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## **Culture, Tourism, Europe and External Relations Committee**

**Comataidh Turasachd Eòrpach agus Dàimhean Taobh a-  
muigh**

# **EU engagement and scrutiny of the Committees of the Scottish Parliament 2016-17**



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# Culture, Tourism, Europe and External Relations Committee

To consider and report on the following (and any additional matter added under Rule 6.1.5A)—

- (a) proposals for European Union legislation;
  - (b) the implementation of European Communities and European Union legislation;
  - (c) any European Communities or European Union issue;
  - (d) the development and implementation of the Scottish Administration's links with countries and territories outside Scotland, the European Union (and its institutions) and other international organisations; and
  - (e) co-ordination of the international activities of the Scottish Administration.
- (f) culture and tourism matters falling within the responsibility of the Cabinet Secretary for Culture, Tourism and External Relations



<http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/european-committee.aspx>



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# Committee Membership



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Democrats

# Introduction

1. In December 2010, a Parliament-wide strategy for EU engagement and scrutiny was introduced. This followed a detailed inquiry into the Treaty of Lisbon and its implications for subnational parliaments conducted by the session 3 European and External Relations Committee.
2. The strategy sets out the role of the Parliament with regard to EU matters, which is "to scrutinise the Scottish Government and its EU engagement." <sup>1</sup> To fulfil this scrutiny function, the Parliament agreed to:
  - develop an early engagement approach and set an 'upstream' agenda based upon intelligence gathering and analysis of EU policy making at the earliest (pre-legislative) stages; and
  - mainstream the scrutiny of draft EU legislation to subject committees.
3. As part of the strategy, the Culture, Tourism, Europe and External Relations Committee (the Committee) acts as a mainstreaming "hub". Each year, the Committee compiles a report detailing the EU scrutiny undertaken by subject committees in the previous year and any EU priorities they have identified for the forthcoming year. The report also sets out details of the Committee's own EU scrutiny work.
4. This year, the Committee agreed to ask the committees to also consider the impact of the EU referendum result, and the majority of subject committees have focused their EU-related work on matters relating to Brexit.

## Committee membership

5. The membership of the Committee changed during the course of this piece of work. Mairi Evans joined the Committee on 30 March 2017, replacing Emma Harper.

# The Culture, Tourism, Europe and External Relations Committee's EU engagement and priorities for scrutiny 2016-17

6. The majority of the Committee's work in session 5 has focussed on the implications of the EU referendum result. Between June 2016 and March 2017, the Committee conducted a wide-ranging inquiry, which covered the following themes:
  - Scotland's future trade relationship with the EU: membership of the single market, a bilateral relationship, World Trade Organization rules
  - intergovernmental relations and the Scottish Government's role in negotiations
  - the impact of the EU for the Scottish Budget
  - Scotland's future relations with the EU and its Member States
  - the domestic process of withdrawing from the EU.
7. The Committee appointed two advisers for its inquiry - Professor Sionaidh Douglas-Scott, University of London and Professor Michael Keating, Director, Centre on Constitutional Change. During the course of the inquiry, the advisers produced [several research briefings](#) for the Committee.
8. The Committee also commissioned research by Professor Alan Page, University of Dundee, on the [implications of EU withdrawal for the devolution settlement](#) and by the Fraser of Allander Institute on [the long-term economic implications of Brexit](#).
9. The findings of the inquiry are set out in four reports which have been published by the Committee:
  - [The EU referendum result and its implications for Scotland: Initial Evidence](#)
  - [Brexit: What Scotland thinks: summary of evidence and emerging issues](#)
  - [EU Migration and EU Citizens' Rights](#)
  - [Determining Scotland's future relationship with the European Union.](#)
10. In addition, the Scottish Parliament Information Centre (SPICe) produces a weekly briefing on the UK's exit from the EU on behalf of the Committee. The [Brexit update](#) has over 200 subscribers and has proved to be a valuable engagement tool, allowing the Committee to provide information on Brexit to both stakeholders and members of the public.

## **The EU referendum result and its implications for Scotland: Initial Evidence**

11. The Committee began to take oral evidence in June 2016, hearing from the Scottish Government, academics and a range of stakeholders. The Committee also engaged with key actors and stakeholders in the EU, travelling to Brussels in July 2016 where it met with representatives of the business community and the ambassadors to the EU of Norway, Iceland and the Republic of Ireland.
12. The Committee's early work culminated in the publication of a report on its initial findings in September 2016. The report acknowledged the uncertainty created by the number of unanswered questions which remained following the EU referendum result and identified a number of issues which the Committee intended to investigate further. It called upon the Scottish and UK Governments to prioritise single market access and acknowledged the evidence the Committee had heard on the importance of protecting the rights of EU citizens living and working in Scotland.

## **Brexit: What Scotland thinks**

13. The Committee issued a call for evidence in July 2016, inviting the views of individuals and organisations throughout Scotland on the impact of the EU referendum result. Over 150 responses were received from a wide range of stakeholders and individuals and covered a multitude of issues.
14. The responses were summarised in the Committee's report "Brexit: What Scotland Thinks" which was published in January. The report summarises the evidence from stakeholders and individuals in relation to key policy areas and issues including justice and home affairs; further and higher education; schools and skills; agriculture, food and fisheries; climate change and the environment; health and sport; equal opportunities and human rights; and constitutional matters and the process of withdrawing from the EU.
15. The report noted that, whilst some respondents viewed Brexit as an opportunity for positive change, the vast majority highlighted a number of significant concerns. The Committee therefore urged the Scottish and UK Governments to give serious consideration to the views outlined in the report.

## **EU Migration and EU Citizens' Rights**

16. The Committee commissioned research from SPICe on EU migration to Scotland in order to ascertain the pattern of EU migration to Scotland, where EU migrants had settled in Scotland, the areas of the economy in which they were employed, and their contribution to the Scottish economy and society.
17. Many of the written submissions received by the Committee referred to the rights of EU citizens and the position of EU citizens following the EU referendum.

18. To gain further insight into both EU migration and the rights of EU citizens, the Committee held evidence sessions with experts in these fields. The issue of EU citizens rights was also a topic of considerable discussion when the Committee travelled to Brussels in January 2017 to meet with a number of experts on the EU and MEPs.
19. The resulting Committee report brought together all of this evidence. It highlighted the fact that EU migration had contributed to the reversal of population decline in Scotland and had helped to increase the number of people of working age in Scotland. It raised concerns about the impact on the economy and Scottish society more generally, should there be a loss of EU migrants or a reduction in future migration.

## **Determining Scotland's future relationship with the European Union**

20. The Committee's 4th and final report focussed on Scotland's future trade relationship with the EU. The Committee held several evidence sessions on this subject, hearing from a number of experts, including academics, industry representatives and Scottish and UK Government Ministers. The Committee explored the existing trade alternatives to EU membership, including the European Free Trade Association - European Economic Area, the Swiss bilateral relationship with the EU, and trading under World Trade Organization rules. The report also considered intergovernmental relations between the UK Government and the Scottish Government in relation to the negotiations in advance of Article 50 being triggered; the negotiations during the process of withdrawal; and discussions on future free trade agreements. The report further examined the impact of withdrawal from the EU on the devolution settlement and future funding to replace agricultural and structural funding.

## **Future work**

21. The conclusion of the Committee's inquiry in March coincided with the UK Government's plans to trigger Article 50 by the end of that month. The Committee has agreed to focus on the withdrawal negotiations now that Article 50 has been triggered. Whilst the Committee aims to keep its work programme flexible in order that it can respond to events as they occur, it is likely that a large proportion of its work will focus on the process of leaving the European Union.

# Subject Committees' EU engagement and priorities for scrutiny 2016-17

22. In December 2016, the Committee (hereafter referred to as the CTEER Committee) wrote to subject committees, seeking information on the work they had undertaken, or planned to undertake, relating to the EU Commission's work programme for 2017. In addition, the CTEER Committee this year asked for information on any work that had been conducted or was planned on the implications of the EU referendum result. The majority of responses received focussed on the latter.
23. Set out below is a brief summary of the main areas of EU scrutiny which have been completed by committees in the last year or is planned prior to summer recess. The responses received are reproduced in full at the annex to this report.

## Funding

24. In December, the Local Government and Communities Committee held an evidence session on the impact of Brexit on Scottish local government. Whilst it was noted that the UK Government had guaranteed funding for structural and investment fund projects up to 2020, the Committee wrote to the Minister for UK Negotiations on Scotland's Place in Europe to ask what consideration the Scottish Government was giving to how European Structural Funds and other sources of European funding might be replaced following the UK's departure from the European Union. This was an issue of concern, given that local authorities are lead delivery agents for around £107 million of structural fund projects between 2014 and 2020.
25. The Environment, Climate Change and Land Reform Committee had also raised questions on the prospective loss of EU funding, particularly for environmental agencies such as SEPA, Scottish Natural Heritage and Marine Scotland, all of which access EU funding streams. It had called on the Scottish Government to clarify the potential implications of the loss of EU funding on "Scotland's landscapes, habitats and wildlife."
26. As part its own inquiry, the CTEER Committee sought to understand what domestic arrangements would be put in place to replace EU funding programmes and how such schemes would be funded under the devolution settlement. The evidence heard by the CTEER Committee raised a number of questions about how much money each policy area would receive and how it would be allocated to the devolved administrations.
27. A need for clarity in relation to future funding procedures was also highlighted by the Equalities and Human Rights Committee which expressed concern about EU funding currently allocated to third and voluntary sector organisations supporting equalities and human rights in Scotland.
28. To help understand the potential impact of changes to funding, the Health and Sport Committee wrote to Universities Scotland and Scottish Enterprise seeking information on the level of EU funding awarded to Scotland's research institutions. The difficulty in quantifying the amount of funding for health research was noted, with funding through schemes such as Horizon 2020 being distributed on a

competitive rather than pre-allocated basis. However, the Health and Sport Committee was clear that such funding was of significance to healthcare and medical research in Scotland.

29. The Education and Skills Committee explained that, while it had not yet undertaken any EU scrutiny, it may look into research funding in future, noting that schemes such as Horizon 2020 and Erasmus provide significant funding to Scottish universities. This is reflected in figures cited by the Health and Sport Committee stating that in 2014-2015, UK universities received £836 million in research funding from EU sources.
30. These figures echoed evidence the CTEER Committee heard throughout its inquiry that education and research in Scotland receives a larger proportion of EU funding than the rest of the UK and that the growth of the education sector in Scotland can be partly attributed to EU funding.

## EU legislation and policy

31. A number of committees made reference to the wide range of regulations, directives and strategies which emanate from the European Commission. Committees noted the uncertainty surrounding this subject and questioned how these regulatory frameworks might be replaced.
32. At an evidence session held by the Equalities and Human Rights Committee, it was noted that the EU Fundamental Charter on Human Rights will no longer apply in the UK following Brexit and that it is unlikely decisions on UK matters will be made by the European Court of Justice. The Equalities and Human Rights Committee considered that these factors would create a great deal of uncertainty regarding how human rights will be protected in the future.
33. The Health and Sport Committee noted numerous EU directives which either directly or indirectly impacted on health-related matters in Scotland. For example, the Tobacco Products Directive which has led to the introduction of stricter rules on tobacco packaging and e-cigarettes.
34. The Health and Sport Committee's response also makes reference to the centralised EU approach to the recognition of new medicines via the European Medicines Agency (EMA). The UK may continue to participate in the EMA process following Brexit (as Iceland, Lichtenstein and Norway currently do as EFTA EEA members). However, should the UK leave the EMA, pharmaceutical companies will be required to follow a more complex procedure with the risk of access to new medicines being delayed.
35. The Environment, Climate Change and Land Reform Committee noted that EU policies, such as the Common Fisheries Policy, determined many of the regulatory functions of public bodies such as SEPA. The Committee had therefore called on the Scottish Government to provide updates on the future regulatory and management responsibilities of such bodies following Brexit. In addition, in March it held an evidence session with academics to consider the environmental and climate change implications for Scotland. Further to this, the Rural Economy and Connectivity Committee looked specifically at the impact of Brexit on agriculture,

forestry and fisheries and plans to take evidence from the Minister for UK negotiations on Scotland's place in Europe and the Cabinet Secretary for Rural Economy and Connectivity in April.

36. Other issues raised by committees included the potential for changes to public procurement rules, the requirement to observe EU state aid and the potential deregulation of the European Working Time Directive following the UK's departure from the EU.
37. Many of the concerns raised by committees also emerged in the evidence received by the CTEER Committee. It noted that the Great Repeal Bill will preserve current EU law and that the UK Parliament, and the devolved legislatures where appropriate, will determine which elements of that law to keep, amend or repeal following Brexit. In evidence sessions, the CTEER Committee also heard that, in order to trade with the EU following Brexit, the UK may be required to adhere to a number of EU regulations and standards.
38. Whilst noting concerns raised regarding the potential loss of EU policies, the CTEER Committee was also made aware that certain aspects of EU regulation and policies are considered burdensome by those who are required to operate under them. For example, evidence from the fish-catching sector made clear that the industry does not want to return to the Common Fisheries Policy following Brexit.

## Labour Market

39. In its report on the economic impact of leaving the EU, the Economy, Jobs and Fair Work Committee reflected on the value of migrant workers to the Scottish economy. It noted that the specific 'demographic challenges' faced by Scotland, including an ageing population, meant that some sectors of the economy were reliant on migrants, both skilled and unskilled. The Economy, Jobs and Fair Work Committee considered it vital that such locational differences are accounted for by the UK Government when negotiating future immigration arrangements.
40. Similarly, in an evidence session on recruitment and retention, the Health and Sport Committee was told that certain geographical areas of Scotland were more reliant on EU staff than others. The Western Isles Hospital was cited as an example, employing 12 consultants - one Scottish, eight from an EU27 country and three from outwith the EU.
41. This reflected evidence taken by the CTEER Committee on the economic value of EU migrants and the need for Scotland to grow its population in order to fill gaps in the labour market, both geographically as well as in certain sectors.
42. The value of EU citizens to the education sector, both as staff and students, was noted by the Education and Skills Committee which cited this as a subject it may wish to consider in further detail, with the importance of attracting EU staff to universities being an area of particular interest.
43. In addition, the Health and Sport Committee considered that Brexit could have a significant impact on the health and social care workforce in Scotland, noting that the current system of freedom of movement and a reciprocal recognition of

qualifications and standards has led to a large number of EU citizens working in the Scottish health and social care sector.

## EU Commission work programme

44. The European Commission publishes a [work programme](#) each year, setting out its priorities for the forthcoming year and providing information on how these aims will be achieved. As part of their EU engagement work, committees may choose to scrutinise part of the work programme relevant to their remit.
45. The Environment, Climate Change and Land Reform Committee plans to monitor the Commission's work programme, focussing on Priority 1 - 'A new boost for jobs growth and investment' in relation to the development of the EU Circular Economy Action Plan. The Committee will look at this in the context of planned Scottish Government legislation on the circular economy and has already begun to take some work on this matter forward having established an informal sub-group to consider related developments and to determine whether further work in this area is required.
46. The Environment, Climate Change and Land Reform Committee will also continue to monitor Priority 3 – 'A resilient energy union with a forward looking climate change policy.' The Committee will monitor the implementation of the Paris Agreement and the international agreement on emissions from aircraft as well as the Scottish Government response to this.
47. The Local Government and Communities Committee noted that many of the areas it had examined in relation to Brexit tie in with the Commission's priorities for 2017. For example, issues such as the effect of the restriction of freedom of movement and labour supply on local economies can be related to Priority 4: 'A deeper and fairer internal market with a strengthened industrial base and Priority 8: 'Towards a new policy on migration'.
48. Whilst noting that it had prioritised work relating to the EU referendum result rather than considering the Commission's work programme in detail, the Equalities and Human Rights Committee explained that Priority 7: 'Towards a new policy on migration' has some resonance with its current inquiry on destitution and asylum in Scotland, which also includes those with insecure immigration status. Accordingly, it would keep a watching brief on this priority.

## Conclusions

49. The CTEER Committee thanks the committees for their reports on their EU priorities, which reflect a wide range of engagement and scrutiny across the different committee remits.
50. The CTEER Committee notes that the majority of committees have focused their EU-related work on Brexit and considers this to be indicative of the significant impact the UK's decision to leave the EU has had on many aspects of Scottish life. The CTEER Committee encourages other committees to continue to scrutinize the impact of Brexit as the process continues.

## Annex

### Response from the Economy, Jobs and Fair Work Committee

Further to your letter of 9 December inviting me to report on what EU relevant work we have undertaken and what engagement and scrutiny we have planned for the year ahead, allow me to outline both.

You will be aware of our recently published [report](#) on the economic impact of leaving the European Union, which addresses: Scotland's exporters; the financial services industry; import inflation (business input costs and impacts on households); inward investment; the Scottish labour market; the university sector; economic and trade investment strategies; and consulting with businesses.

Looking to the year ahead, we have work planned on the climate change plan and draft energy strategy, the gender pay gap, and economic data. All of these areas suggest a European dimension and I'd be happy to update you as we progress with each inquiry.

### Response from the Education and Skills Committee

Thank you for your letter of 9 December 2016.

I am pleased to inform you that the Education and Skills Committee has appointed Gillian Martin MSP to be its EU Reporter. Gillian has held exploratory discussions with the clerks and SPICe researchers and intends to bring forward a paper with ideas for the work programme of the Committee to consider at its meeting of 1 March 2017. These will focus on the impact of Brexit on the FE/HE sector in Scotland and the wider issue of skills provision in Scotland.

Possible issues for consideration include attracting staff into these institutions from EU27 states, the value of EU27 citizens who graduate from these institutions to the local economies, particularly in remote and rural areas and also the particular issue of Post Study Work Visas. We may also want to look at the importance of EU funding streams for research funding, skills/employability provision and student exchange programmes such as Erasmus and what may replace them.

At this stage, we have not made an assessment of whether we will follow up any of the issues identified in the EU Commission's work programme for 2017.

### Response from the Environment, Climate Change and Land Reform Committee

Thank you for this opportunity for the Committee to report on its EU engagement and scrutiny since June last year as well as its planned work for the coming year. As you will

see this has primarily focused on the implications within the Committee's remit of leaving the EU.

Scrutiny since June 2016 In only its second meeting of the Session the Committee took evidence from the Cabinet Secretary for Environment, Climate Change and Land Reform on to discuss with Ms Cunningham her remit and priorities for the coming years. As the EU Referendum had only been held the previous week, the very first question from the Committee was on the potential effect of leaving the EU on the Cabinet Secretary's portfolio. As well as requesting regular updates at that meeting on the expected impact of Britain's exit from the EU, the Committee has also written to the Cabinet Secretary for Environment, Climate Change and Land Reform to re-emphasise the its interest in this area.

In September the Committee invited Andrea Leadsom, Secretary of State for Environment, Food and Rural Affairs, to give evidence to the Committee on the expected impact of Britain's exit from the EU. While no date has been agreed as yet, the Committee's current understanding from the Secretary of State's office is that this may be arranged by the spring.

At its meeting on 20 September 2016 the Committee appointed David Stewart MSP as its European Union Reporter. Mr Stewart will often lead on the European dimension of issues under discussion during evidence sessions.

In its scrutiny of the Scottish Government's draft budget 2017-18 the Committee focused its approach on the work of Scottish Natural Heritage, Scottish Environmental Protection Agency and Marine Scotland. It was clear during evidence that each body accessed EU funding streams while also working in partnership with EU agencies. Many of their regulatory functions were also linked to the EU, such as the Common Fisheries Policy. In its report, the Committee called on the Cabinet Secretary to provide further details "on the potential implications of the loss of EU funding on Scotland's landscapes, habitats and wildlife" as well as "to provide, in due course, updates on what the future regulatory and management responsibilities of SNH, Marine Scotland and SEPA will be once Britain has left the EU." In much of the Committee's work, many of the same themes in relation to the implications for the UK leaving the EU have arisen. These have included: the repatriation of powers; the anticipated loss of EU structural funds; whether current EU funding is still able to be accessed prior to 2019; and, with the expected removal of European governance, what will be the final court of appeal.

Expected scrutiny in 2017 EU Exit As well as the Committee's anticipated evidence session with the Secretary of State for Environment, Food and Rural Affairs, the Committee will continue to seek updates from the Cabinet Secretary on the potential implications for her portfolio of leaving the EU. The Committee has also planned an evidence session in March with a number of academics and experts to explore the environmental and climate change implications for Scotland of the decision to leave the EU and it will review what further work is required following that session.

Commission Work Programme The Committee has reviewed the Commission Work Programme and those aspects of the Programme that have relevance to the Committee's remit and priorities and it will continue to monitor the roll-out of the Programme through 2017 and the implications for Scotland, specifically in relation to Priority 1 and Priority 3.

Specifically the Committee will monitor Priority 1 - a New Boost for Jobs Growth and Investment in relation to the development and planned roll out of the EU Circular Economy

Action Plan and the Scottish Government response to that. This is significant in the context of the Scottish Government Plans and forthcoming legislation on the circular economy and in relation to the investigatory work of the Committee which has established an informal sub group to consider developments in deposit return and the requirement and scope for further Committee work in this area.

The Committee will also continue to monitor the development and implementation of EU action within Priority 3 – a resilient energy union with a forward looking climate change policy. The Committee will monitor the implementation of the Paris Agreement and the international Agreement on emissions from Aircraft and the Scottish Government response to this. This is significant to the Committee's work in a number of areas. For example, the Committee's early evidence on the draft Climate Change Plan (formerly know as RPP3), has shown that some of the Scottish Government's assumptions between now and 2032 are based around existing EU rules. The Scottish Government's Biodiversity Strategy to 2020 is also rooted in EU regulation and the Committee will continue to consider the EU dimension in its work on this throughout 2017, specifically its work on: climate change mitigation and adaptation; the Climate Change Plan; the Biodiversity Strategy 2020; the forthcoming climate change legislation; and work on land use issues, embedding EU scrutiny in its work.

Finally, I hope you will get a sense from the Committee's work and future plans that I and my fellow Members take our EU scrutiny role seriously and look to explore EU implications in all our work. As you will know, the scrutiny of climate change is also primarily mainstreamed to subject committees and the Committee is keen for this to be similarly ingrained across committees.

## **Response from the Equalities and Human Rights Committee**

Thank you for your invitation of 9 December to report on any EU engagement or scrutiny that the Committee has conducted or has planned in relation to the European Commission's work programme 2017, and on any scrutiny relating to the implications of the UK leaving the EU for Scotland.

This letter provides an update to my letter of 13 September 2016, which set out our initial approach to engagement and scrutiny of EU matters. Before I provide an update I would like to take this opportunity to thank our EU Reporter, Annie Wells, who has assisted the Committee in identifying the relevant matters to be included in our response.

### *European Commission's work programme 2017*

Our focus so far has been primarily on the impact of 'Brexit', however, we have noted the terms of the Commission's 2017 work programme. One of the Commission's priorities, 'Towards a New Policy on Migration' (Implementation of the

European Agenda on Migration), has some resonance with the Committee's current inquiry on destitution and asylum in Scotland, which also includes those with insecure immigration status. We will keep a watching brief on this priority and consider our approach as the European Commission progresses its work programme.

In terms of information gathering and networking on European matters, I highlight that I am a Congress Member of the Council of Europe on the Current Affairs Committee. This provides access to some congress representatives who are from European Union member states.

### *Implications of leaving the EU for human rights and equalities in Scotland*

We took evidence on [3 November 2016](#) from the Scottish Human Rights Commission, the Equality and Human Rights Commission, and a number of academics specialising in human rights and equalities, to gain an insight into the range of issues which might be pertinent as we move closer to the UK leaving the EU.

On leaving the EU, the EU Charter of Fundamental Rights (the Charter) will cease to apply and there will be no ability to seek the opinion of the European Court of Justice (ECJ). These factors, coupled with the prospect of the UK Government repealing the Human Rights Act 1998 and legislating for a British Bill of Rights (conceivably increasing the vulnerability of the European Convention on Human Rights), gives rise to a significant level of uncertainty around how human rights will be protected in the future. With this level of unknowns it remains uncertain whether this will result in a diminution of human rights protections or provide an opportunity for the advancement of human rights. Other matters of interest to the equalities and human rights remit are the impact of EU funding streams no longer being available and the ongoing uncertainty around the status of EU Citizens post Brexit.

We wrote to the [Scottish Government](#), the [Lord Advocate](#) and the [UK Government](#) on 16 November 2016 asking for their views on measures to address:

1. the loss of protections under the Charter;
2. the lack of recourse to the ECJ;
3. concern there might be re-litigation of UK court decisions which have been based on ECJ rulings;
4. opportunities to advance human rights;
5. treatment of EU citizens who seek to remain in Scotland post Brexit (including issues around community cohesion)
6. EU funding for third and voluntary sector which support equalities and human rights across Scotland.

We received responses from Michael Russell, the Minister for UK Negotiations on Scotland's Place in Europe on [1 December 2016](#) and Angela Constance, the Cabinet Secretary for Communities, Social Security and Equalities on [8 December 2016](#) and from the Minister of State for Exiting the European Union, the Rt. Hon. David Jones MP on [6 February 2017](#).

It is our intention to hold another evidence session following the announcement that the UK will leave the European Single Market. This session will be held at an appropriate time after Article 50 has been triggered to establish progress on the issues we have identified.

We have also taken the opportunity to explore the impact of Brexit through other aspects of our work programme, for example, when inquiring into school bullying and harassment

of children and young people Dr Rowena Arshad, University of Edinburgh, advised head teachers and teaching staff were talking about a culture in the UK and the world which had begun to legitimise the view that prejudiced comments could be made on the basis of freedom of speech and that this would not have been acceptable prior to 'Brexit'.<sup>[1]</sup>

Finally, I will be meeting the Chairs of our UK counterpart Committees shortly and will use this forum to discuss issues of mutual relevance, which I assume will touch at some point on the UK's departure from the EU.

[1] EHRiC, 10 November 2016, Official Report, Cols 29-30

## Response from the Health and Sport Committee

I write in response to your letter dated 9 December 2016 in which you invited the Health and Sport Committee to report back on any EU scrutiny it has carried out.

At its meeting on 6 September the Committee considered a paper on the potential implications to Scotland of Brexit on matters within our remit. Following discussions we agreed to include consideration of EU withdrawal issues into our forthcoming work as appropriate. This has included work conducted on recruitment and retention, the social and community care workforce, delayed discharges and GPs and GP hubs. The Committee also agreed to appoint two European reporters – Richard Lyle MSP and Donald Cameron MSP.

We noted the following areas within our remit where there could be potential impacts to Scotland of Brexit:

- workforce issues
- research and life sciences
- public health
- new medicines and clinical trials
- funding
- sport

We agreed that all the areas noted above would be considered but we agreed the two main areas of focus for us were workforce issues (health and social care) and research and life sciences funding. Richard Lyle MSP agreed to lead on research funding and Donald Cameron MSP agreed to lead on workforce issues.

We undertook to gather information on these areas through questioning of witnesses and external requests for information. A full list of relevant extracts from the Official Report of our meetings is included at Annexe A.

### Health and social care workforce

Potentially the most significant impact could be in relation to workforce issues. The EU policy of freedom of movement and mutual recognition of qualifications and standards

within the EU means many health and social care professionals currently working in the UK have come from other EU countries. However, there is currently a lack of data on the number of EU nationals currently working in Scotland in the health and social care sector. To determine the possible implications of Brexit it would seem important data to have for future negotiations and workforce planning.

The Health and Social Care Information Centre estimates that 55,000 of the NHS's 1.3 million UK workforce and 80,000 of the 1.3 million UK workers in the adult social care sector come from EU countries.[1] Within that some 9.4% Doctors and 6.3% nurses UK wide are other EU citizens. The General Medical Council currently has 1371 doctors on its register who have an EU nationality and are working in Scotland. Of this figure, 220 are GPs, 506 are on the specialist register and 424 are in training.[2]

SPICE briefing 16/86 – EU nationals living in Scotland[3] states that “In the public administration, education and health sector, the largest area of employment is health and social work, which employs 12,000 EU nationals. However, because this sector is a large employer, EU nationals only account for 3% of total employment in this sector. Again, the majority of EU nationals working in this sector are from EU accession countries (8,000 of the total)”.

In response to a letter from the Committee on recruitment and retention the Cabinet Secretary for Health and Sport noted that[4]:

- EU 27 nationals make up 4.5% of the Scottish workforce in employment across sectors, and account for 3.0% of the workforce in the Health and Social Care Sector (Annual Population Survey 2015, Office for National Statistics)
- Just over 1,159 non-UK EEA-qualified doctors in Scotland (as at 27 October 2016), from a total of 20,028 – 5.8%. (GMC 2016)
- Around 4% of nurses and midwives and 2% of dentists in training are from the EU. (Office for National Statistics data – 29 June 2016)

The possible issues within the health and social care workforce were discussed by witnesses during evidence sessions on recruitment and retention and the social and community care workforce.

We heard there is concern health and social care services would be seriously impacted if EU workers currently working in Scotland had to leave or if new EU workers were not allowed to take up posts. Estimates on the levels of EU workers in the health and social care sector in Scotland vary from 5-15% depending on the source.

UNISON advised they currently have about 6,000 members in Scotland who are EU nationals and mostly work in the health and social care sector. Scottish Care noted in the past 18 months they have recruited about 55% of their staff from the EU. It is worth noting that the Scottish Government's vision of a shift from hospital based care to community based care will result in an increase in demand in the social care sector, ergo an increase in need for workers.

We are aware that the Scottish Government are now working with Scottish Social Services Council (SSC) to incorporate a new question into the SSSC annual staff survey, which would allow the Scottish Government to gather data on the number of EU nationals in the social care workforce.

During our evidence sessions on recruitment and retention we were made aware that certain areas within Scotland have a higher dependency on EU staff and as a result may be hit harder should EU nationals no longer have the right to work in the UK. Western Isles IJB noted of the 12 consultants working in the Western Isles hospital, only one is Scottish – 8 were from the EU and 3 were non-EU.

Regard, in due course, will also need to be given to any potential implications that access to EU workforce and migrant labour in the social care sector may have on pay and other conditions.

Another potential area where Brexit may impact upon was the procurement and tendering process. This was raised by the Coalition of Care and Support Providers in Scotland who noted the issue that came up first with their membership in relation to Brexit was not workforce but whether their membership could follow different procurement rules as a result of Brexit.

Another issue to consider in relation to Brexit is the European Working Time Directive (EWTD). Health service staff are covered by the EWTD, most since 1998, with junior doctors fully covered in 2009. The EWTD is implemented through UK regulations and staff contracts and we have a shared concern over possible post-brexit de-regulation and the potential impacts on the terms and conditions of the social care workforce in particular.

## Research and Life Sciences

Scottish research institutions receive funding from a number of UK-wide and external sources, including UK Research Councils, government departments, EU funding programmes, business (including foreign direct investment) and charities. Such funding can be significant in areas such as healthcare and medical research. Analysis by Universities UK earlier this year found EU research generates more than 19,000 jobs across the UK, with UK universities in 2014-15 attracting £836million in research grants and contracts from EU sources. Universities Scotland briefing suggested 13% of all research funding derived from EU sources.

The Royal Society [analysed EU research funding](#) from 2007 to 2013 and based on ONS figures identified total UK contributions for research development and innovative activities of €5.4billion with €8.8 billion of funding grants made to the UK over the same period. That figure represents around 3%<sup>[5]</sup> total UK expenditure on research and development. SPICe briefing (page 31) suggests Scotland received €741 million of the UK figure.

The UK Government announced<sup>[6]</sup> that Universities and researchers will have funds guaranteed for research bids made directly to the European commission, including bids to the EU's Horizon 2020 programme, an €80bn (£69bn) pot for science and innovation. The UK Treasury has indicated that it will underwrite the funding awards, (agreed before the Autumn Statement) even when projects continue post-Brexit.

To gather information on levels of EU funding currently awarded to Scotland we wrote to Universities Scotland and Scottish Enterprise.

Universities Scotland advised in 2014/15 Scotland's 19 higher education institutions won £79.3 million in research income from EU Government bodies. Another £14.8 million came from other EU sources (EU charities, industry and public corporations) bringing the total to £94.1 million. This accounted for 12.2 per cent of all competitively won research income Scotland's universities received that year from all sources. Or, if you include research grants from the Scottish Funding Council in the total research income, funds from EU

sources would account for 8.9 per cent of all research income received by Scotland's HEIs.

We were advised it was difficult to analyse the data to show specific health research funding within that £94.1 million however, they could possibly obtain figures based on the University department where the research funding was allocated to. Universities Scotland have since advised such approximations of funding has not been possible due to the variables involved and they were concerned any approximation they would be able to provide could actually risk confusing things when clarity of message during the Brexit negotiations was very important.

Scottish Enterprise provided details of the Horizon 2020 programme to us.

Horizon 2020, formerly known as the Framework Programme, is the EU's main programme for funding research and innovation projects and follows the same seven-year programming period as most other large EU funding programmes, with the current period being 2014-2020.

The awards to Scottish organisations in July 2016 as reported by the European Commission were almost €19.5 million. HIEs were the main beneficiaries securing just over €11 million. It was noted health related projects are also awarded in other areas of Horizon 2020 and an initial review indicates projects which were dependent on their categorisation could be categorised as health related total €32 million. Just over €29m of which was awarded to HIEs. Since 2014 Scotland has received just under €165 million from Horizon 2020.<sup>[7]</sup> In the period 2007-2013, Scotland secured £636 million from Horizon 2020's predecessor, the EU Framework 7 Programme.<sup>[8]</sup>

It is worth noting that Horizon 2020 is a competitive fund and as such there are no guarantees about how much money Scottish projects might receive in the future even if we remained in the EU. This means we cannot really say this amount of money would be lost by Brexit but more it's an indication of the amount of money that we would not be able to access in the future – unless the UK chose to participate in Horizon 2020 after Brexit. Norway participates in the programme despite being out with the EU.

## Public Health

The EU adopted its Public Health Strategy in 2007<sup>[9]</sup>. One key area within this strategy is the prevention and control of communicable diseases through coordinated surveillance, communication and response. At the centre of this is the European Centre for Disease Control and Prevention (ECDC) which collects information, provides expertise and coordinates relevant bodies. Given the global nature of many communicable diseases, some commentators<sup>[10]</sup> have raised concerns about the UK no longer taking part in the ECDC. Both Norway and Switzerland work with the agency, but do not have a role in decision making within the organisation.

There are numerous environmental regulations and conditions covering such things as clean air through to water, and although existing protections/laws/directives will likely continue post exit it is not known whether any or all of these will be repealed and replaced with UK drafted alternatives. While none are health driven they all impact on the health of citizens and the workforce. Similarly the working time directive, food safety, procurement and competition law and other such regulations impact on health but are not health driven.

It is imperative that should EU regulations be removed public health considerations be prioritised in all post-brexit trade deals.

There are also a number of specific public health problems where the EU has been active. For example, the Tobacco Products Directive has recently introduced stricter rules on packaging and e-cigarettes in a bid to reduce smoking related harm.

Another public health concern may arise from the UK Government's announcement that the UK will leave Euratom when it leaves the EU.

The Euratom treaty predates the formation of the EU (1957) and its main aim was to contribute to the development of Europe's nuclear industry and ensure security of supply. However, article 2 of the treaty also set out that in order to achieve this, the Community should "establish uniform safety standards to protect the health of workers and the general public and ensure that they are applied."

Therefore, the role of Euratom in public health relates mainly to the protection of workers and the general public from ionising radiation. It does this by laying down basic safety standards in relation to; nuclear safety, medical and occupational exposure to radiation, radiation in foodstuffs and monitoring the level of radioactivity. It then ensures that such standards are applied. A new revised Basic Safety Standards Directive was adopted in 2013 by the European Council ([2013/59/Euratom](#)) and consolidates and updates five existing Euratom directives. The new directive broadens the application of the safety standards to all radiation sources and categories of exposure, including occupational, medical, public and environmental. It also strengthens the requirements for countries' emergency preparedness and response. The directive is due to be implemented into UK law by February 2018.

### **New medicines and clinical trials**

EU regulation provides a harmonising approach to medicine recognition across member states. That includes a centralised EU authorisation system (via the European Medicines Agency (EMA) based in London) and allows a single application for authorisation valid across the EU (and EEA and European Free Trade Association).

The inclusion in the EMA of countries that are members of the EEA (Iceland, Lichtenstein and Norway) may mean the UK could continue to participate after leaving the EU, depending on the negotiations. Otherwise pharmaceutical companies would need to apply for marketing authorisations separately to the UK's Medicine and Healthcare products Regulatory Authority (MHRA) for a medicine they wished to supply in the UK. If the UK were able to continue to participate in the EMA, only as part of the EEA for example, there is a risk access to new medicines would be delayed because the UK would now be part of a smaller market, which generally results in delayed access.

There is still uncertainty around whether the UK will look to remain a member of the EMA. Jeremy Hunt, Health Secretary, has stated that he does not expect the UK to remain a member of the EMA once we leave the EU. However, the Prime Minister did not specify how drugs regulation would work after Brexit in response to a recent question in the House of Commons.

### **Reciprocal access to healthcare**

Access to treatment and medicines might be affected including the reciprocal arrangements in the EU (via the Cross Border Health Directive and the European Health Insurance Card) This might affect tourism and travel perhaps with costs to the NHS in treating EU nationals dropping, partially offset by the costs of treating returning UK citizens if not covered when abroad.

The UK Government recently announced that all nationals from outside of Europe coming to live in the UK for longer than six months will be required to pay a 'health surcharge' in order to gain access to the NHS. This has been set at £200 per year and will be payable at the same time that an individual submits their visa application on-line. Visa applicants will need to pay up-front for the total period of their UK visa (generally 5 years = £1000 up-front payment). It is possible that post-brexit this health surcharge could be extended to include EU nationals. This may affect the recruitment of staff to the health and social care sector who while working for the NHS would nevertheless be expected to pay to receive treatment themselves.

It has been suggested that some UK pensioners currently living elsewhere in the EU may return, this could place increased pressure on health and social care services.

There has been UK debate about the impact of immigration on the NHS. Where immigration increases the population this usually results in additional people needing NHS treatment. Research has suggested the average use of health services by immigrants and visitors appears to be lower than by people born in the UK, partly due to immigrants and visitors on average being younger.<sup>[11]</sup>

## Sport

Any alterations to free movement may affect professional sports in Scotland. Football in particular, but also rugby, and maybe some other sports like cricket. In football there are more than 400 players plying their trade in the top two divisions in England and Scotland, with the vast majority unlikely to pass the stringent work permit requirements for non EU nationals [introduced by the Football Association](#) in March 2015.

Previously, in order to qualify to play in the UK, players needed to have played in at least 75% of their country's senior international matches over the previous two years. The new requirements state non-EEA (European Economic Area) players have to meet a minimum percentage of international matches played for their country over the previous 24-month period, as determined by that country's Fifa world ranking.

We do however recognise this may result in an opportunity for more Scottish players to be selected for sports squads than currently happens.

Coaching staff could also be affected by the loss of free movement which could result in Scottish and UK individuals and teams losing access to top quality coaches.

In relation to hosting events there should not be any issue with Scotland bidding for or competing in major sporting events, unless those events require EU Membership. "European" championship events feature countries not in the EU (normally Russia, Ukraine etc. compete) and they can be hosted by countries outside the EU.

Erasmus Sport funding could potentially be affected. While it is unclear how much has been awarded to Scottish applicants, in relation to relevant projects those falling under "mobility" may fall within the Health and Sport broad remit and in the year to 2016 one award was made in Scotland totalling €229,607.

The above details the information we have gathered so far in our inquiries into the implications of leaving the EU for Scotland, however we will continue to ask questions of witnesses going forward and provide updates to your Committee where appropriate.

[1] Health and Social Care information Centre 2015, Skills for Care 2016.

[2] Equivalent figures for all with international nationality and working in Scotland are 8567 registered, of which 3096 are GPs, 3664 on the specialist register and 787 in training

[3] [http://www.parliament.scot/ResearchBriefingsAndFactsheets/S5/SB\\_16-86\\_EU\\_nationals\\_living\\_in\\_Scotland.pdf](http://www.parliament.scot/ResearchBriefingsAndFactsheets/S5/SB_16-86_EU_nationals_living_in_Scotland.pdf)

[4] [http://www.parliament.scot/S5\\_HealthandSportCommittee/Inquiries/Letter\\_from\\_Cab\\_Sec\\_to\\_Convener\(1\).pdf](http://www.parliament.scot/S5_HealthandSportCommittee/Inquiries/Letter_from_Cab_Sec_to_Convener(1).pdf)

[5] The figure may be slightly higher as EU funding through structural funds is not included.

[6] <https://www.gov.uk/government/news/chancellor-philip-hammond-guarantees-eu-funding-beyond-date-uk-leaves-the-eu>

[7] EU Open Data Portal CORDIS – EU research projects under Horizon 2020

[8] <http://www.universities-scotland.ac.uk/wp-content/uploads/2016/09/Scotlands-relationship-with-EU-US-response-FINAL-0916.pdf>

[9] European Commission, [White Paper: Together for Health, A strategic approach for the EU 2008-2013, 2007](#)

[10] BMJ, [How Brexit might affect public health](#), 16 May 2016

[11] <http://journals.sagepub.com/doi/pdf/10.1258/jhsrp.2010.010097>

## Response from the Justice Committee

Thank you for your letter of 9 December in relation to the annual reporting process on EU engagement and scrutiny of the committees of the Scottish Parliament.

The Justice Committee considered its approach to scrutinising the Scottish Government and its EU engagement as part of its wider work programme at its meeting of 20 December.

The Committee has a substantial work programme over the next few months. It is about to begin its scrutiny of two Scottish Government Bills and to conclude its current inquiry into the role and purpose of the Crown Office and Procurator Fiscal Service.

In light of that the Committee agreed that it would not be in a position to hold any evidence sessions to specifically consider EU issues and any implications of leaving the EU for Scotland, and that it would take the opportunity to do so as part of its wider work programme.

I understand that an invitation has been issued to Mary Fee, the Committee's EU reporter, and that she is happy to meet with you to discuss the Committee's approach.

## Response from the Local Government and Communities Committee

Thank you for your letter of 9 December 2016 inviting the Local Government and Communities (LGC) Committee to report back to the Culture, Tourism, Europe and External Relations Committee on its EU engagement and scrutiny in relation to the European Commission's work programme 2017 and the implications of leaving the EU for Scotland.

Implications of leaving the EU for Scotland The Committee began its programme of EU scrutiny by holding an evidence session with a number of interested stakeholders on the implications for Scottish Local Government of leaving the EU on 14 December. A number of matters were raised during the session, prompting the Committee to write to the Minister for UK Negotiations on Scotland's Place in Europe for a response to the following:

- What consideration the Scottish Government is giving to how European Structural Funds and other sources of European funding might be replaced following the UK's departure from the European Union?
- Given that local authorities are lead delivery agents for around £107 million of structural fund projects for the 2014-2020 programmes (around 30% of funding drawn down to date), is the Scottish Government confident that, during a financially challenging period for local government, the necessary match funding will be available to allow Scotland to commit its full structural fund allocation before the UK leaves the EU?
- What consideration the Scottish Government has given to how powers which will no longer be areas of EU competence will be devolved and whether this devolution will extend to giving new powers to Scotland's local authorities?
- What consideration the Scottish Government has given to the potential impact on Scottish local government – both in terms of local economies and labour supply - of reduced migration in the event of changes to freedom of movement rules when the UK leaves the EU?
- What impact leaving the EU might have with regard to Scotland's requirement to observe EU State Aid and Public Procurement rules and whether the Government considers changes in procurement rules could provide an opportunity to benefit local business and workers?
- How the Scottish Government will include the voices of all members of civil society and tiers of government throughout Scotland and the UK in developing Scotland's position as the negotiations develop, given reports that there had been varying levels of engagement between the stakeholders and the Scottish and UK Governments In addition to the above, the Committee also wrote to COSLA to request further information on what workforce planning is being carried out across local government in relation to the concerns raised regarding the potential impact of reduced migration. The Committee has also asked COSLA what contingency planning is taking place given the uncertainty around how European funding which local authorities currently receive might be replaced once the UK has left the EU and also how the uncertainty is affecting the ability of Councils to plan ahead financially. The letters are available on the Committee's webpage here:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/102178.aspx>

The Committee will forward you responses to these letters once received and will keep you updated on any further ongoing and forthcoming work in relation to the impact of leaving the EU for Scotland. European Commission's work programme 2017 Many of the issues scrutinised above fall within the Commission's priorities "to deliver a targeted and positive agenda that brings concrete results to protect, empower and defend citizens". In particular, scrutiny in relation to the restriction on freedom of movement on local economies and labour supply would contribute towards Priority 4. A Deeper and Fairer Internal Market with a Strengthened Industrial Base and Priority 8: Towards a New Policy on Migration. In addition, the Committee has the following work to undertake in relation to the European Commission's work programme 2017. Scrutiny of the Scottish Government's Draft Climate Change Plan The Scottish Government's draft Climate Change Plan was laid in the Parliament on 19 January 2017. Under the provisions of the Climate Change (Scotland) Act 2009 Parliament has a maximum of 60 days to report on the document. The LGC Committee is one of four Committees which is scrutinising the Scottish Government's draft Climate Change Plan 2017, alongside the Environment, Climate Change and Land Reform Committee, the Economy, Jobs and Fair Work Committee and the Rural Economy and Connectivity Committee. Each Committee will separately consider the elements of the Report within their remit and will report directly to Parliament. The LGC Committee's scrutiny will focus on Local Government and Communities, Planning; and Housing. The call for evidence is due to close on 10 February and the Committee held oral evidence sessions with Local Government and Planning stakeholders at its meeting on 1 February, followed by a session with housing stakeholders on 8 February. The Committee will hear from the Minister for Local Government and Housing on 22 February before reporting to Parliament on the outcome of its scrutiny work. Consideration of this issue would contribute to priority 3: A Resilient Energy Union with a Forward-Looking Climate Change Policy.

European Directive 2014/52/EU The LGC Committee will scrutinise The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. This Negative Statutory Instrument, transposes European Directive 2014/52/EU, further strengthening European Directive 2011/92/EU, ensuring that an assessment of the likely significant effects of certain projects on the environment is undertaken before development consent can be granted. The instrument is part of a wider package of instruments which will implement the measures and will be considered by other Parliamentary Committees. A letter from the Cabinet Secretary for Environment, Climate Change and Land Reform sets out further information on the legislation.

Future Work Programme In relation to the Committee's future work programme there may be issues which merit consideration from a European perspective. This includes the Committee's inquiry into Cities and regions. As the Committee continues to scope its approach to this inquiry I will ensure that further updates on this work and whether it provides an opportunity for further EU engagement and scrutiny is provided to your Committee. Should you require any further information on the work of the LGC Committee in relation to EU scrutiny please contact the Clerks to the Committee on the contact details provided above.

## Response from the Rural Economy and Connectivity Committee

Thank you for your letter of 09 December 2016 outlining the annual reporting process on EU engagement and scrutiny of the committees of the Scottish Parliament. I would like to provide you with an update on the planned activities of the Rural Economy and Connectivity Committee.

As you will be aware the outcome of the referendum has caused great uncertainty for many stakeholder organisations. As such, the Committee agreed to allow stakeholders sufficient time to consider and form initial views on the referendum result as the situation develops. In order to continually monitor this process the Committee appointed Mike Rumbles MSP as EU reporter to assess the impact on the REC Committee remit.

The Committee anticipates that by spring 2017 stakeholders will be in a better position to be able to more effectively inform the Committee on their developing thinking. As such, evidence sessions to provide a preliminary status report on stakeholder views are proposed in March and April in order to hear from key organisations and individuals.

This initial piece of work will focus on the three main areas of impact for the Committee – Agriculture, Forestry and Fisheries. The Committee has then agreed to receive a further update on these issues, in addition to issues around transport, digital and food and drink later in the year.

The Committee proposes to complete this first set of meetings with an invite to Michael Russell, Scotland's Minister for UK Negotiations on Scotland's Place in Europe as well as George Eustice, Minister of State at the Department for Environment, Food and Rural Affairs (DEFRA). It will then determine its next steps upon reflection on the views heard.

In addition to this element of work the Committee has also agreed to mainstream 'brexit' throughout all other appropriate aspects of business. The EU reporter will also continue to monitor the subject and meet with organisations and individuals on behalf of the Committee as agreed.

## Response from the Social Security Committee

Thank you for your letter of 9 December concerning my Committee's European activities.

To date the Social Security Committee has not engaged in any work that touches on European issues. As I am sure you are aware the European Union has little competence in the area of social security and it has not therefore engaged our attention to date.

Also, our activities in 2017 are likely to focus on consideration of the Child Poverty and Social Security Bills and therefore I do not anticipate any great focus on European issues in the immediate future.

I hope that this is useful.

- [1] Scottish Parliament. (2010). European Union Strategy. Retrieved from <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/66516.aspx>

