembly for Wales and the United Kingdom Parliament at Westminster, although also one that appears significantly less than in Norway. They also show a marked difference with the first year of the Parliament’s existence, when there were many fewer committee witnesses, 848, only 25 per cent of whom were women.

Figure 1: Percentages of female/male witnesses, 1999-2000, 2015-16 and 2016-17 (first ten months)



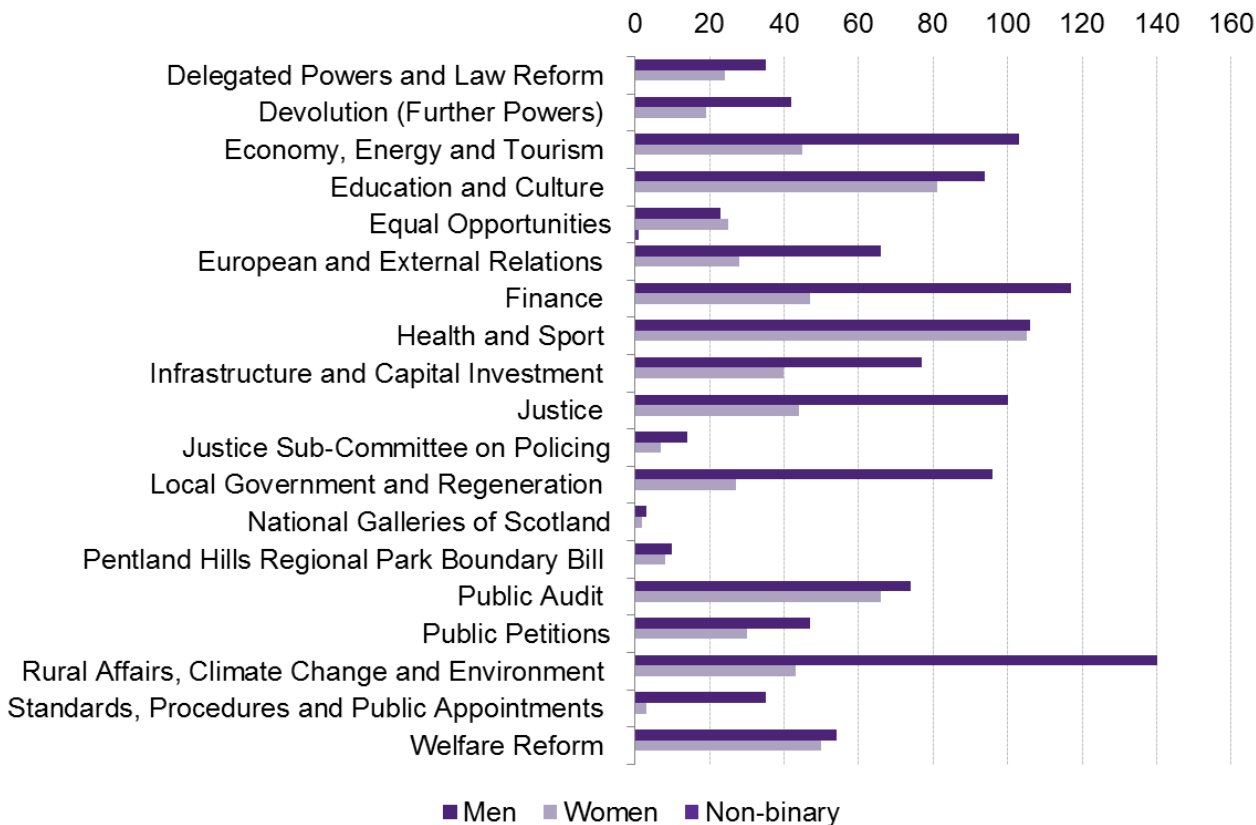
There are also very significant differences between committees in terms of the total number and the gender of witnesses (Figures 2, 3 and 4 and Appendix), with some committees hearing relatively little oral evidence, while others hear from many witnesses. If a committee changed name during the year, it is listed as a single committee (as with the Finance Committee, which became the Finance and Constitution Committee in Session 5).

Figure 2: Number and gender of witnesses by committee, Session 1, 1999-2000



In 1999-2000 (Figure 2), no committee had over fifty per cent female witnesses. Neither the Public Petitions nor the Procedures Committees had any female witnesses, although they heard from only very small numbers of witnesses in total (3 and 5 respectively).

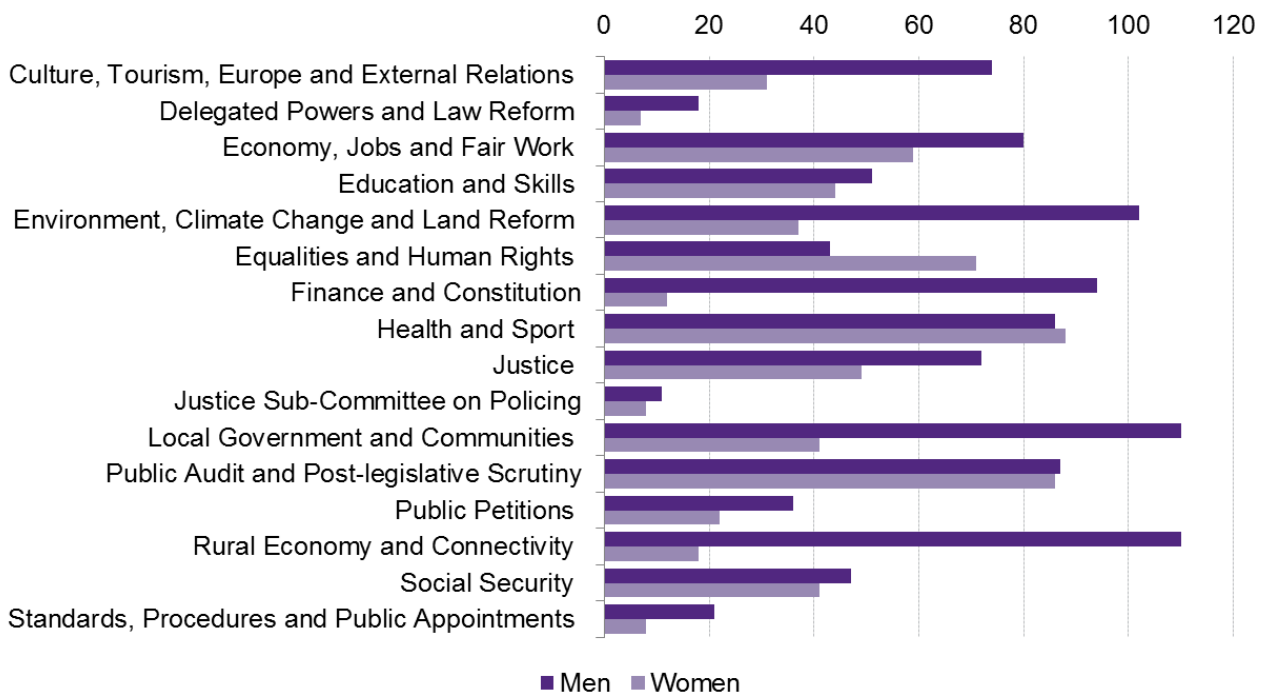
Figure 3: Number and gender of witnesses by committee, Session 4, 2015-16



In 2015-16 (Figure 3), one committee, the Equal Opportunities Committee, had just over 50 per cent female witnesses. That committee also had one witness from the Scottish Transgender Alliance who specified, on record, that they were non-binary.

Illustrating the effect of supply, and perhaps of key individuals in particular, the number of female witnesses appearing before the Public Audit Committee falls by half, to 33, and the percentage of witnesses that are female from 47 to 31, if the Auditor General for Scotland is excluded. This and other ‘supply’ side factors are highlighted in more detail in the Appendix.

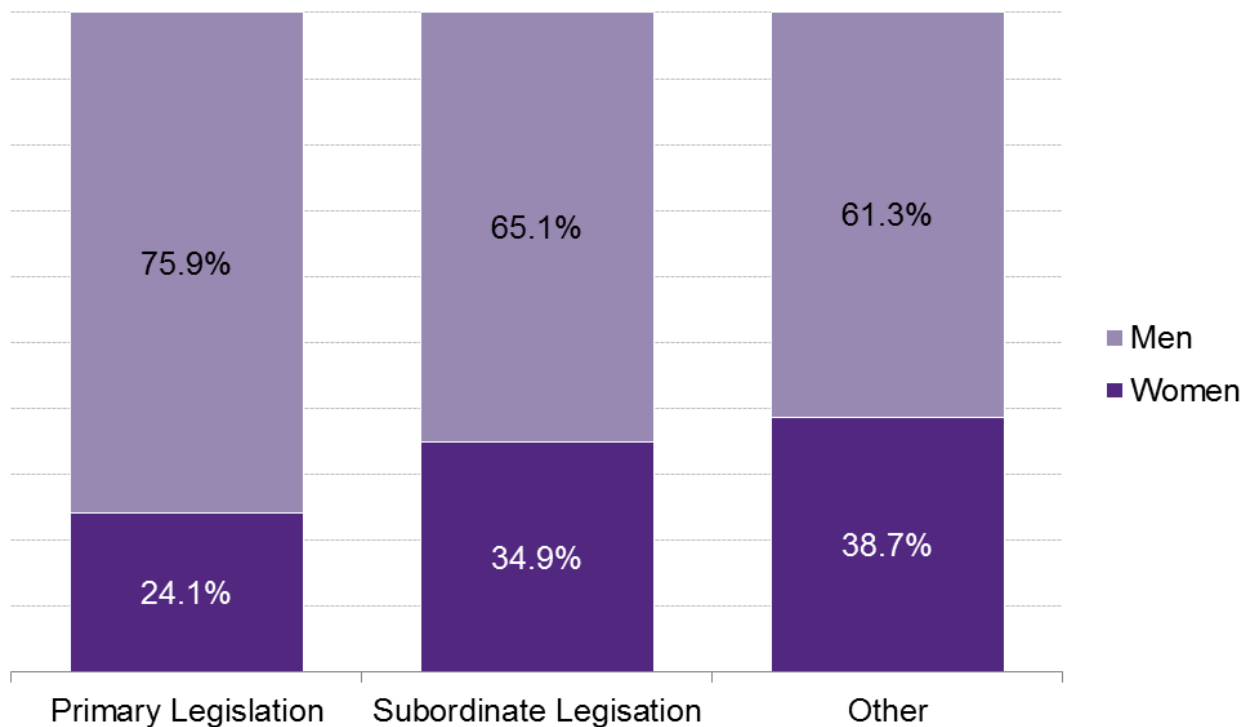
Figure 4: Number and gender of witnesses by committee, Session 5, 2016-17 (first ten months)



In the first ten months of 2016-17 (Figure 4), the Equalities and Human Rights Committee had over 60 per cent female witnesses. Some committees, such as the Health and Sport, and Public Audit and Post-legislative Scrutiny committees, had women as around half of their witnesses; at the same time, a number of committees had women as one-sixth or fewer of witnesses (see Appendix). However, as with other legislatures, and as noted elsewhere in this report, these figures will be skewed in different directions by factors such as the gender balance among ministers and senior officials.

Witnesses by type of inquiry

Inquiries can be categorised as concerned with primary legislation, subordinate legislation, and ‘other’ work. Figure 5 shows the proportion of female witnesses by type of inquiry for the first ten months of 2016-17.

Figure 5: Female witnesses by type of inquiry, Session 5, 2016-17 (first ten months)

There is clearly a higher proportion of male witnesses for primary legislation inquiries, while women are more likely to appear as witnesses in 'other' types of inquiry. This may, at least in part, relate to the issues of supply, including as discussed below.

Witnesses by type of organisation and position

It is important to recognise that significant differences might be seen as arising from the 'supply' dimension (even with the exception of the First Minister and the Auditor General, both of whom are women; see also Figures 9 and 10 in the Appendix) (see also Geddes' 'committee' and 'witness factors', ⁴⁴ discussed above). For example, although the proportions vary considerably each session, broadly speaking, as noted above, subject areas such as health and social care and education tend to see more female witnesses, and not-for-profit bodies tend to provide significant proportions of witnesses who are women, while the Scottish Government, trade unions, local authorities, private companies and Police Scotland tend to send more men. Figures 6, 7 and 8 show the gender balance of witnesses for types of organisation that sent more than 10 witnesses for 1999-2000, 2015-16 and the first ten months of 2016-17.

Figure 6: Witnesses by type of organisation and gender, Session 1, 1999-2000

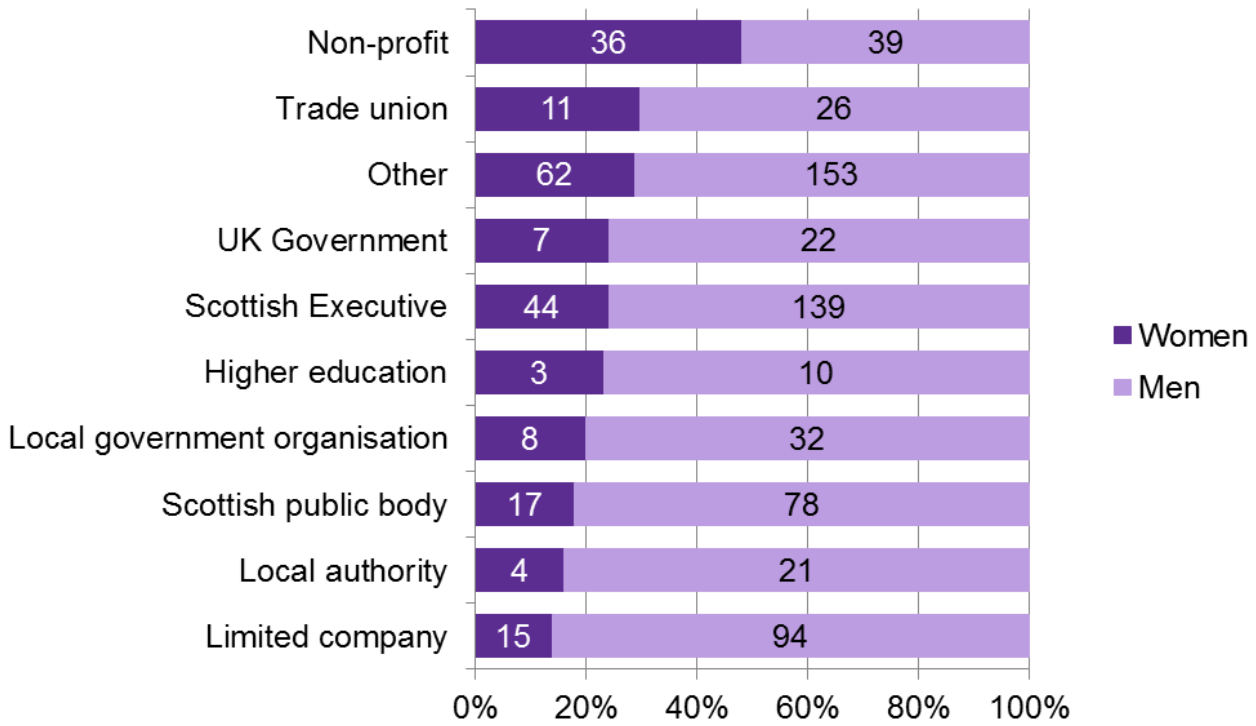


Figure 7: Witnesses by type of organisation and gender, Session 4, 2015-16

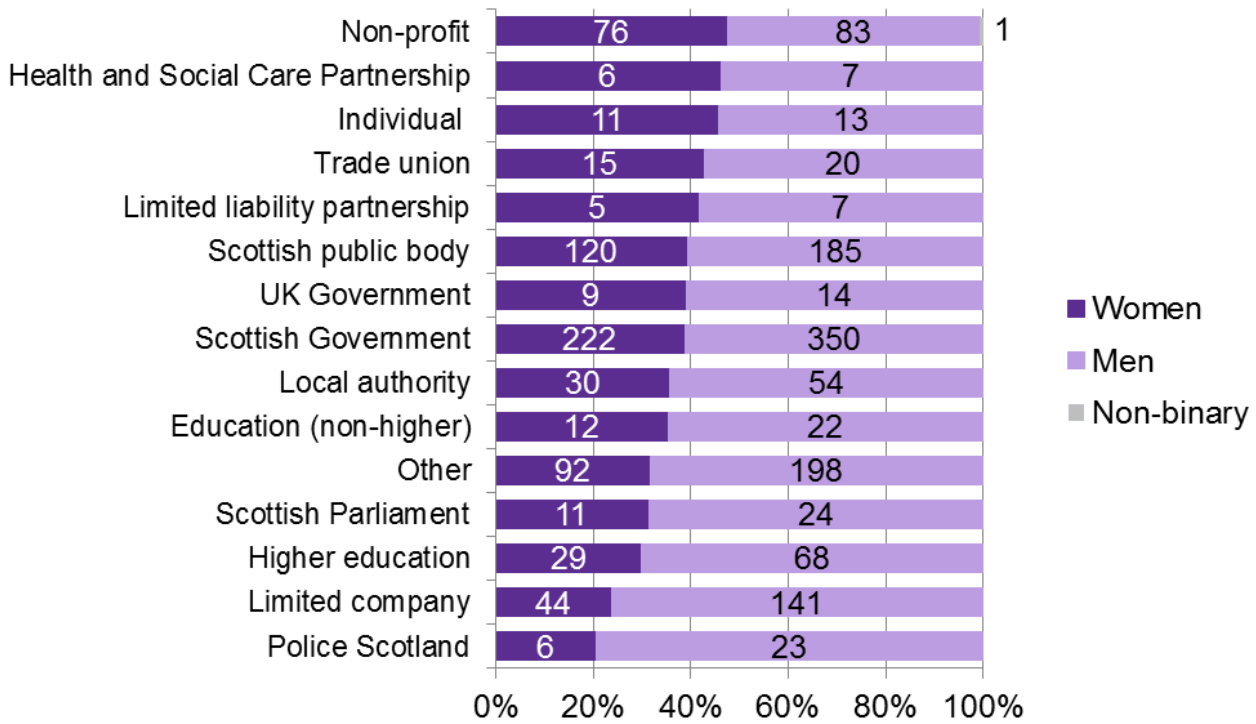
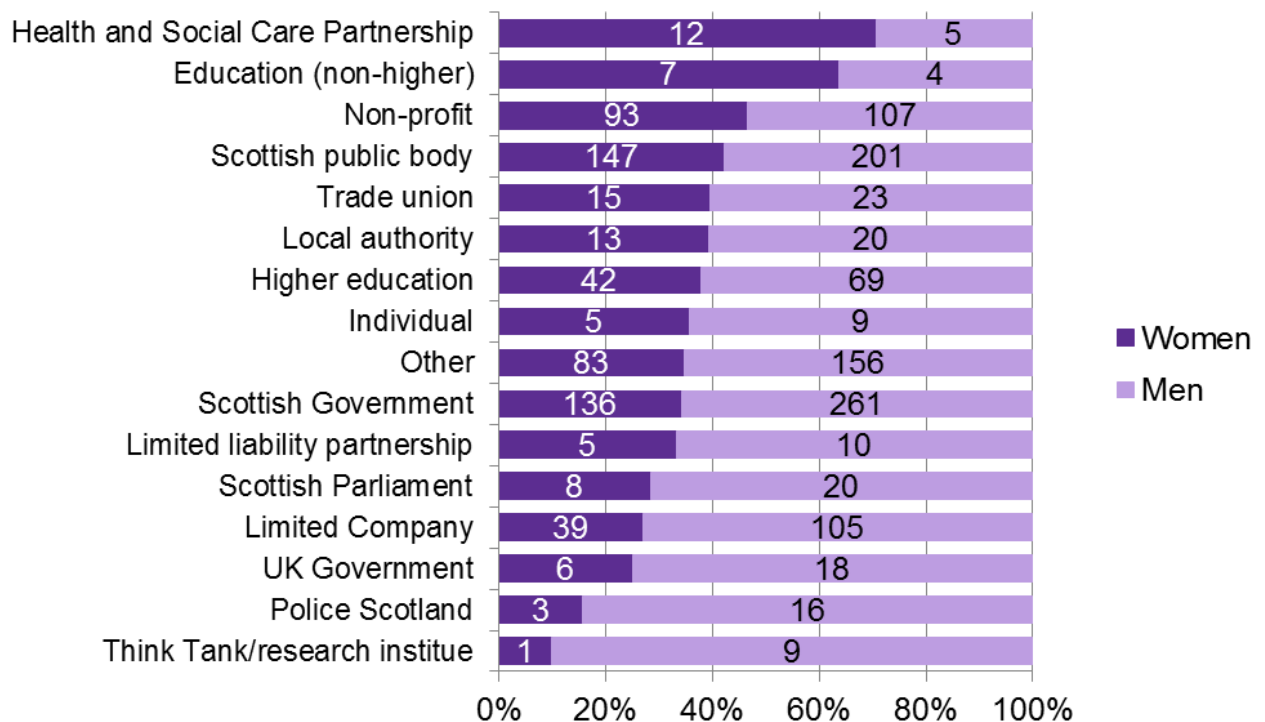


Figure 8: Witnesses by type of organisation and gender, Session 5, 2016-17 (first ten months)

Using a rather more precise measure of organisation, and taking the final year of session 4 as an indicator, by far the largest number of witnesses came from the core 'Scottish Government', of whom about one-third were ministers, of whom 33 per cent were female; two-thirds were officials, of whom 41 per cent were female). During the first ten months of 2016-17, reflecting the First Minister's commitment to a gender-balanced cabinet, the proportion of ministerial witnesses that were female had increased somewhat to 43 per cent, although the proportion of government officials appearing as witnesses who were women fell to 32 per cent. When witnesses from the Scottish Government are excluded, for some committees the proportion of female witnesses increases, but for others the proportion falls somewhat (see Appendix, Figure 10).

The second largest source of witnesses in Session 4 was Audit Scotland (75 appearances, of which 59 per cent were female, in large part due to appearances by the Auditor General for Scotland). Parliament was also a not insignificant supplier of witnesses, with 26 MSPs appearing before committees, of whom 27 per cent were women. In addition, excluding universities, which are discussed further below, a further 16 organisations provided 8 or more witnesses to committees. While in some instances the witnesses sent might have been effectively 'non-discretionary', either for the committee or for an organisation, and others will vary with the inquiry topic, the figures nevertheless provide some indicator of the 'supply' side of witness selection (Table 2).

Table 2: Witnesses by organisation and gender, Session 4

	Number	% female	% male
Police Scotland	29	21	79
CoSLA	22	32	68
Law Society of Scotland	13	46	54
Coatbridge College	12	25	75
Scottish Public Services Ombudsman	12	25	75
Transport Scotland	12	8	92
Scottish Funding Council	11	18	82
City of Edinburgh Council	10	46	54
Glasgow City Council	10	20	80
Scottish Police Authority	9	0	100
STUC	9	22	78
Faculty of Advocates	8	25	75
Inclusion Scotland	8	0	100
NFU Scotland	8	13	87
Scottish Fiscal Commission	8	38	62
Skills Development Scotland	8	13	87

There were also 43 witnesses from NHS bodies, of whom 49 per cent were women.

Higher education is also a significant source of witnesses, although in many instances they are likely to be speaking on the basis of individual expertise, rather than on behalf of an institution. During 2015-16 in Session 4, there were 91 academic witnesses from higher education institutions, of whom 62 were professors, with women accounting for one-third of both the total and of professors. While in some respects the apparent preference for professors is understandable, it would certainly be possible to argue that other academics may have just as much expertise in particular areas; in addition, as noted earlier, across the UK in 2013-14, 45 per cent of academic staff were female, suggesting a significant under-representation in terms of witnesses.

As discussed further in the analysis of the interviews below, there is considerable reliance for witnesses upon 'representative bodies', which, at least in some respects, would appear to align the Parliament more with the practices of some of the Nordic states than with Westminster, although both approaches can be seen as having their own strengths and weaknesses in terms of the voices heard.

Some of the variations in terms of gender, as noted elsewhere, are perhaps inevitable when the concerns are with issues such as accountability, where it is clearly desirable for particular individuals to appear before committees, or for legislation, in part because of the need for evidence from ministers and government officials (with both of these being reflected in the House of Commons' categorisation of select committee witnesses as 'discretionary' and 'non-discretionary'), and in part because the scope of such inquiries is effectively drawn for the committees. However, where the purpose of a panel is, for example, to provide information, then it may be that organisations might have more choice over who they send as witnesses. A similar pattern might be found in terms of seniority, with many witnesses holding senior positions within their organisations. While that may be understandable, and indeed often desirable, it does highlight the potential risks of hearing primarily from experts and those in managerial and strategic positions in providing agencies, rather than from those involved in 'frontline' service provision, or those who are directly affected by policies, such as service users. There is also a gender dimension, with,

for example, four-fifths of those described as ‘director’ and nearly three-quarters of those described as ‘chief executive’ in Session 4 being men, although those figures were significantly lower (around two-thirds) in Session 5.

It is important to note that the figures discussed here relate to oral witnesses to committees and to formal committee meetings, in line with the primary focus of this Briefing. However, as discussed later, committees receive evidence in a number of different forms and through a variety of different paths. In addition to oral evidence, the most obvious source is written evidence, which interviewees clearly identified as vital in informing the work of the committees. But committees also utilise a variety of other forms of information gathering, including a number of less formal activities, such as visits, breakfast meetings and the use of social media, while MSPs also receive input through contacts with constituents, organised interests and others. Attempting to assess the full range of ‘evidence’ that feeds into the work of committees is therefore challenging.

The views of MSPs and parliamentary officials

The purposes of witnesses

As a number of interviewees noted, witnesses may be chosen for a variety of reasons, and this is likely to impact upon who they are. For example, broadly speaking, the ideas most frequently raised suggested that witnesses may be called:

- where the concern is with accountability, and in those instances it may be that committees have little or no choice over who they are;
- in a representative capacity, and here the Parliament’s ability to influence who they are may be somewhat limited;
- because they have particular knowledge or expertise, and in these instances the numbers of potential witnesses may be larger or smaller depending on the topic;
- to talk about their experiences, on both the delivery and the recipients’ side of legislation and policy, and in such cases the pool may often be bigger and there may be greater opportunities for selection.

Respondents tended to emphasise that the key issue with regard to witnesses was about enabling good scrutiny and holding the government to account, and for this, ‘it is very important to have a high-quality evidence base’, although there was perhaps less agreement about what might constitute that.

In addition, some interviewees emphasised that one of the purposes of having witnesses is to provide Parliament with a range of views; others noted that the selection of witnesses also matters as it can send a message to people outside Parliament about how Parliament works, what it is interested in and who it listens to.

The selection of witnesses

The approach to identifying possible witnesses is broadly similar across the committees, with, in general, the clerks, together with SPICe researchers, drawing up lists of potential witnesses as part of the scoping work for inquiries. Where committees have appointed advisers, they are also likely to propose witnesses (interestingly, in a tangential development, but one that is not unrelated to this research, it was suggested that there has recently been something of a move towards having a gender balance when shortlisting for advisers to committees). A call for written evidence is issued, although while written evidence was seen as potentially useful in identifying witnesses, for example in highlighting ‘those that might have something distinctive to say’, many interviewees noted that they were having to seek witnesses for oral evidence well before the closing date for written evidence, so that ‘by the time the written evidence is in, the witnesses may already have been decided to a considerable extent’, while ‘quick and short inquiries... do not give as much time to plan internally, or for people externally to react. A lack of time tends to mean we go for the “usual suspects”, both because they are easy to identify and because they are likely to be able to respond’. As a result, some potential witnesses may not be heard. The list then goes to the convener, and for some committees there is then considerable discussion by members, including suggestions from them, before the choices are finalised, although the extent of members’ involvement appears to vary considerably across committees, with conveners the most likely to be involved. Where the Scottish Government has previously held a consultation on an issue or legislation, that is also likely to inform the choice of witnesses by committees. Some committees appear to have been making greater use of the Parliament’s Outreach and Social Media teams in their attempts to source written evidence, and while at present the extent of this varies significantly, the development and use of Committee Engagement Plans may assist with this.

Interestingly, while most interviewees expressed support for greater engagement, including working outside the Parliament, and some desire to move beyond those that might be considered the ‘usual suspects’, including to hear from those who deliver and are affected by policies (with some, for example, stressing the value of hearing the ‘lived experiences’ of people whose voices might not otherwise be heard), both officials and MSPs also highlighted important characteristics of witnesses that arguably makes the involvement of the ‘usual suspects’ more likely. From the officials’ perspectives, this frequently reflected their perceptions of members’ needs and wishes, such as not only the ability to inform the committee (expertise), but a view that panels should generally be ‘politically’ balanced in relation to the topic (indeed, the notion of having a ‘balance’ across witnesses was particularly common amongst the clerks), and the ability of witnesses to ‘perform’, with clerks and members having confidence in them, so that people who were seen as having performed well were likely to be asked back, even if, in some instances, not in relation to their main areas of expertise. Clerks and SPICe researchers, in particular, but also some MSPs, tended to emphasise the desirability of witnesses who are ‘good’ at giving evidence. This is in line with Geddes’ findings at Westminster,⁴⁴ and that from the Liaison Committee report,⁴⁵ which noted that some witnesses suggested that questions from MPs can not only be broader than the formal terms of reference, but also more political, so that witnesses’ roles may extend beyond simply informing committees on the topic that they have prepared. In itself, this is not entirely unsurprising, as many officials and clerks noted that not only can the scope of inquiries evolve, but also that the interests and knowledge of members can develop as they progress.

In addition, ‘representing’ an issue or sector, for example being a representative body, or being seen as a key stakeholder, was seen as an important characteristic, with clerks and

SPICe researchers, in particular, emphasising the value of connections with external stakeholders and referring to using bodies that represent groups of stakeholders, while some also mentioned representatives of private, public and third sectors. MSPs tended to phrase such a view slightly differently, with some suggesting that this frequently leads to witnesses being 'white men' or 'suits', although, equally, many noted the need to listen to and the benefits of hearing from representative bodies.

While the role and importance of current witnesses was clearly valued, some concerns were expressed about the potential limitations of some of the evidence received. For example, both MSPs and clerks tended to feel that when senior representatives of an organisation (typically chief executives, or equivalent) appear before committees, they know what to say ('they know their lines'), and that was often useful, but at the same time can make it harder for committees to get to know what happens on the front line. While many interviewees appeared to value the potential for additional input from other staff within many organisations, some suggested that less senior people might have to go back to their organisation to consult on a question, while more senior people 'may feel more able to respond on something where an organisation's line is less clear'. Others also noted that it might be unfair (and potentially even damaging to individuals' careers) to expect witnesses to say something that might appear to be counter to their organisation's official line. Given these views, it is perhaps unsurprising that many interviewees argued that visits and other less formal means of gathering evidence, and private sessions, can be useful for providing committees with such additional information.

A number of officials, in particular, but also some MSPs, also raised questions about how 'representation' works for 'representative' bodies, for example, how they consult their members, whether they have agreed policies or positions on particular issues, and how they give a position if they do not. Some pointed out that it might be necessary to differentiate between when an organisation has a policy or has consulted on a particular issue, and when the witness is perhaps presenting a less formalised view of the organisation's position. Some also suggested that the 'representativeness' of such organisations in terms of those that they seek to represent is not always clear.

For some committees, especially for inquiries into specialist fields, a further potential limitation may be that there are not necessarily seen as being many stakeholders or experts (a problem that Cole noted in the National Assembly for Wales ⁷²), while many interviewees suggested that it can be difficult to move beyond 'those individuals who have a special interest in and knowledge of the topic'. Similarly, for some inquiries there can be challenges in simply getting witnesses, so that, 'particularly when we are looking for someone at short notice, it can be about availability as much as anything else'. Some officials and MSPs highlighted that such challenges can be further exacerbated when trying to hear different voices, as some organisations may have capacity issues in providing witnesses, while for small organisations or individuals simply providing expenses may be insufficient, as someone, from north east Scotland for example, might have to take two or three days away from work to give evidence. Some also noted that committees rarely have people under 35 as witnesses, and that it is rare to see witnesses giving evidence with assistance.

Support within Parliament for, and preparation of witnesses before a committee appearance appears to vary considerably, with some interviewees suggesting that witnesses are not always well briefed about what they are likely to experience, while other officials highlighted that, where possible, they seek to build a relationship beforehand, including giving advice and suggesting, for example, that witnesses watch a previous

committee session. Some officials and MSPs noted that witnesses for the most part get no feedback on their performance, and that they might benefit from receiving some, as well as in relation to the outcome of inquiries.

Hearing different voices?

While there was broad support for the idea of greater diversity among officials and MSPs, views as to whether committees should actively be encouraging it, and if so how, varied widely. For example, given the emphasis by many on the use of representative organisations for oral evidence, some felt that it should be left to those organisations to decide who to send; others suggested that it could be suggested that organisations consider diversity, including in the letter of invitation, together with highlighting the Parliament's desire to reflect the make-up of the Scottish population. A number of interviewees felt that it was important to be clear what is wanted from diversity, such as whether it is different socio-demographic characteristics or people with different views ('whether we want particular types of people versus the knowledge that they can bring to the committee'). Other respondents felt that larger organisations, in particular, 'could send different people', and that sometimes having more senior people from organisations means that 'we tend to get the corporate views, when sometimes it might be more useful to get the frontline view'. It was also suggested that there is a risk of 'simply replacing men with very similar women', effectively still involving the 'usual suspects' and not reflecting or affecting social and ethnic inequality, or introducing different perspectives, for example.

Interestingly, while MSPs tended to make clear a desire to hear other voices ('there are too many "go to" organisations', 'the "usual suspects" are usually large organisations with white men'), as noted above, perhaps unsurprisingly given the value placed on oral evidence, they also tended to reflect some desire for the same sort of characteristics that might be associated with such groups, and also frequently referred to the benefits of hearing from what are effectively the 'usual suspects', alongside visits or private sessions with people affected by policies or legislation. On the other hand, several of the MSPs interviewed expressed a desire to hear more from the broader community, including the lived experiences of those affected by policy and legislation, and to 'engage more with people working at lower levels' within organisations.

While arguments might be made for quotas, which many argue are the most effective way of ensuring significant increases in women's electoral representation (although there is no consensus on that ^{79 80}), or similar mechanisms, which have become increasingly common, ³⁶ among those interviewed, even among those most favourable to greater diversity of witnesses, there was little support for quota-type arrangements, such as those proposed by Childs for the House of Commons. ² Some took the view that there is a need to encourage change outside Parliament, perhaps in part through the Scottish Government reminding organisations, such as public bodies, that they should be taking equality and diversity issues into account, including in relation to who they send to committees, so that the Government needs 'to be aware of where we are with civil society and public organisations, and to encourage them to behave accordingly'. For those who were particularly supportive of greater diversity, there was recognition of the challenges associated with finding a greater variety of witnesses, and that to some extent the witnesses depend on the topic, but there was also an argument that there is a need to work harder to find more and different people; others emphasised diversity in terms of wanting to hear different types of voices, including those working on the frontline and the

people ‘who policy has an impact on’, suggesting that organisations could be encouraged to bring service users in to discuss issues. Some conveners made clear that they were seeking to encourage their committees to hear such a broader range of voices, and that they ‘should not default to policy and PR people’. However, others argued that Parliament should not be ‘interfering in the work of others... for the sake of gender balance’.

There appears to be another factor that to some extent works against achieving a greater variety of witnesses, and particularly some of those who submit written evidence. For committees there are issues of time, in relation to not being too driven by the legislative agenda, the length of inquiries, and including having greater flexibility about when to hold meetings (some MSPs saw the timing of Parliament’s plenary sessions as problematic, with a number highlighting the challenges associated with meetings timetabled for Thursday morning, both in relation to the need to attract witnesses who can be present fairly early in the morning, and the committees’ abilities to question witnesses in sufficient depth). The Commission on Parliamentary Reform has also suggested that committees should be able to decide to meet at the same time as the Chamber.¹ The relatively tight timescales that most committees work to, the limited time of MSPs, and the limited number of meetings available at which to hear witnesses, together with the need to involve particular interests, appear to mean that it can be difficult to find the time and the space to hear different voices in formal sessions. Some officials were clear that they do try and leave space in oral sessions in case there is a need to identify witnesses who are more representative of the written evidence, although this is clearly different from only identifying witnesses once the written evidence is all submitted. As noted elsewhere, many committees are clearly seeking to reach out and involve others when they gather evidence, albeit frequently in less formal ways, and these are widely seen as beneficial. However, given the time pressures on MSPs, who can also be on more than one committee, most committees try not to have visits and meetings in the same week, so that the pressures on time for oral evidence remain.

Different forms of evidence and different voices

The committees are already doing much beyond what is formally recorded as oral or written evidence. There are many and varied examples of this. These include the visits of the Equalities and Human Rights Committee for their report on destitute asylum seekers (2017), and the same committee taking evidence from pupils from two primary schools about human rights. The Education and Culture Committee ought to engage directly with the deaf community in its consideration of the British Sign Language (Scotland) Bill, including through two site visits and establishing a Facebook group to enable people to share their views on the Bill.⁸¹ In Session 4, the Welfare Reform Committee sought to hear from people who were affected by changes to social security benefits sanctions,⁸² while in Session 5 the Local Government and Communities Committee has undertaken three site visits as part of its inquiry into homelessness; the Education and Culture Committee visited Orkney for its stage 1 report on the Historic Environment Scotland Bill.⁸³ The Economy, Jobs and Fair Work committee report on the economic impact of leaving the European Union records 15 visits.⁸⁴ The Justice Committee’s report on the Abusive Behaviour and Sexual Harm (Scotland) Bill, for example, notes the value of a private, informal meeting with three survivors of domestic abuse.⁸⁵

The use by committees of a variety of methods of information gathering is clearly widely viewed as beneficial, with many MSPs referring to the value of informal visits, breakfast sessions and other similar activities, where 'people can get their comments on the record but not attributed'. Such initiatives were seen by interviewees as valuable for a variety of reasons: they can provide different views from those typically received in both written and oral evidence; they can therefore provide different drivers and directions for inquiries; and they can help focus members' minds and allow them to explore issues with those delivering and receiving services. However, while in some instances interviewees were clear that information from such activities were reflected in committees' reports, in others there were suggestions that they were not as prominent as they might have been. A small number of interviewees noted that visits and other informal means of evidence-gathering were not always helpful, but the same point was also made about some oral witness sessions.

Some suggested that while there was a good variety of one-off and sometimes innovative activities, the challenge is both to ensure that they are grown in a sustainable way, and that good practice and lessons are learnt across committees. There was a recognition that while there have been a variety of examples of good practice, until recently there have not perhaps been appropriate mechanisms within Parliament to share them. At the same time, it is important to note that engagement *per se* is not necessarily unproblematic, and that engagement and participation require skills and resources that may be more likely to be possessed by some social groups rather than others,^{38 57} and some interviewees noted, for example, the risks of being tokenistic on the one hand, and 'getting driven by anecdote' on the other. While there is substantial use of the 'usual suspects' as witnesses, therefore, there is also considerable innovation in committees' search for evidence. Importantly, initiatives such as these can be labour intensive, and involve considerable effort upon the part of the clerks and others, so that the assistance of the Outreach team, for example, was valued, particularly as their staffing has grown. There are also likely to be resource implications for the Parliament if such activities develop further.

However, although the use of such 'informal' mechanisms is clearly valued by MSPs, at the same time they may be less likely to get on the formal record of committees. For example, the 'Note of Visit' of a fact-finding visit to the Parkhead Citizens Advice Bureau forms part of the minutes for the Welfare Reform Committee's interim report on benefit sanctions,⁸² but there is no record of how many people were met or their gender, while the Equalities and Human Rights Committee report on destitute asylum seekers mentions three visits and some informal briefings, although they are not recorded as part of the evidence.⁸⁶ A small number of conveners and some other MSPs suggested that such activities may not get sufficient prominence in reports, and it might be that such information could be recorded and, as happens in some instances, notes provided as part of the report, unless the committee feels that it would be possible to identify individuals. This would provide a more accurate representation of the people that committees meet and the voices that they hear than the focus on oral evidence in formal sessions. From an external perspective, it is also not possible to tell whether all such activities are recorded; arguably, the basic premise should be that they should be recorded in minutes unless that would potentially lead to identification or harm for the individuals involved, as discussed later.

Importantly, some interviewees pointed out that while there can be real benefits from wider engagement, there are nevertheless risks that people are disappointed, so that the management of expectations is important. Some also noted that at times it might be better to have people give evidence anonymously, or without being recorded, so that it could

appear on the formal record, rather than having to draw on informal meetings. There are therefore, perhaps inevitably, likely to be a variety of tensions associated with the use of a range methods in seeking to hear different voices.

There were mixed views among interviewees about the potential for online activities and the use of information technology and social media in gathering evidence. There are also arguments that while the costs of using social media may be relatively low, and the reach relatively large, they may appeal primarily to a subset of people who may have only a subset of interests (for example, while the demographics of different platforms vary significantly, older people and disabled people are less likely to use social media), and they may be less useful for deep engagement. Perhaps unsurprisingly, therefore, although often seen as being potentially useful, they were not viewed as providing an easy answer, and there was a strong view that ‘there is no one way of reaching all of the groups that we might want to’. It was seen as important to ‘use them for the right reasons, make the best use of it where appropriate, but be aware of its limitations’. Some suggested that it might be best used as a tool for the provision, rather than the collection, of information.

Summary

- Data on committee witnesses shows that nearly two-fifths of witnesses that appear in front of Parliament’s committees are female, and that the proportions vary considerably across committees. There are likely to be both ‘demand’ and ‘supply’ factors underpinning these figures.
- Interviewees were strongly of the view that witnesses need to be appropriate to and inform the inquiry – they need to reflect expertise and voices that need to be heard (although perspectives on what voices need to be heard obviously differ). Some MSPs were clear that their priority was the pursuit of the best possible information for scrutiny, rather than diversity; however, a number made the point that greater diversity should be associated with committees receiving a different set of views, which would in turn improve scrutiny. These perspectives are not necessarily incompatible, as both are concerned with committees successfully undertaking high quality scrutiny of government policy, legislation and implementation; rather they reflect somewhat different views of the paths that committees should take in seeking to achieve that goal. Of course, as noted above, a number of interviewees highlighted the broader interpretations that could be taken of Parliament’s decisions about who to hear as witnesses, including ideas based upon important aspects of representation and fairness, and these should arguably also inform discussions on witnesses.
- Even among those who are most committed to achieving greater diversity, there were concerns about the difficulties of persuading organisations to provide more diverse sets of witnesses, along with the frequently expressed view that ‘if you go to an organisation, it is up to them to decide who is the best person’. Given this, the ‘supply’ side of witness identification and provision is likely to remain dependent on developments outside Parliament.
- Overall, committees have arguably been successful in broadening considerably the voices from which they hear, although at present this is much less well represented in the formal records of evidence gathering than the processes of formally gathering written and oral evidence. There is also a recognition that such initiatives in terms of engagement and diversity have so far been rather *ad hoc*, with different committees

trying different things, although there is now a move towards better and more consistent testing and dissemination of the results and learning across committees.

- Among many of those interviewed there was also an understanding that efforts to engage better with some groups and to hear other voices may require different approaches and additional resources.

Recommendations

Clearly, any decision to make changes (or not) to the methods of selection of committee witnesses will depend upon the desired ends, and changes made to meet one goal will not necessarily contribute to another. In addition, as was widely recognised among those interviewed, it is important that oral witnesses, as with all evidence, can contribute to the work of the committee, and thus to the quality of scrutiny. It is therefore important that they represent both expertise and a variety of perspectives from those who are likely to be involved in implementing and who are affected by legislation and policy. As a result, the voices sought and heard will be likely to vary with the issue being considered, and it is appropriate that committees should be free to decide what witnesses and forms of evidence are most useful for individual inquiries, while at the same time they should also recognise the benefits of and responsibilities for hearing from a variety of perspectives. As noted previously, the Commission on Parliamentary Reform has also made a number of recommendations and observations relevant to this field, the great majority of which chime well with the findings of this research, including that the greater availability of training for witnesses would be beneficial, the creation of a Committee Engagement Unit, that additional expertise might be directed towards committees for a fixed period of time to assist in enhancing awareness of diversity issues for scrutiny work, and that committees should provide meaningful feedback to those who engage with them.¹

Possible actions for the Parliament would include:

1. Producing guidance for committees on the processes of selecting witnesses and issuing calls for written evidence

This report outlines some of the different forms of representation described in the literature, and a variety of reasons why witness diversity matters. Committees may want to reflect on this and consider what range of evidence they require, why they seek to hear from witnesses, and what is meant by 'diversity' in the context of each inquiry, including reflecting this in calls for written evidence.

It should be made clear to those who are invited to provide evidence that the Parliament seeks to work towards committee witnesses being broadly representative of Scotland's society. In addition, Parliament could continue and expand its input into training and development activities, as with the Women's Enterprise Network.

Parliament's Guidance on Committees should be reiterated regularly to committees, including that 'Where an invitation is issued to an organisation, it may specify the individuals from whom the committee wishes to hear', and that there is scope to combine seniority with the in-depth knowledge required to provide meaningful answers to members' questions, so that more than one witness may be sought from an organisation where appropriate; in some instances it may be appropriate to extend this to the users of an organisation's services.

This would not replace the need for private meetings or less formal activities where these are perceived to be useful, for example in exploring sensitive issues or where people might be asked to provide information that might be contradictory to an organisation's official position. Indeed, the benefits of hearing from a diversity of voices could be introduced during inductions for MSPs and for parliamentary staff, and be reiterated as part of CPD programmes.

2. Producing guidance for organisations providing witnesses to committees

In some instances, there may be little scope for varying witnesses. For example, where it is a matter of accountability to Parliament, then the person or role tends to be the deciding factor, as with a minister or a key named individual.

In other cases, however, where it is the perspective that matters, there would be greater scope for guidance to influence an organisation's choice of witness to send to committees, for instance if there is a need for someone with a particular experience, or someone speaking on behalf of or providing information for an organisation. The emphasis should be on the most appropriate person or persons to provide the evidence required by the committee. However, it could also be made clear that, over time, Parliament seeks to work towards committee witnesses being broadly representative of Scotland's society.

This guidance could be provided by clerks with the invitation to the organisation to attend the committee.

Both for committees and organisations asked to provide witnesses to committees, it is arguable that the very act of requiring those who select witnesses to think about their diversity (or otherwise), may itself encourage them to think differently, for example about the representation of particular groups, and that might in turn increase diversity further.

3. Improving (online) access to documentation for (particularly first-time) witnesses

Considerable work is already being put into:

- Publicising the work of committees;
- Seeking to attract evidence for inquiries.

However, information on the full scope of the work of committees, including their inquiries, the submission of evidence and the possibilities of appearing as witnesses, and in particular advice for those new to such engagement, should be made easy to access, perhaps including by direct links from committee web pages. Information about live inquiries and calls for written evidence should be widely circulated and made visible both inside and outside the Parliament, including, for example, on the landing page of the Scottish Parliament web site.

4. Improving support for (first-time) witnesses

The formal provision of support for witnesses prior to appearance before a committee would be likely to be beneficial, perhaps along the lines of that recommended be provided through a Committee Engagement Unit by the Commission on Parliamentary Reform¹. Similarly, activities designed to provide training and development to potential future witnesses (perhaps targeted at particular groups, as with the Women's Enterprise Network, and the example of the Defence Committee at Westminster, which has held an event for early career academics) would contribute to widening the range of potential witnesses. In addition, as new people come into contact with Parliament and its committees, it is important to ensure both that their expectations of the impact of their appearance are managed, and that they are provided with opportunities to learn more about Parliament and how it works, including to encourage and enhance future engagement.

5. Careful assessment of representative claims of 'representative' bodies

The widespread use of representative bodies to provide witnesses is both understandable and valuable for the work of committees, but it should not overshadow the additional potential benefits of hearing from other voices. Claims by organisations to speak on behalf of the public, or particular groups, should be interrogated by committees.

6. Consistent recording of the gender (and, potentially, other protected characteristics) of oral witnesses to committees, which would provide valuable information

Given that this reflects both supply and demand factors, consideration should be given to the annual publication of results both by committee and by organisation (for example, where any one organisation or institution provides a witness on six or more occasions in a parliamentary year), as this would inform committees individually, Parliament as a whole, external organisations, and wider society; recording individuals' home postcodes would provide an indicator of geographical concentration or dispersion, and enable some degree of linkage to socio-economic indicators, albeit that the data would have to be held securely, and analysed and presented at a level that would not allow individuals' addresses to be identified.

While the initial emphasis on the gender of committee witnesses is understandable, in terms of the arguments for diversity outlined in this Briefing, other elements of diversity are also important, including other protected characteristics and, indeed, socio-economic differences. While gender is clearly an important contributor to diversity, it should therefore be viewed as a first step, and a plan for capturing, evaluating and extending diversity to other protected and other important characteristics should be developed.

Different committees could potentially trial different approaches to gathering data on witnesses, although that does bring the risks of delay, and of inconclusive results because of the different circumstances and policy areas in which they operate.

7. Informal meetings and similar events should normally be recorded in the reports of enquiries

As noted above, collecting data on witnesses, including basic information about the number and gender of participants (and, over time, other protected characteristics), would allow for a better reflection of the nature of the evidence gathered by committees. Ideally, this should be extended to other forms of oral evidence, with such information being recorded unless that would potentially lead to identification or harm for the individuals involved, and with the requirement that where confidentiality and anonymity are important those should take precedence. Having a formal record would also help make clear to those who engage with committees that their voices are heard, and would potentially help in feeding back to those people.

8. Ensuring that there is sufficient time in each enquiry, where possible, for written evidence to be considered before the selection of invitees to give oral evidence

Wherever possible, written evidence should be collected prior to decisions being made about the selection of oral witnesses, and where that is not possible, committees should, at a minimum, seek to ensure that there is space in oral sessions for witnesses that might be identified from written evidence as potentially providing different voices and perspectives.

9. Exploring the potential benefits of emerging technology as a tool to increase witness diversity

As with other developments with regard to engagement and participation, there is likely to be scope for some greater use of technology in these processes. While the value of some forms of digital communication for the work of committees remains uncertain, they should be explored. It would clearly be possible to make greater use of video conferencing and similar technologies for oral evidence, as parliaments in Australia and Canada do, although that would be contingent on the facilities available for Parliament.

10. Providing feedback to witnesses

Building on the recommendation by the Commission of Parliamentary Reform, consideration should be given to providing some degree of feedback to witnesses on their appearance before a committee, particularly those who are new to the experience. In addition to helping individuals, taken collectively such feedback could also be fed into training sessions for potential witnesses, including any aspects that might be seen as of particular relevance to diversity issues.

11. Monitoring the impact of these changes

The impact of these changes should be closely monitored and the results fed back to Parliament, perhaps initially over a two-year period. While some elements of this would be quite easily achieved, for example through the collection and analysis of statistics on witnesses, others, such as any perceived impact on both the quality of evidence and MSPs' and officers' views on the wider workings of committees, would best be gathered through face-to-face interviews.

Appendix

Tables 3 to 5 show the number of witnesses by gender and by Committee for 1999-2000, 2015-16 and 2016-17.

Table 3: Number of witnesses by gender and committee, Session 1, 1999-2000

	Men	Women	Non-binary	Total	% men	% women	% non-binary
Audit	22	3	-	25	88.0%	12.0%	0.0%
Education, Culture and Sport	69	27	-	96	71.9%	28.1%	0.0%
Enterprise and Lifelong Learning	77	20	-	97	79.4%	20.6%	0.0%
Equal Opportunities	42	35	-	77	54.5%	45.5%	0.0%
European	22	4	-	26	84.6%	15.4%	0.0%
Finance	20	1	-	21	95.2%	4.8%	0.0%
Health and Community Care	39	28	-	67	58.2%	41.8%	0.0%
Justice and Home Affairs	97	27	-	124	78.2%	21.8%	0.0%
Local Government	52	12	-	64	81.3%	18.8%	0.0%
Procedures	5	0	-	5	100.0%	0.0%	0.0%
Public Petitions	3	0	-	3	100.0%	0.0%	0.0%
Rural Affairs	65	9	-	74	87.8%	12.2%	0.0%
Social Inclusion, Housing and Voluntary Sector	44	23	-	67	65.7%	34.3%	0.0%
Standards	14	5	-	19	73.7%	26.3%	0.0%
Transport and the Environment	64	19	-	83	77.1%	22.9%	0.0%
Total	635	213	-	848	74.9%	25.1%	0.0%

Table 4: Number of witnesses by gender and committee, Session 4, 2015-16

	Men	Women	Non-binary	Total	% men	% women	% non-binary
Delegated Powers and Law Reform	35	24	-	59	59.3%	40.7%	0.0%
Devolution (Further Powers)	42	19	-	61	68.9%	31.1%	0.0%
Economy, Energy and Tourism	103	45	-	148	69.6%	30.4%	0.0%
Education and Culture	94	81	-	175	53.7%	46.3%	0.0%
Equal Opportunities	23	25	1	49	46.9%	51.0%	2.0%
European and External Relations	66	28	-	94	70.2%	29.8%	0.0%
Finance	117	47	-	164	71.3%	28.7%	0.0%
Health and Sport	106	105	-	211	50.2%	49.8%	0.0%
Infrastructure and Capital Investment	77	40	-	117	65.8%	34.2%	0.0%
Justice	100	44	-	144	69.4%	30.6%	0.0%
Justice Sub-Committee on Policing	14	7	-	21	66.7%	33.3%	0.0%
Local Government and Regeneration	96	27	-	123	78.0%	22.0%	0.0%
National Galleries of Scotland	3	2	-	5	60.0%	40.0%	0.0%
Pentland Hills Regional Park Boundary Bill	10	8	-	18	55.6%	44.4%	0.0%
Public Audit	74	66	-	140	52.9%	47.1%	0.0%
Public Petitions	47	30	-	77	61.0%	39.0%	0.0%
Rural Affairs, Climate Change and Environment	140	43	-	183	76.5%	23.5%	0.0%
Standards, Procedures and Public Appointments	35	3	-	38	92.1%	7.9%	0.0%
Welfare Reform	54	50	-	104	51.9%	48.1%	0.0%
Public Audit (exc. Auditor General)	74	33	-	107	69.2%	30.8%	0.0%
Total	1,236	694	1	1,931	64.0%	35.9%	0.1%

Table 5: Number of witnesses by gender and committee, Session 5, 2016-17 (first ten months)

	Men	Women	Non-binary	Total	% men	% women	% non-binary
Culture, Tourism, Europe and External Relations	74	31	-	105	70.5%	29.5%	0.0%
Delegated Powers and Law Reform	18	7	-	25	72.0%	28.0%	0.0%
Economy, Jobs and Fair Work	80	59	-	139	57.6%	42.4%	0.0%
Education and Skills	51	44	-	95	53.7%	46.3%	0.0%
Environment, Climate Change and Land Reform	102	37	-	139	73.4%	26.6%	0.0%
Equalities and Human Rights	43	71	-	114	37.7%	62.3%	0.0%
Finance and Constitution	94	12	-	106	88.7%	11.3%	0.0%
Health and Sport	86	88	-	174	49.4%	50.6%	0.0%
Justice	72	49	-	121	59.5%	40.5%	0.0%
Justice Sub-Committee on Policing	11	8	-	19	57.9%	42.1%	0.0%
Local Government and Communities	110	41	-	151	72.8%	27.2%	0.0%
Public Audit and Post-legislative Scrutiny	87	86	-	173	50.3%	49.7%	0.0%
Public Petitions	36	22	-	58	62.1%	37.9%	0.0%
Rural Economy and Connectivity	110	18	-	128	85.9%	14.1%	0.0%
Social Security	47	41	-	88	53.4%	46.6%	0.0%
Standards, Procedures and Public Appointments	21	8	-	29	72.4%	27.6%	0.0%
Total	1,042	622	-	1,664	62.6%	37.4%	0.0%

Figures 9 and 10 illustrate the impact that ‘supply’ can have, for example by removing one organisation (the Scottish Government), or even one person (the Auditor General for Scotland - Caroline Gardner), using the example of the first ten months of 2016-17, Session 5.

Figure 9: Percentage of female witnesses with/without Auditor General for Scotland/ Scottish Government, Session 5, 2016-17 (first ten months)

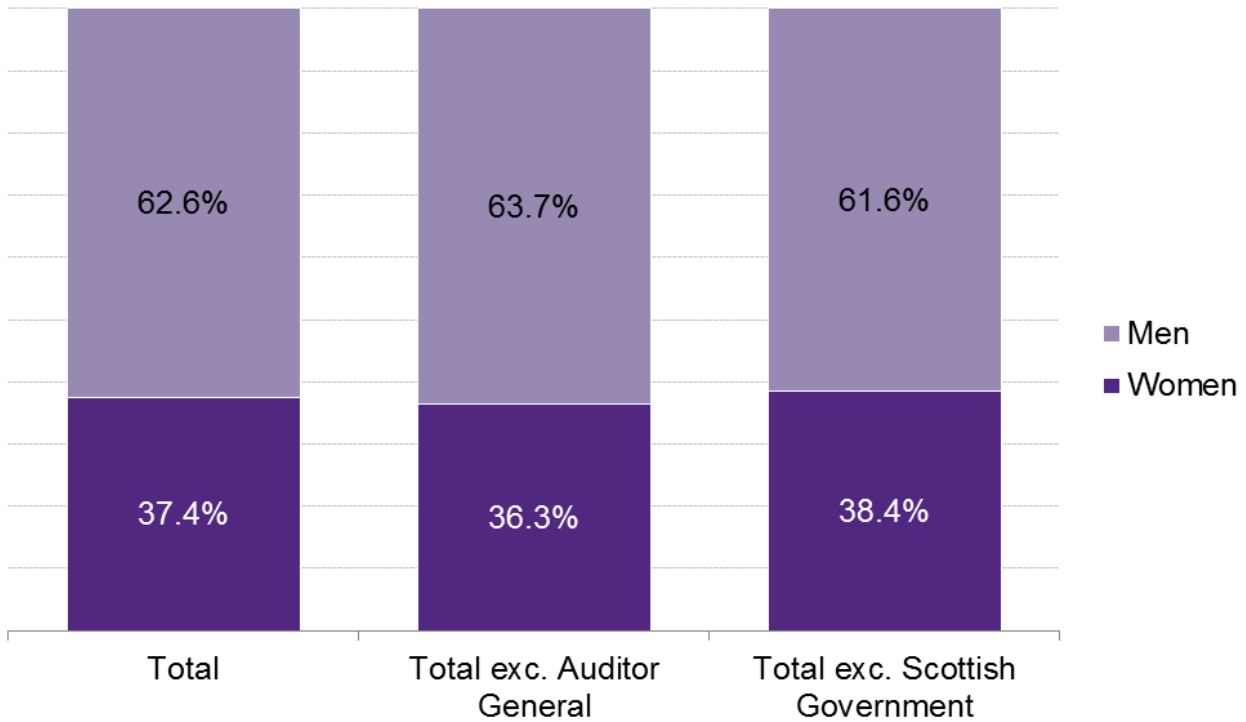
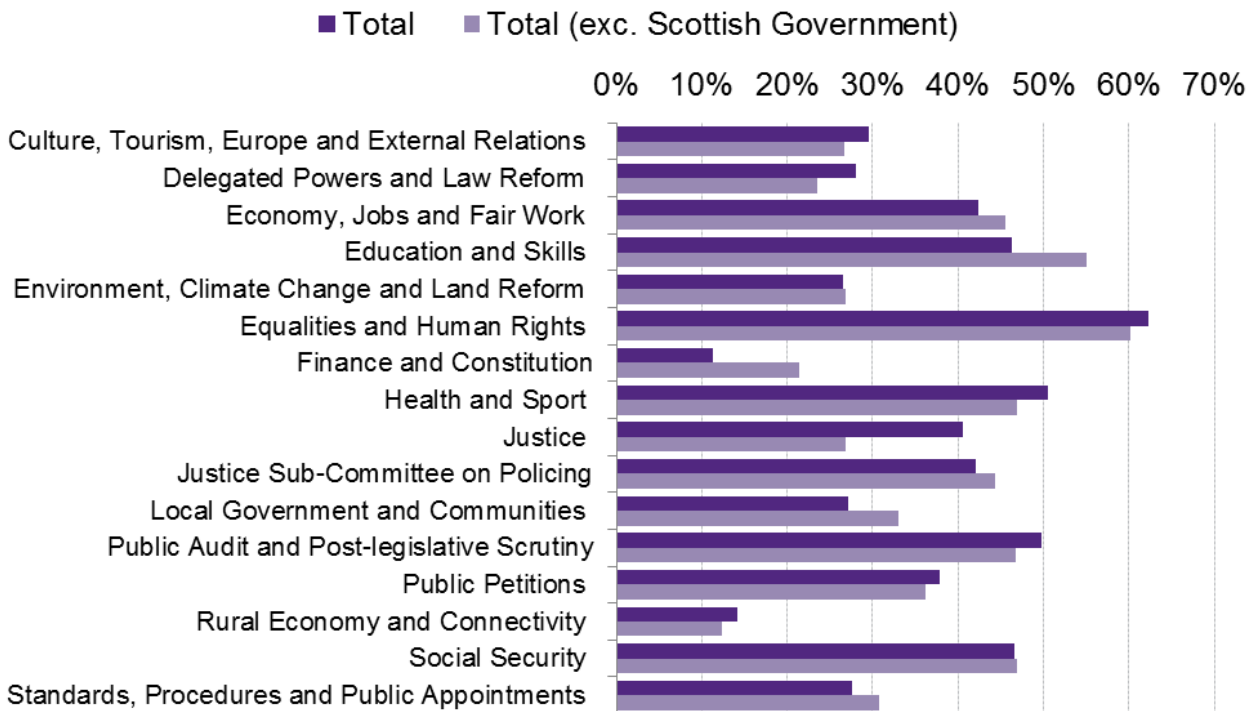


Figure 10: Percentage of female witnesses by committee, with and without Scottish Government, Session 5, 2016-17 (first ten months)



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