Holding the Executive to Account? The Accountability Function of the UK Parliament

Anthony Staddon

Introduction

In November 2005 the UK government was defeated in its attempt to increase from 14 to 90 days the period for which suspected terrorists may be detained for questioning before being charged with an offence. The government’s proposal was supported by the police and most of the press. It also had widespread popular support. Yet there was deep unease in Parliament about the impact on civil liberties and, despite the best efforts of the government’s whips, the Labour government’s comfortable Commons majority of 66 became a large defeat of 31. Forty-nine Labour MPs voted against the measure causing Tony Blair’s first defeat on a whipped vote since becoming Prime Minister in 1997. MPs voted instead to extend the time limit for detaining suspected terrorists for questioning to just 28 days.

In a separate event three years earlier, the Prime Minister announced that he would break long-standing precedent and appear before the Liaison Committee, an important scrutiny committee of the House of Commons comprising all chairs of select committees. It is expected his successor will maintain this precedent. On 18 March 2003, the Commons’ debated the government’s approach to the situation in the Middle East and decided to employ ‘all necessary means’ to disarm Iraq. The decision had obvious national and global ramifications, but it was also historic in that it was the first time that the House had been asked to vote on a substantive motion for British forces going to war.

These isolated events show Parliament at the centre of political debate in the United Kingdom. Yet there is plenty of other evidence to suggest that Parliament is peripheral to the political process.

For example Parliament had no input into the Queen’s invitation for Gordon Brown to form the next government following the resignation of Tony Blair as Prime Minister on 27 June 2007. The Prime Minister is the leader of the political party which has a majority in the House of Commons, and the choice of Prime Minister is therefore in the hands of a political party rather than Parliament (or the country). This has long been part of the UK’s constitution. More recently, efforts to reduce the influence of party managers controlling the system of nomination and appointment of Members to select committees have failed. Opportunities for the proper scrutiny of legislation remain minimal.

Complaints about Parliament’s ineffectiveness have become more strident in recent years: the Economist has described the most important defect of the British system as “the over-mightiness of the executive and weakness of the legislature.”1 Indeed, the new Prime Minister Gordon Brown has pledged to restore power to Parliament and to make government more open and accountable, for example through tougher pre-scrutiny of legislation, parliamentary approval of public appointments and a new ministerial code of conduct.

1 The Economist, June 30th 2007, p.9.
The debate about Parliament’s role in the political process matters. Legislative strengthening is an important element in ensuring accountability and transparency in government and a balanced alignment between the executive and the legislature has long been seen as crucial for good governance and holding government to account. This paper will assess the ability of the United Kingdom’s Parliament to keep the government in check through examination of a number of external and internal variables. The analysis is made with special reference to recent debates in Parliament and those measures taken as part of the so-called “modernisation” agenda. The central conclusion of this paper is that although Parliament is adapting its procedures to provide better accountability and tougher scrutiny of the government, it is still constrained by the influence of parties and external factors outside its control.

**Accountability**

Accountability means being held to account, scrutinised, and being required to give an account or explanation. It is a complex concept and has been used by different people in different ways. One approach, adopted by Lord Sharman in his 2001 Report reviewing audit and accountability for central government, divides the notion of accountability into the following four aspects:

1. giving an explanation – through which the main stakeholders (for example Parliament) are advised about what is happening, perhaps through an annual report, outlining performance and activity;

2. providing further information – where those accountable may be asked to account further, perhaps by providing information (e.g. to a Select Committee) on performance, beyond accounts already given;

3. reviewing and, if necessary, revising – where those accountable respond by examining performance, systems or practices, and if necessary, making changes to meet the expectations of stakeholders; and

4. granting redress or imposing sanctions – if a mechanism to impose sanctions exists, stakeholders might enforce their rights on those accountable to effect changes.

A further way of understanding accountability is by distinguishing between “Vertical” and “Horizontal” accountability. Vertical accountability is where government is held to account by citizens through elections. In the UK, national elections must be held once every five years with the date of the election decided by the Prime Minister. It is therefore a blunt instrument. Horizontal accountability consists of counterbalancing

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2 Parliament is composed of three different units: the Crown, the House of Lords and the House of Commons. Both the House of Lords and the Crown retain a role in the parliamentary process and perform constitutional functions. However, this paper relates almost exclusively on the House of Commons, although the term “Parliament” will be used in its popular sense. Also, the word legislature will often be used as a synonym for parliament. The paper does not consider Parliament’s financial scrutiny work in any great detail. This is covered in Anthony Staddon, ‘Parliamentary Oversight of Finance: UK Perspectives’, 2007.

state institutions which are charged to oversee government – which includes Parliament, an independent judiciary and other constitutional watchdogs, many of which report to Parliament.

**External and Internal Variables**

Parliaments vary between those with strong, modest or little policy-making power or active, reactive and minimal legislatures. The British Parliament – as well as most other Commonwealth legislatures – is offered among the examples of reactive legislatures. Norton argues that the extent to which legislatures can determine outcomes is decided by their relationship to government and, furthermore, the capacity of legislatives to constrain government is determined by its external environment i.e. variables largely beyond their control. These external variables include cultural, constitutional and political factors.

Norton’s second hypothesis is that if external conditions determine a legislature’s category, variables internal to the legislature can determine its ranking within a category. Internal variables discussed in this paper include the committee system, party and party groups, the Chamber and the administrative and research capacity of Parliament.

Whilst the distinction between external and internal variables is sometimes difficult in practice, it is a useful method of assessing the parliamentary system in the context of government accountability. It was used by Vibeke Wand of the Christer Michelsen Institute, in her analysis of government accountability and parliamentary oversight in Tanzania. The framework used in this paper is based on the World Bank Institute’s adaptation of her approach.

**Constitutional Powers**

A constitution is the set of rules which defines, describes and regulates the structure and operation of the state, its institutions, activities and officials. Common features of constitutions include *inter alia* the role of the legislative, executive and judicial branches of government; the rights of citizens and the means of amending the constitution. The UK’s constitution is ‘unwritten’ or ‘uncodified’, although politics does operate within an institutional framework and through political arrangements compatible to other countries. The UK’s constitution has also been described as ‘unitary’ – meaning that power is centralised in Parliament and Whitehall – but the term is less useful now following the devolution of power to Scotland, Wales and Northern Ireland. What has not changed is the critical importance of the relationship between the legislature and its executive to the constitutional and political system.

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Government through Parliament

The Westminster model of parliamentary government is the major feature of the constitution and this is usually described as government through Parliament rather than government by Parliament. Parliamentary government seeks to control the exercise of power by making the executive directly responsible to the legislature: ‘parliamentary government is that form of government in which the executive is drawn from and constitutionally responsible to the legislature’.8

The basic attributes of the Westminster parliamentary model were described by a recent Commission to Strengthen Parliament. The Commission described Parliament as a policy-influencing legislature which facilitates accountable, coherent and responsive government, which is, on the whole, effective and stable.

“It enables governments to raise the resources necessary to maintain its commitments of public policy (effectiveness) and citizens to accept the legitimacy of the process by which those resources are governed (consent). Parliament is crucial to maintaining that balance. It authorises the government’s programme but, in order to maintain popular consent, has to ensure that what the government wants is subject to critical scrutiny … the accountability that is at the heart of the model is fundamental to good government … Government should be allowed to govern but in so doing it must be subject to critical scrutiny by Parliament.”9

The fact that the executive is represented within Parliament obviously assists the passage of government legislation. The ability of the legislature to scrutinise the executive is, however, problematic when the latter has a dominant position not only in relation to the substantive business and proceedings of Parliament, but also in relation to the organisation and operation of Parliament. Most Members are elected to support a particular government and are, at the same time, expected to subject it to critical scrutiny.10 This practice runs counter to the principle of separation of powers operated in other countries, but it is a defining feature of the Westminster system. The need to provide greater separation of powers between the judiciary and the legislature was a driving force behind the 2005 Constitutional Reform Act which, from 2009, will separate the judiciary from the legislature with the creation of a Supreme Court. However, the relationship between the executive and the legislature is not affected by this legislation.

Sovereignty of Parliament

Parliament is described as “sovereign” which means nothing is superior in law to Acts of Parliament, and the courts cannot void legislation. The application of parliamentary sovereignty has been affected by laws passed by Parliament such as Britain’s accession to the European Economic Community (now the European Union), the devolution of power to bodies within the United Kingdom together with the

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8 Ibid., p.3.
increasing use of referenda and judicial review. Yet it is still seen as a fundamental part of the constitution.

Table 1: The Core Functions of the UK Parliament

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<th>The Core Functions of the UK Parliament are:</th>
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<td>1. to create and sustain a government;</td>
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<td>2. to ensure the business of government is carried on;</td>
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<td>3. to facilitate a credible opposition;</td>
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<td>4. to ensure the measures and actions of government are subject to scrutiny and that the government answers to Parliament for its actions; and</td>
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<tr>
<td>5. to ensure that the voices of citizens, both individually and collectively, are heard and that, where necessary, a redress of grievance is agreed.</td>
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The 1998 Human Rights Act can be interpreted as a movement to a rights-based legal and political culture. Yet, parliamentary sovereignty can be said to be preserved as, under the provisions of the Act, judges only have the power to issue a declaration of incompatibility between legislation and the European Convention of Human Rights i.e. they are unable to strike down legislation. The concept of parliamentary sovereignty is therefore preserved by Parliament being the only body able to change legislation. Similarly, although it has now been established that European law has primacy over an Act of Parliament, Parliament can repeal the legislation concerning Britain’s membership of the EU. The challenge facing the United Kingdom Parliament (and other legislatures) is not so much theoretical debates about sovereignty, but the need to develop better mechanisms to monitor international organisations without affecting, by unnecessary controls, their potential for good.

Ministerial Responsibility

The convention of collective ministerial responsibility is central to the British system of parliamentary government. It developed in the 18th and 19th centuries and serves to bind the government together so that it faces the Monarch, Parliament and the public as a united administration. Ministers, by convention, must be a Member of the Commons or the House of Lords, but constitutionally their appointment and dismissal is made by the Prime Minister, who can also reshuffle his cabinet at any time.

The convention of individual ministerial responsibility is also part of the constitution. This has been interpreted in broad terms to mean that each minister is responsible for his private conduct, the general conduct of his department, and acts done (or left undone) by officials in his department although much ‘depends on the personalities involved and their interpretation of what the doctrine of ministerial responsibility means’\textsuperscript{11}. In recent times the convention that ministers should be held personally responsible for every action or decision taken by a civil servant has become somewhat blurred as demonstrated by the findings of the Scott Inquiry into the export of the Defence Related equipment and dual use of goods to Iraq\textsuperscript{12}. It is widely agreed that,


despite its imperfections, the convention of ministerial responsibility should play a meaningful part in securing the constitutionally required accountability of government.\textsuperscript{13}

The first official guidance note for ministers was published in 1992 and amended in 1995. This gave public expression to the rule that ministers must not knowingly mislead Parliament and the public and be as open as possible. Following criticism that there was no statement by Parliament on how ministers are expected to discharge their duties to them, the following resolution was passed by the House on 19 March 1997:

- Ministers have a duty to Parliament to account, and be held to account, for the policies, decisions and actions of their Departments and Next Steps Agencies;
- It is of paramount importance that Ministers give accurate and truthful information to Parliament, correcting any inadvertent error at the earliest opportunity. Ministers who knowingly mislead Parliament will be expected to offer their resignation to the Prime Minister;
- Ministers should be open as possible with Parliament, refusing to provide information only when disclosure would not be in the public interest, which should be decided in accordance with relevant statute and the Government’s Code of Practice on Access to Government Information (Second edition, January 1997);
- Similarly, Ministers should require civil servants who give evidence before Parliamentary Committees on their behalf and under their directions to be as helpful as possible in providing accurate, truthful and full information in accordance with the duties and responsibilities of civil servants as set out in the Civil Service Code (January 1996).\textsuperscript{14}

A further requirement that ministers avoid conflicts of interest and be responsible for their personal behaviour and conduct was added by the First Report of the Committee on Standards in Public Life,\textsuperscript{15} (a Committee set up in 1994 by the Prime Minister to examine current concerns about standards of conduct of all holders of public office).

The Public Administration Select Committee believes the investigation of alleged breaches of the Ministerial Code has yet to be satisfactorily resolved.\textsuperscript{16} The Code states that “ministers only remain in office for so long as they retain the confidence of the Prime Minister. He is the ultimate judge of the standards of behaviour expected of a minister and the appropriate consequences of a breach of those standards”.\textsuperscript{17} Whilst the Public Administration Committee agreed the Prime Minister must decide whether a minister has breached the code and judge what action to take, if any, it called for the creation of an independent investigatory agency to establish the facts:

\textsuperscript{15} Committee on Standards in Public Life, \textit{Standards in Public Life}, First Report Cm 2850, HMSO, May 1995, para. 3.4.
“It would be better if responsibility for independent investigation was shared with Parliament. If Ministers are accountable to the House, then Parliament should have an effective means of putting its demands for an Inquiry in place. However, it must be made absolutely clear that the role of such an investigator would be to establish the facts, not to judge what sanctions, if any, should be imposed. The system should recognise the Prime Minister’s right to form his cabinet, and Parliament’s right to hold it to account.”

On 23 March 2006 the Prime Minister announced the appointment of Sir John Bourn, the Comptroller and Auditor General, as the “independent adviser on ministerial interests”. This was welcomed by the Public Administration Select Committee as a “small step towards adequate investigation of breaches of the Ministerial Code.” A new ministerial code was published on 3 July 2007 that provides for a new independent adviser to supervise disclosure and scrutinise ministerial conduct, including conflicts of interest, at the request of the Prime Minister.

The Prime Minister’s power within the British system can also be demonstrated by the fact that he or she can make changes to the machinery of government. The Public Administration Select Committee has argued that, at the very least, governments should undertake a debate on any significant change to the machinery of government: “more effective, though, would be the prospect of a parliamentary vote. Parliamentary assent would give greater scrutiny, and hence greater legitimacy, to the Government's actions.” The government’s response is awaited.

It should also be noted that, under the Crown or Royal Prerogative, a government has the right to negotiate and sign foreign treaties, make appointments and award honours. The decision to go to war and send troops abroad also is a decision within the Royal Prerogative and does not require the prior approval of Parliament. The government did consult Parliament before the Iraq War in 2003 which has been interpreted as establishing an important constitutional convention. Currently the Prime Minister can request the Sovereign at any time to dissolve Parliament. The 1911 Parliament Act allows the maximum duration of a Parliament to be 5 years, although elections are commonly held every 4 years as incumbent prime ministers have sought to use this power to their advantage (not all have succeeded).

In an announcement that has been widely welcomed across the political divide, the new Prime Minister, Gordon Brown, announced that he has renounced powers that have been previously exercised in the name of the monarchy. These are: the power of the executive to declare war; the power to request the dissolution of Parliament; the power over recall of Parliament; the power of the executive to ratify international treaties without decision by Parliament; the power to make key public appointments without effective scrutiny; the power to restrict parliamentary oversight of the intelligence services; power to choose bishops; power in the appointment of judges; power to direct prosecutors in individual criminal cases; power over the civil service.

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19 HC Deb, 23 March 2006, col 33WS
20 Public Administration Select Committee, 2006, op.cit. p.15.
21 As shown by the announcement of a creation of a new Ministry of Justice.
itself; and the executive powers to determine the rules governing entitlement to passports and the granting of pardons.\textsuperscript{23}

Finally, the government is constitutionally required to retain the confidence of the House of Commons. Convention dictates that the government resigns or requests Parliament be dissolved if defeated in a vote of no-confidence.\textsuperscript{24} Norton argues that “formally this should ensure parliamentary control of the executive, but in practice the flow of control is the other way.”\textsuperscript{25} One of the explanations for this flow of control away from Parliament is the influence of political parties.

**Party Dynamics**

In most liberal democracies demands on the political system are aggregated into a programme for action by political parties. Political parties are distinguished by permanence of structure, a deliberate attempt to win membership, and orderly procedures for recruiting leaders.\textsuperscript{26} In a representative democracy, the central purpose of political parties is to organise accountable and effective governance. Parties have key representative functions of interest articulation and aggregation and have traditionally taken responsibility for political communication and fostering political participation. A further major function of parties is political recruitment: parliamentarians in Britain are overwhelmingly members of political parties.\textsuperscript{27}

The three principal parliamentary parties in Britain are the Conservative Party, the Labour Party and the Liberal Democratic Party. A predominantly two-party system has existed in the past 150 years and, since 1945, all the governments in the UK have been formed either by the Conservative Party or the Labour Party.

Although the system of political parties has existed in one form or another since the 18\textsuperscript{th} century, and became increasingly powerful with the development of industrialisation and the expansion of the franchise, political parties were only formally recognised as part of the Constitution in 2000 following the Political Parties, Elections and Referendum Act. Yet parties have long mattered a great deal in British politics as they form “a crucial part of the context within which the constitution operates.”\textsuperscript{28} The 1911 Parliament Act, which made fundamental changes to the constitution and reduced the powers of the House of Lords, has been described as “the triumph of party government” and a demonstration of how party government is “the very foundation of our Constitution system.”\textsuperscript{29} Today, the party system is seen as a principal political consideration in determining the way Parliament works:

> “Of all the factors that go to make up the general characteristics of the House of Commons, party is the strongest. It is because of party that

\textsuperscript{23} HOC Debates, 3 July 2007, col.816
\textsuperscript{24} Such motions are relatively infrequent because of the voting strengths in the Commons. The last successful no confidence motion was in March 1979 when the Opposition motion was passed by just one vote.
\textsuperscript{26} Peter Calvert, *An Introduction to Comparative Politics*, Harvester Wheatsheaf, 1993, p.128.
\textsuperscript{29} Dicey quoted in Vernon Bogdanor, 2003 op.cit. p. 691.
Members are in the House. Party determines whether they sit on the government side or are on the opposition side. Party indicates where their support lies in the country. Party will decide whether they are re-selected. The leader of the party in the House may exercise the greatest influence on their future political careers and party whips on their day-to-day activities.30

Johnson argues that parliamentary reformers should not focus on parliamentary procedure but the terms on which political parties operate, and the conditions under which they seek support from the electorate “for only in an elected chamber constituted differently from the present-day Commons would it be likely (though not certain) that political conditions would change sufficiently to open the way to a different relationship between Parliament and the Government”.31 It is difficult not to share the conclusion of Norton and Rush who argue the most pervasive constraint on legislatures is the party system32 and “if the party system was changed, the way the Constitution operates would change.”33

The Electoral System

Political parties are shaped not only by a country’s political structure, but also by its electoral system. The growth of political parties has produced party government in the UK, but the UK’s plurality election system has tended to result in a classic two-party system and one-party government in the UK.

The ‘first past the post’ (FPTP) system used in the UK divides the country into geographical constituencies each of which will return one representative. On election day, the candidate who has the most votes is declared elected even if he or she lacks a majority. The system has generated much debate, and the idiosyncrasies of FPTP are well known. For example in February 1974 the Labour Party received the most seats, but the Conservative Party obtained the most votes. Indeed no government since 1935 has obtained an overall majority of the votes cast and FPTP tends to under-represent minority parties. But perhaps it is unfair to criticise FPTP on fairness grounds as the system is designed to produce a strong and stable majority government (in terms of seats) rather than a representative chamber representing a microcosm of the nation. There has been a single-party government for all but two years since 194534 and Table 2 (overpage) shows the overall majorities of post-war governments.

33 Michael Rush, 2005 op.cit. p269.
34 From March 1977 until the summer of 1978, the Labour Government was supported with the help of the Liberals in the House of Commons – “the Lib-Lab Pact”. Following the collapse of the pact, the Government stayed in office until it was defeated in the House on 28 March 1979 by one vote.
Table 2: General Election Majorities since 1945\textsuperscript{35}

<table>
<thead>
<tr>
<th>Year</th>
<th>Con/Lab</th>
<th>Overall Majority</th>
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<tbody>
<tr>
<td>1945</td>
<td>Lab</td>
<td>146</td>
</tr>
<tr>
<td>1950</td>
<td>Lab</td>
<td>5</td>
</tr>
<tr>
<td>1951</td>
<td>Con</td>
<td>17</td>
</tr>
<tr>
<td>1955</td>
<td>Con</td>
<td>58</td>
</tr>
<tr>
<td>1959</td>
<td>Con</td>
<td>100</td>
</tr>
<tr>
<td>1964</td>
<td>Lab</td>
<td>4</td>
</tr>
<tr>
<td>1966</td>
<td>Lab</td>
<td>96</td>
</tr>
<tr>
<td>1970</td>
<td>Con</td>
<td>30</td>
</tr>
<tr>
<td>Feb 1974</td>
<td>Lab</td>
<td>-33</td>
</tr>
<tr>
<td>Oct 1974</td>
<td>Lab</td>
<td>3</td>
</tr>
<tr>
<td>1979</td>
<td>Con</td>
<td>43</td>
</tr>
<tr>
<td>1983</td>
<td>Con</td>
<td>144</td>
</tr>
<tr>
<td>1987</td>
<td>Con</td>
<td>102</td>
</tr>
<tr>
<td>1992</td>
<td>Con</td>
<td>21</td>
</tr>
<tr>
<td>1997</td>
<td>Lab</td>
<td>179</td>
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<tr>
<td>2001</td>
<td>Lab</td>
<td>165</td>
</tr>
<tr>
<td>2005</td>
<td>Lab</td>
<td>64</td>
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</tbody>
</table>

Supporters of proportional representation usually argue on the grounds of fairness rather than the effect of the FPTP system on Parliament. As Parliament’s ability to control a government depends considerably on the government’s majority in the House of Commons – the number of actual defeats suffered by governments has depended largely on the size of the government’s overall majority - it seems fair to conclude that both the party and the electoral system are designed to produce a strong executive rather than a strong legislature.

It has been argued that the popular legitimacy of the electoral process underpins the acceptance of the political system and the parliamentary system. In this view, “the electorate is not so much a positive driving force as an endorsing body. The electorate assents (or withholds its assent) to the party in government. The relationship between parliament and government continues to be shaped by the constitutional norms that pre-dated the growth of the franchise. Through popular election, the people are endorsing executive dominance and do so through Parliament.”\textsuperscript{36} Elections to the European Parliament, the National Assembly for Wales, the Scottish Parliament, the Northern Ireland Assembly, and the London Assembly use other more proportional voting systems and it is possible that as these become embedded in popular consciousness demands will increase for a change in the system used for general and by-elections.

Social Legitimacy

Governments which are generally recognised to have the right to govern are regarded as legitimate, giving them authority and faith in the political process. Social


\textsuperscript{36} Philip Norton, 2005 \textit{op.cit.} pp. 170-176.
legitimacy can be judged by voter participation in elections and popular interest in and support of political institutions, such as Parliament, together with the degree of input and deliberation from voters prior to policy decisions.

The trend towards falling voter turnout may suggest that support for the election system and the Westminster system is declining. Voter turnout across the UK in 2005 was 61.4%, 2.0% higher than 2001, but still the second lowest turnout at a UK General Election since 1918. Whilst it would be dangerous to be complacent about participation in general elections, turnout is falling globally and other elections in the UK record even worse levels of turnout. Indeed the workings of the FPTP system may be partly to blame as is indicated by the negative correlation between 2005 turnout and 2001 results: turnout tended to be higher in the seats with lower majorities and lower in safe seats. This suggests that voters will vote when they believe it will make a difference.

On a more cautious note, in 2005 those aged 65 and over were twice as likely to vote as those aged under 25 and instead of using party political structures, citizens are increasingly using NGOs and other interest groups to campaign against governments. The response of successive governments has been to examine ways to make it easier to vote rather than confronting deeper issues such as the election system and the power and scope of Parliament. One method to improve voter participation and increase interest in Parliament would be to introduce a trigger mechanism under which, if a certain number of people have signed a petition, it becomes the subject of debate in the House of Commons (or examined by a relevant committee).

An alternative and perhaps more effective way to measure the legitimacy of Parliament is to examine elite and mass perceptions of the institution. Research of the effectiveness of Parliament from the point of view of Members and their achievements during office was published in the Guardian in April 2001. The results show that the most tangible achievements for Members in Parliament can be found in their constituency work. Satisfaction was also derived from raising attention to issues and feeding into the public policy process. But there is very little evidence of satisfaction being generated from holding the government accountable or in Parliament’s scrutiny work.

The Hansard Society and Electoral Commission undertake a regular audit of political engagement in the political process. The four audits of political engagement, carried out between 2004 and 2007, show levels of engagement as remaining steady. The main conclusion of the audit is that whilst interest is displayed in local or national issues, far fewer are actually willing to become politically active. When asked what they want politicians to be doing, there is emphasis on politicians’ parliamentary duties. A third of the public believe that the present system of governing the UK works extremely well or mainly works well. Thirty-five percent of respondents are satisfied with the way that Parliament works.

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38 Blackburn & Kennon op.cit. pp.771-773.
40 Ibid, pp. 6-7.
A variety of explanations can explain the low regard in which Parliament is held: press bias, the misunderstanding of Parliament’s role (with the result that it is blamed for bad government), and shortcomings in parliamentary practice and procedure. The popular confusion surrounding Parliament’s role is hardly surprising given what Bagehot described as the “efficient secret of the English Constitution ... the close union, the near complete fusion, of the executive and legislature’s powers.” The impact of the media’s coverage of Parliament has been the subject of much recent debate.

Parliament and the Media

“There is now again a debate about why Parliament is not considered more important, and as ever the government is held to blame. But actually we haven’t altered any of the lines of accountability between Parliament and the Executive. What has changed is the way Parliament is reported, or not reported.

Tell me how many Maiden Speeches are listened to? How many excellent second reading speeches or committee speeches are covered? Except when they generate controversy, they aren't. If you are a backbench MP today you learn to give a good press release first and a good parliamentary speech second.”

Whilst Tony Blair’s assertion that his government did not alter the lines of accountability between the legislature and the executive is debatable, the media is certainly less respectful of Members and ministers than ever before. It is not difficult to see how this may have affected the public image of Parliament by persuading the public, “on very little evidence, to regard Parliament as increasingly corrupt and decreasingly effective”. A series of scandals or “sleaze” in the 1990s exacerbated this trend. At the same time the workings and business of Parliament are receiving less attention because of the media’s focus on personalities and its increasing reliance on the executive for news.

The growth of 24-hour news coverage has led to greater emphasis on the part of government to news management, a focus which has intensified post-1997. The results are somewhat contradictory. On the one hand, the media is more reliant on government information than ever before, and recent governments have gone out of their way to court them. On the other hand, the sophisticated public relations strategies used by recent governments have created a backlash against “spin” and increased media hostility towards politicians generally. This has led to a double problem for Parliament: the media’s impact on perceptions of politics at Westminster and its concentration on government news and activities rather than parliamentary proceedings.

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41 Michael Ryle, “Forty Years on and a Future Agenda” in Philip Giddings op.cit. pp.7-9.
44 Blackburn & Kennon op.cit. p. 761.
An interesting example of the power of the media concerns the concept of ministerial responsibility:

“For Parliament cannot collectively remove an erring Minister (for when did a Minister last resign at the clear behest of Parliament?), nor can the ranks of the Opposition do so (for it is the job of the Opposition to criticise, and its criticisms can be discounted as partisan; even when the attack had merit, the Government’s Commons majority will beat off the attack). Nor can the courts police the doctrine of ministerial responsibility, for the fitness for office of a Minister is not a justiciable issue. To the extent that some Ministers, in effect, have been forced from office by the media, the media can claim that they have moved into a constitutional lacuna and have fulfilled a useful public service.”

Parliament can indicate no-confidence in an individual Minister. A recent example was an attempt by Her Majesty’s Opposition to force a Minister’s resignation by moving a Motion “That the salary of the Secretary of State for Health should be reduced by £1,000”. The Motion was defeated and an amendment in the name of the Prime Minister was agreed instead. Whilst a minister is in a precarious position if he/she does not have the support of their party, the role of the media is perhaps more fundamental in provoking a ministerial resignation or sacking.

Ideally, the media should complement Parliament’s ability to hold the government to account and the relationship between Parliament and the media needs to be properly understood by both sides. Of course, the media will pay more attention to Parliament when it has re-established itself as the leading forum of political discourse in this country. Parliament also needs to become more media-friendly. It has made a start by making some internal adjustments to accommodate the new media; the number of select committee media officers has also increased to try to obtain better coverage of committee reports. Parliament’s website was created in 1996 and there have been several experiments of online consultation by select committees and all-party groups.

**Accountability Institutions**

The growth and expansion of the modern state and the wide range of state activities has reinforced the need for a robust system of horizontal accountability with a strong Parliament at its centre sharing the burden of accountability alongside other agencies or “constitutional watchdogs”. “Constitutional watchdogs” are “bodies with powers of persuasion and publicity to alter the actions of the executive in areas characterised as constitutional. These include human rights, electoral matters, the redress of grievances and the voting of supply.”

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46 HC Deb, 23 May 2007, cols 1347-1399. The question was resolved as follows, “That this House believes that there is no need to reduce the salary of the Secretary of State for Health at a time when patient satisfaction is increasing, with nine out of ten in-patients saying their care has been good, very good or excellent, waiting times are at their lowest since records began, an extra 200,000 lives have been saved from heart disease and cancer since 1996 and investment in the NHS is being trebled by 2008”.
The Hansard Society’s Commission in June 2001 recognised the bulk of government activity is carried out through arm’s length executive agencies and Parliament alone is unable to ensure accountability across the wide range of activities of central departments and the myriad of other public sector bodies. The report described Parliament’s goal as sitting at the apex of broad accountability structures. Under this model, Parliament is seen as presiding over and supervising “a national framework of accountability that extends beyond Westminster, comprising other independent agencies”.

Yet there are shortfalls: over 60% of MPs believe Parliament is not effective in scrutinising executive agencies and over 70% have the same view for utility regulators and Quangos. The House of Lords Constitution Committee found a democratic deficit in the accountability of non-parliamentary regulatory bodies. Parliament’s apparent peripheral role within the political system may also be reinforced by those alternative scrutiny mechanisms working in isolation from it. When Parliament has a close connection with independent regulators, the whole system of accountability and scrutiny is strengthened. An example is the close working relationship between the Public Accounts Committee and the Comptroller and Auditor General.

Examples of bodies in the British system of public administration which have been designed to ensure the integrity of the executive include the National Audit Office or the Audit Commission, which are concerned with the propriety and efficiency of expenditure, the Parliamentary Ombudsman which examines administrative propriety, and the Information Commissioner and the Electoral Commission. Functions vary with some bodies having both regulatory and advisory roles; others have an advisory function only.

Appendix 1 reproduces a table used by the Select Committee on Public Administration in its recent report on the regulation of conduct in public life. The table provides an overview of the current institutional arrangements of the large number of “ethical watchdogs”. It demonstrates the lack of uniformity in structure with some watchdogs being established by statute and others established under the prerogative (meaning they can be removed at any time). In other words, like the constitution itself, the system of regulation has evolved in a manner described by one writer as a “quintessentially British approach, which refuses to categorise by function or purpose”.

The Public Administration Select Committee examined whether the system of regulation in government could be made more coherent and effective and identified

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49 Blackburn & Kennon, op. cit. p.756.
50 Hansard Society (2001) op.cit. ‘Quango’ is an abbreviation of the phrase ‘quasi autonomous non-governmental organisation’ and describes a public body that has responsibility for developing, managing and delivering public policy objectives at an ‘arm’s length’ from Ministers.
key design principles for Constitutional Watchdogs (shown as Tables 3 & 4). The core concern identified is the balance between independence (especially from the Executive) and accountability (especially to Parliament) appropriate to its particular role and function.

Table 3: Independence in Constitutional Watchdogs: Key Design Principles

<table>
<thead>
<tr>
<th>To achieve a high degree of independence, constitutional watchdogs should:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. have secure legal foundations, so that they cannot be easily abolished or their governance arrangements inappropriately amended;</td>
</tr>
<tr>
<td>2. be appointed by resolution of one or both Houses, ideally for a single non-renewable term;</td>
</tr>
<tr>
<td>3. be removable only on address of both Houses;</td>
</tr>
<tr>
<td>4. have secure funding arrangements, beyond the sole or direct control of the Executive;</td>
</tr>
<tr>
<td>5. have their own staffing, accommodation, and access to the other services and facilities they require;</td>
</tr>
<tr>
<td>6. have operational autonomy, with freedom to initiate their own inquiries.</td>
</tr>
</tbody>
</table>

Table 4: Accountability of Constitutional Watchdogs: Key Design Principles

<table>
<thead>
<tr>
<th>To achieve sufficient accountability, constitutional watchdogs should:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. report regularly to Parliament and the public on their activities;</td>
</tr>
<tr>
<td>2. be regularly scrutinised by parliamentary committees;</td>
</tr>
<tr>
<td>3. be scrutinised by bodies responsible for providing their resources, in particular in relation to their budgets and corporate plans and performance;</td>
</tr>
<tr>
<td>4. be subject to audit arrangements supervised by the NAO;</td>
</tr>
<tr>
<td>5. be subject to the supervision of the courts through judicial review;</td>
</tr>
<tr>
<td>6. be transparent and subject to the Freedom of Information Act;</td>
</tr>
<tr>
<td>7. be subject to the appropriate statutory Ombudsman scheme;</td>
</tr>
<tr>
<td>8. be subject to the OCPA Code in relation to their own appointments;</td>
</tr>
<tr>
<td>9. create and maintain a comprehensive and accessible public website.</td>
</tr>
</tbody>
</table>

Does the current system in the UK meet these design principles? The arrangements for funding and scrutiny of the National Audit Office and Comptroller and Auditor-General were cited as a model for those regulators who are appointed by the House, but the Select Committee on Public Administration describes the wide variance of institutional design as “unsatisfactory.”

According to the information in Appendix 1, the constitutional watchdogs are subject to a range of mechanisms to ensure their accountability and almost all have a link to a particular parliamentary committee. On the other hand, there are degrees of independence. There are a dozen bodies listed in Appendix 1: “six are creatures of statute, the rest being non-statutory. Statutory bodies are likely to have more independent design features established through parliamentary scrutiny; while non-statutory bodies have a more fragile existence, as demonstrated by the demise of the Political Honours Scrutiny Committee, which was wound up with little public notice in 2005”. A number of non-statutory bodies are dependent on the Cabinet Office,

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54 Public Administration Committee (April 2007) op.cit. pp. 19-20.
55 Ibid. p.23.
over half the bodies listed in the Appendix are funded by the Government and all but three of the bodies are appointed by the executive and five ethical regulators appointed by the Cabinet Office are staffed from the Civil Service. The Parliamentary Ombudsman is funded via a departmental vote from the Cabinet Office.

The Public Administration Committee agreed that partnership between government and Parliament was constitutionally proper. The committee examined whether it is possible for a body to be independent from the executive and yet retain accountability. One way of achieving this is through the concept of "Officer of Parliament", a term used in the UK and other Commonwealth jurisdictions to emphasise independence from the executive whilst remaining at arms length from the House administration. The core characteristics of a statutory Officer of Parliament are

- Parliamentary involvement in appointment and dismissal
- A statutory committee which is responsible for budget approval and oversight
- A specific select committee to which the Officer is bound to report
- Staffing independent of the civil service

The three watchdogs currently designated as Officers of the House of Commons are Comptroller and Auditor General; Parliamentary Ombudsman and Parliamentary Commissioner for Standards.

The Public Administration Committee considered the Officer of Parliament model, but concluded a statutory Public Standards Commission should be established to undertake on behalf of the executive and the legislator the sponsoring role (the tasks of appointing, funding and staffing) leaving Parliament to fulfil its constitutional role of scrutiny and oversight.

“Creating separate mechanisms for the functions of oversight and sponsoring would enable Parliament to take its proper lead role in scrutinising and holding to account public bodies, without involving it in what has traditionally been regarded as 'executive' functions. Parliament could continue to use its existing array of scrutiny mechanisms, such as committees, Parliamentary Questions, motions, debates and so on, or it could create new machinery to deal specifically with watchdog scrutiny. These are ultimately matters for the House itself (or, as appropriate, the two Houses co-operatively) to consider”.

**External Environment: Summary**

The British Parliament’s relationship with the Executive is shaped by external factors which are not helpful to ensuring strong accountability of the executive to Parliament. An exclusive focus on the external environment can lead to the conclusion that parliaments are marginal or declining in influence. It also provokes questions as to

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58 Other statutory watchdogs include the Health Service Ombudsman, the Local Government Ombudsman and the Information Commissioner; non-statutory bodies include the Civil Service Commissioners and the Commissioner for Public Appointments.
whether Parliament can “maintain, and be seen to maintain, a proper degree of autonomy while operating within a ‘Westminster Model’ of government membership in, and potential control of Parliament. Bagehot described the Cabinet as a Committee of the Legislature. Perhaps it would be more accurate nowadays, in some respects, to describe Parliament as a committee of the government”.

The jury is still out whether the Prime Minister’s recent announcements for constitutional reform will make a significant difference to the powers of Parliament, but it is, at the very least, an encouraging development. But what can Parliament do to maintain or increase its influence and hold government to account given the unhelpful external environment in which it operates? The next section will attempt to answer this question by examining the internal space available for Parliament to scrutinise and influence government. Internal variables examined include the committee system, party and party groups, the Chamber and, to begin with, the administrative and research capacity of Parliament.

The Administration and Financing of Parliament

Administrative and financial autonomy is an essential factor in gauging the autonomy of a Parliament. Parliamentary staff have always been servants of the House rather than civil servants, but Parliament only achieved a degree of control over its own affairs in recent times. Since the 1960s there have been a series of major reviews designed to improve organisational and managerial reform and the autonomy of the House.

The movement towards institutional professionalisation of the House can be traced back to 1965 when control of most of the Palace of Westminster passed to the Speaker and Lord Chancellor. Financial responsibility, however, was excluded from this arrangement. A House of Commons Commission was established by Act of Parliament in 1978. This became responsible for the House’s budget and is the overall supervisory body of the House of Commons Administration. It prepares and lays before the House the Estimates for the House of Commons Service; decides most matters of policy; appoints staff of the House, and determines their pay, pensions and other conditions of service.

The Commission has six members: the Speaker as Chairman; the Leader of the House; a Member of the House nominated by the Leader of the Opposition (normally the Shadow Leader of the House); and three other Members appointed by the House, none of whom may be a Minister. One Member of the Commission acts as its spokesman in the House (for example in answering Questions).

Following a subsequent review by Sir Robin Ibbs in 1990, further improvements were made to the financial management of the House. Ibbs recommended that a Finance and Services Committee should advise the House of Commons Commission and assist the latter to adopt a pro-active strategic role. Today, the Finance and Services Committee considers expenditure on and the administration of services for the House.

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63 http://www.parliament.uk/about_commons/house_of_commons_commission_.cfm
64 ibid.
of Commons and has responsibility for detailed scrutiny of the House’s budget. It prepares, with the assistance of the Board of Management of senior House officials, Estimates for House of Commons: administration for submission to the House of Commons Commission; monitors the financial performance of the House Administration; and advises the Commission and the Speaker on the financial and administrative implications of any recommendations made by the Administration Committee.

The Ibbs review also led to the Parliamentary Corporate Bodies Act, 1992 which made the Clerk of the House a corporate officer. In July 2000, following a further review by Michael Braithwaite, the Clerk became Chief Executive of the House of Commons Service and its 1,600 staff. In addition to his responsibilities in the House, the Clerk is Accounting Officer for expenditure borne on both House Estimates – that which supports Members of Parliament in discharging their parliamentary duties and responsibilities (with net operating costs of £156m in 2005/06), and that for administrative services and works (with £204m net operating costs in 2005/06). The most senior official in the House of Lords, the Clerk of the Parliaments, is the Accounting Officer and Corporate Officer of the Upper House.

A Bill was introduced to the House of Lords in January 2007 which, if enacted, will enable the two Corporate Officers to act together in establishing joint departments of both Houses and conferring functions on them. The Bill also makes provision for related matters such as the employment of staff, and the transfer of staff from each House, to work in a joint department.

In short, huge progress has been made to ensure that the UK Parliament has the resources for training and office facilities (as illustrated by the opening of the new Portcullis Building) whilst operating independently from external control – particularly from the executive:

“The implementation of Braithwaite has resulted in a more integrated organisation of the House of Commons, but, crucially, one achieved with the co-operation of staff and the recognition that they are there to serve the House and its members.”

At the same time the House of Commons library’s research services has grown enormously since a separate Library department was created in 1967. It has moved from acting simply as a traditional library supplying books to Members to a research and information service widely recognised as an authoritative source of information in political debate.

**Parliamentary Business**

Whilst the House of Commons has control over the finance and provision of services and facilities to their members, the government has control over the House’s agenda with the result that it is organised to their convenience. Other legislatures have far greater ownership of the parliamentary timetable: including, ironically perhaps, the

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65 [http://www.parliament.uk/parliamentary_committees/finance_and_services_committee.cfm.](http://www.parliament.uk/parliamentary_committees/finance_and_services_committee.cfm)

66 Information from the parliamentary website (www.parliament.uk).

devolved assemblies within the UK. This is an area which rightly attracts criticism across the political divide. One proposal is for parliamentarians to have control of the weekly agenda of the House through a Business Committee:

"The business committee is therefore both more formal and more open than the 'usual channels' as they operate at Westminster. The Committee helps to develop a consensus about the conduct of business in the chamber, and ensures that the timetable for business is more clearly determined in advance. Again, it is a procedure that is to be found in other legislatures in Western Europe and has been variously proposed for adoption in Westminster. It seems to us that the use of business committees has a great deal to commend it, injecting a greater degree of transparency than exists in the current arrangements at Westminster and transferring some degree of control from the executive to the legislature. Their use does not prevent Government from getting its business, but it does ensure greater openness and time for the proper scrutiny of Government."\(^{68}\)

In its reply to the House of Lords Constitution Committee’s 2005 report *Parliament and the Legislative Process*, the Government said it “does not believe it would offer significant advantage over current arrangements”\(^{69}\). This may be true for the government, but a business committee could offer significant advantages by allowing Parliament to determine its own business, including the progress of legislation and the timing and subject of debates.

There is, however, a settled parliamentary timetable with the parliamentary year starting in the autumn of one year and ending in the autumn of the next. There is also a regular pattern to the parliamentary sessions. Some modifications were made in 2002-03 with Parliament resuming for a short period in September before adjourning for the party conference season. The publication of a House of Commons calendar indicating sitting days and recesses is now published at the beginning of each session of Parliament. The number of sitting days has risen with the growth in government activity, averaging around 150 days between 1906 and 1945, and more than 160 since 1945.\(^{70}\)

**The Committee System**

Philip Norton argues that a legislature can constrain government, but that the viscosity of legislatures appears to be greater where they are specialised\(^{71}\). Specialisation often takes place principally through committees which is one reason why committee development is a common component of many legislative strengthening programmes. A robust committee system can provide a vehicle through which to query executive branch ministers and other officials.


The history of the Committee system in the UK has evolved “by fits and starts, rather than by steady progress”\(^\text{72}\). There are currently two principal types of Committee within the House of Commons: General Committees (formerly called Standing Committees) and the Select Committee.\(^\text{73}\) Select committees are appointed for a particular task, generally one of enquiry, investigation and scrutiny whilst General Committees consider principally public bills\(^\text{74}\), which are sent to them for their committee stage (after second reading).

**Select Committees**

Parliamentary reformers have long argued for a system of permanent select committees to support Parliament’s efforts to exert control over the executive. A new committee system was established in 1979, when select committees were appointed “to examine the expenditure, administration and policy” of specified government departments and associated public bodies.

The majority of select committees are enshrined in standing orders and appointed every Parliament, but they can also be set up by motion for a session, or for as long as it takes to complete its task. The size of committees vary, but most are defined by the relevant standing order and have 11 members and reflect, roughly, the relative party sizes in the Commons. In 2001, the quorum of each committee was standardised to three Members or a quarter of the membership, whichever is the larger\(^\text{75}\).

The following core tasks for select committees have been agreed by the Commons:

- To consider major policy initiatives
- To consider the government’s response to major emerging issues
- To propose changes where evidence persuades the committee that present policy requires amendment
- To conduct pre-legislative scrutiny of draft bills
- To examine and report on main estimates, annual expenditure plans and annual resource accounts
- To monitor performance against targets in the public service agreements
- To take evidence from each Minister at least annually
- To take evidence from independent regulators and inspectorates
- To consider the reports of executive agencies
- To consider, and if appropriate report on, major appointments by a Secretary of state or other senior ministers
- To examine treaties within their subject areas\(^\text{76}\).

\(^{73}\) Other committees include Joint Committees (members from the Commons and Lords); Committees on Private Bills and Hybrid Bill Committees.
\(^{74}\) General Committees can also consider delegated legislation (statutory instruments); there are also three Grand Committees dealing with Scotland, Wales and Northern Ireland, a Regional Affairs Committee and a European Standing Committee.
\(^{75}\) Fractions are rounded up and the chairman counts in the quorum (Standing order 124).
\(^{76}\) Agreed by the House, 14 May 2002, Hansard Vol. 385.
Table 5: Current Select Committees of the House of Commons

<table>
<thead>
<tr>
<th>Departmental Select Committees</th>
<th>Cross Cutting &amp; Domestic Committees</th>
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</thead>
<tbody>
<tr>
<td>Communities and Local Government</td>
<td>Administration</td>
</tr>
<tr>
<td>Constitutional Affairs</td>
<td>European Scrutiny</td>
</tr>
<tr>
<td>Culture, Media and Sport</td>
<td>Finance and Services</td>
</tr>
<tr>
<td>Defence</td>
<td>Liaison</td>
</tr>
<tr>
<td>Education and Skills</td>
<td>Modernisation of the House of Commons</td>
</tr>
<tr>
<td>Environment, Food and Rural Affairs</td>
<td>Public Accounts</td>
</tr>
<tr>
<td>Environmental Audit</td>
<td>Public Administration</td>
</tr>
<tr>
<td>Foreign Affairs</td>
<td>Procedure</td>
</tr>
<tr>
<td>Health</td>
<td>Regulatory Reform</td>
</tr>
<tr>
<td>Home Affairs</td>
<td>Quadripartite Committee (Committees on Strategic Export Controls)</td>
</tr>
<tr>
<td>International Development</td>
<td>Standards and Privileges</td>
</tr>
<tr>
<td>Northern Ireland Affairs</td>
<td>Statutory Instruments</td>
</tr>
<tr>
<td>Science &amp; Technology</td>
<td></td>
</tr>
<tr>
<td>Scottish Affairs</td>
<td></td>
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<tr>
<td>Trade and Industry</td>
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<tr>
<td>Transport</td>
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<tr>
<td>Treasury</td>
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<tr>
<td>Welsh Affairs</td>
<td></td>
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<tr>
<td>Work and Pensions</td>
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</tbody>
</table>

A study by the Commons Hansard Commission in 2001 found that “a third of reports covered expenditure; 60 per cent on administration and over three-quarters touched on policy issues. Of those that dealt with expenditure, the greatest degree of interest was in value for money (45 per cent). Quality of public service was the most prominent theme in inquiries into administration (38 per cent) followed by the machinery of government to deliver that service (36 per cent). Over half (57 per cent) of the policy reports focused on an audit of existing policy; a quarter looked at policy plans in White Papers; 15 per cent examined possible future policy in Green Papers and 13 per cent touched on “blue sky thinking”.”

The powers of departmental select committees include:

1. to call for oral and written evidence (the power “to send for persons, papers and records”);
2. to meet whenever they choose, irrespective of sittings of the House (the power “to sit notwithstanding any adjournment of the House”);
3. to travel away from Westminster (the power “to adjourn from place to place”);
4. to set their own agenda and report at their discretion (the power “to report from time to time”);
5. to exchange evidence with other committees; and the Scottish Parliament, National Assembly for Wales and the Northern Ireland Assembly.

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vi. To meet jointly with other committees (or with other Lords committees)
vii. To appoint specialist advisers ("to supply information which is not readily available or to elucidate matters of complexity"); and
viii. To appoint a sub-committee\textsuperscript{78}.

Two unique powers to the Standards and Privileges Committee\textsuperscript{79} are to order the attendance of any Member of Parliament before the committee and to refuse to allow its public proceedings to be broadcast.

Select committees usually meet in public while hearing evidence, but always sit in private when deliberating. Members meet around a horse-shoe shaped table and their general operation can best be described as following eleven stages:

1. Committee chooses new subject
2. Press notice announce inquiry and invites written evidence
3. Written evidence received
4. Committee chooses witnesses for oral evidence
5. Oral evidence heard
6. Visits to relevant places in the UK and abroad
7. Committee considers main points for report
8. Report drafted and considered informally by committee
9. Report formally agreed and published
10. Government replies within 60 days
11. Report may be debated.\textsuperscript{80}

Select Committees report their conclusions and recommendations to the House of Commons as a whole. The main forum for debates on specific committee reports is Westminster Hall which sits alongside the main Chamber\textsuperscript{81}. In the 2005–06 Session, 22 days out of 44 in Westminster Hall were allocated to debates on committee reports, compared to 25 out of 33 in 2002–03\textsuperscript{82}. Reports are not generally debated until a Government reply has been received which does mean that government departments are able to avoid or delay reports by not replying to committee report in a timely fashion. In addition, there is no formal mechanism for ensuring that recommendations are acted upon by the Government.

There were 1500 formal meetings of select committees in the 2005-2006 Session of Parliament and numerous other informal activities such as seminars\textsuperscript{83}. The total number of staff supporting select committees over that same period was 227, of whom 191 were in the Committee Office\textsuperscript{84}. The total cost of select committees in 2005-2006

\textsuperscript{78} Ibid. p.577.
\textsuperscript{79} Standing Order No.149. Other Committees can order the attendance of anyone except Members and have to sit in private if they wish to prevent the broadcasting of its proceedings.
\textsuperscript{80} Blackburn & Kennon \textit{op.cit.} p.585.
\textsuperscript{81} Sittings in Westminster Hall began in 1999, the first time in parliamentary history that MPs have sat in a parallel chamber. The layout differs from the House of Commons in that MPs sit in a horseshoe arrangement which is meant to encourage non-partisan debate. The Deputy Speaker presides at meetings and there are no votes.
\textsuperscript{83} Norton, Philip (1998) \textit{op.cit.} p.50.
\textsuperscript{84} Ibid. p.52.
was £11,497 compared to £7,974 in 1999-2000.\textsuperscript{85} Resources available to select committees were increased in 2002 which led to the creation of media officers and other staff, “a vital reinforcement for the inquiry management and administrative functions.”\textsuperscript{86} A further review of select committee resources is being carried out by the National Audit Office.

**The Liaison Committee**

Notable among the select committees is the Liaison Committee, a committee comprising all the chairmen of the select committees in the House of Commons appointed to consider general matters relating to the work of select committees; to advise the House of Commons Commission on select committees; and to choose select committee reports for debate in the House.

A significant parliamentary development occurred by a decision of the House on 14 May 2002, when it was agreed that the Liaison Committee would hear evidence from the Prime Minister on matters of public policy\textsuperscript{87}. However, the committee could not insist on the Prime Minister’s presence and it was only made possible when the Prime Minister indicated a month earlier that he would make himself available for questioning on domestic and international issues by the Liaison Committee twice per year. The session lasts for one and a half hours on themes previously notified. The Liaison Committee has commented:

"... the Prime Minister has provided a welcome extra opportunity for parliamentary accountability of the Government’s policy and actions. It marks further progress in strengthening the scrutiny role of select committees, taking advantage of the committee format which has long proved effective for the individual committees which we chair."\textsuperscript{88}

When asked about his appearance at these sessions and whether the process added anything meaningful to parliamentary accountability, Tony Blair commented

"...it has certainly been an experience I have found extremely tough. I hope it has been of advantage in helping people to understand some of the issues; it is very rare you get the opportunity to explain things at length. Also, by its very nature, the trouble with Prime Minister’s Questions is it is very adversarial and is almost like a debating joust every week with obviously the focus particularly on the Prime Minister and the Leader of the Opposition ... I think this way of doing things, you are able to get what is undoubtedly a series of tough questions, but be able to discuss issues at greater length and with the right degree of formality, but, nonetheless, also I think doing it in a way that I hope exposes some of the issues to greater public understanding."\textsuperscript{89}

\textsuperscript{85} Sessional Returns, Sessions 1997-98 to 2005-2006.
\textsuperscript{86} House of Commons Liaison Committee, Annual Report for 2005-2006 op.cit. p.53.
\textsuperscript{87} There have been eleven sessions of oral evidence from the Prime Minister since the first session on 16 July 2002.
\textsuperscript{89} Oral evidence given by the Rt Hon Tony Blair MP, HC 318-i, 8 February 2005.
Composition of Select Committees

By convention, no government ministers or front bench opposition members are committee members. Select committees therefore consist almost entirely of backbenchers with the result that the emphasis is on parliamentary specialisation rather than party. Indeed, it is recognised committees should work in a non-party political manner, although each committee is constituted on the basis of party strength in the House. Members are appointed by the House with a motion made by a member of the Committee of Selection. In practice there is no debate and all nominations are sanctioned by party whips.

The Liaison Committee argued in 2000 that it is wrong in principle that party managers should exercise effective control of select committee membership. It pointed out the influence of party had led to long delays in establishing committees at the beginning of each Parliament and had also caused the removal of Members from committees from time to time. In its response to the Liaison Committee, the Government said any system for selecting Members needed:

- to acknowledge the influence of political parties
- to ensure that party managers are subject to scrutiny and possible challenge
- to provide an incentive for the Government to ensure that nominations from the Government party, at least, are considered reasonable.

The Committee of Selection’s recommendations can be overturned, although this is rare. One such case occurred in June 2001 when the House rejected the nominations to two committees as they did not include the names of two back-benchers who had chaired committees in the previous Parliament (each committee elects its own Chairman, but the balance between government and opposition chairs is decided through the party whips) – the Labour Government’s only defeat in that Parliament. This led the Leader of the House, Robin Cook (who was acknowledged to be genuinely committed to parliamentary reform), to present MPs with an opportunity, on a free vote, to agree a new Committee of Nomination. The reform was supported by the Liaison Committee. However, no Cabinet Minister voted with Robin Cook in favour of the change and - amidst allegations that the whips were at work – the vote was lost. It was not Parliament’s finest hour.

Parliament did agree in a separate vote that, from the beginning of the 2004/2004 Session, select committee chairman should be paid an additional salary based on the

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90 The Leader of the House chairs the Modernisation Committee and the Financial Secretary to the Treasury is a member of the Public Accounts Committee. An Environmental Minister is a member of the Environmental Audit Committee.


recommendation of the Senior Salaries Review Body.\textsuperscript{93} The rationale for the change was to promote committee service as an alternative career structure to ministerial office. On 1 April 2006, the additional salary was £13,238. A change of attitude is certainly required: a Hansard Society survey\textsuperscript{94} showed that MPs found serving as a Chair of a select committee less important than serving as a Cabinet or Junior Minister. However, select committee chairmen are increasingly seen as authoritative commentators whose contributions are respected in Parliament and sought by the media. A combination of increased public profile and financial incentive may attract some Members towards a parliamentary career path rather than ministerial office, but it is likely government service will remain as the main ambition for Members.

\textbf{Select Committee Powers}

Select committees do not receive the same volume of information nor the easy access to witnesses that were available to other inquiries such as the Butler and Hutton Inquiries\textsuperscript{95} following the conflict in Iraq. The Butler and Hutton Inquiries had no power to compel attendance of witnesses, but evidence was taken from the Prime Minister and other significant figures from the intelligence community. Similar cooperation was not shown to the Foreign Affairs Select Committee’s Inquiry on Iraq.

Select committees enjoy formal powers of summons, but there are regular complaints about the timing and quality of government replies to select committee reports as well as access to documents. The government has said “Committees’ requests on attendance of civil servant witnesses, including Special Advisers, will be agreed to… [and] ... departments [will be encouraged] to be proactive in providing relevant information and documents to Committees”\textsuperscript{96}, but the reality is cooperation varies from department to department. Select committee powers could be strengthened to enable them to decide from whom they wish to take evidence as currently the government decides which ministers, civil servants and special advisers appear before committees\textsuperscript{97}.

The Hutton Inquiry also had access to a wide range of written material submitted by government departments and agencies, including e-mails between officials, drafts of official papers, confidential correspondence, minutes of private meetings and personnel records. Select committees are normally given information rather than the form or nature of documentary evidence supplied to Hutton. The speed in which papers were supplied to the Hutton Inquiry is also in marked contrast to the response of departments to select committee requests.\textsuperscript{98} One reform proposal which should be considered is granting Parliament the power to establish its own parliamentary

\textsuperscript{93} The Senior Salaries review Body provides independent advice to the Government on the remuneration of the judiciary, senior civil servants and senior officers of the armed forces. Appointments are made by the Prime Minister.

\textsuperscript{94} Hansard Commission on Parliamentary Scrutiny (2001), \textit{op.cit.} Appendix 4.

\textsuperscript{95} The Hutton Inquiry was set up by the Government to investigate the circumstances surrounding the death of Dr Kelly. The Butler Inquiry focused on the work of the intelligence services and Whitehall machinery.

\textsuperscript{96} House of Commons Liaison Committee, Annual Report for 2005-2006 \textit{op.cit.} p46.

\textsuperscript{97} For example, the Public Administration Select Committee was blocked access to Lord Birt, one of Prime Minister’s two policy advisers.

\textsuperscript{98} Note by the Clerks to the Liaison Committee “Scrutiny of Government: Select Committees after Hutton” 8 January 2004 p4.
commissions of inquiry into major issues that go beyond the resources and scope of existing parliamentary committees.

Select Committees: An Assessment

It is very difficult to give an overall assessment of the quality of Select Committees. Performance varies “according to time and circumstances, the style and attitude of Chairmen, the general quality of membership, the amount of time taken on each inquiry and the degree of media interest. The readiness of departments to provide evidence and useful material as well as the experience of the clerks and special advisers supporting Select Committees has also to be brought into the equation”. 99 In addition, select committees will only ever be able to scrutinise a small amount of the policy and actions of government departments.

Norton argues the shift in emphasis from the chamber to committees coupled with the attention given to rules governing the conduct of members has resulted in “a qualitative change in the degree of institutionalisation” of the House of Commons. Select committees display some of the features of developed committee systems, such as parallel government departments, degree of autonomy, small and permanent membership, powers to take evidence and set their own agenda and specialisation. He concludes their “effect has been modest, but achievement is remarkable given that they are attempting to operate as non-party bodies in a highly partisan legislature”.100

The attitude of government post 1979 has been to tolerate select committees. Successive administrations have been reluctant to allow significant new powers partly because of self-interest and partly because of the constitutional framework. It is important to recognise how the Westminster system and the concept of the executive being part of the legislature impacts on the work of committees. The congressional committees in the United States can approve nominations, generate and hone legislation and bargain with the executive. They are powerful because of the principle of the separation of powers. In contrast, their UK counterparts do not normally carry out prior scrutiny of appointments and have no role in the selection procedure.

“any indication that a Ministerial appointment relied upon the approval of a Select Committee or was open to a select committee veto would break the clear lines of accountability by which Ministers are answerable to committees for the actions of the executive … the role of the select committee has always been to scrutinise the actions and decisions of departments – not to take part in the decision-making.”101

The Prime Minister’s proposal, announced in the House of Commons on 3 July 2007, to grant the House of Commons a bigger role in the selection of key public officials may signal a move towards the Congressional model. The Prime Minister has proposed, as a first step, pre-appointment hearings for public officials whose role it is to protect the public’s rights and interests, and for whom there is not currently

100 Philip Norton (1998) op.cit. pages 7 and 197.
independent scrutiny\textsuperscript{102}. It should be noted, however, committees can at present hold evidence sessions or other meetings with new appointments and arrangements are now in place in some committees whereby departments inform them of significant new appointments.\textsuperscript{103}

**Parliamentary Questions (and Answers)**

Often regarded as the best means of seeking information, oral and written parliamentary questions are raised to ministers and the questions and answers are published in Hansard. A minister is personally responsible for both oral and written replies.

A parliamentary question must:

- either (a) seek information (‘what, how many, when…’) or (b) press for action (‘if he will…’);
- not offer or seek expressions of opinion;
- not convey information nor advance a proposition, an argument or debate;
- have a factual basis for which the tabling Member is responsible (it may not, for example, seek confirmation or denial of rumours or media reports);
- relate to a matter for which the Minister addressed is responsible as a Minister (it may not, for example ask about: activities in a Minister’s capacity as party leader or member; reports or research by independent organisations, no matter how germane; or matters which are the statutory responsibility of the devolved administrations);
- not seek an expression of opinion on, or an interpretation of, a question of law, since this is for the courts to decide;
- not refer to a matter active before a UK court or court martial (including a coroner’s court), as this is prohibited by the House’s \textit{sub judice} rule;
- not ask for information: readily available elsewhere (including in Hansard); or provided or blocked / otherwise denied by the same Minister in the same session; and
- not be hypothetical or obviously about opposition policy.\textsuperscript{104}

The use of parliamentary questions has changed since the mid-1960s with Members’ use of parliamentary questions greatly increasing. At the same time, Question Time has been transformed from a forum principally for use by backbenchers to a battle between the main parties with party managers handing out suggested questions to backbenchers\textsuperscript{105}.

The notice period for oral questions to ministers is three sitting days and Members are able to send oral questions by post, or electronically or in person. A Member may ask up to two oral questions and any number of written questions a day. The Speaker may allow supplementary questions to a minister which is followed by a further answer. If a request is received in advance of question time, the Speaker may also allow urgent

\textsuperscript{102} This will include the chief inspector of prisons, the local government ombudsman, the civil service commissioner and the commissioner for public appointments.

\textsuperscript{103} House of Commons Liaison Committee, Annual Report for 2005-2006 \textit{op.cit.} p.27.

\textsuperscript{104} House of Commons Information Office, \textit{Parliamentary Questions}, Factsheet P1 pp 3-4.

\textsuperscript{105} Giddings and Irwin, “Objects and Questions” in Giddings (2005) \textit{op.cit.} pp.71-74.
questions about matters of public importance or parliamentary business that are not on the order paper.

In January 2003, questions sessions in Westminster Hall began with Ministers from more than one government department present to answer questions on a selected topic. This is an interesting initiative which is meant to offer in-depth examination of cross-cutting issues away from the partisan rivalries of the Chamber.

**Prime Minister’s Questions (PMQs)**

“I have never pretended to be a great House of Commons man, but I pay the House the greatest compliment I can by saying that, from first to last, I never stopped fearing it. The tingling apprehension that I felt at three minutes to 12 today I felt as much 10 years ago, and every bit as acute. It is in that fear that the respect is contained”\(^\text{106}\).

In his final appearance in the chamber as Prime Minister at Question Time, Tony Blair articulated his fear and respect for the House of Commons. Yet he was widely thought to be a very effective operator at handling what is the most widely known parliamentary ritual: PMQs.

PMQs enable back-benchers to ask almost any question to the Prime Minister, by asking supplementaries on a standard open question. The Prime Minister is not normally aware of precise questions, although issues are normally anticipated in advance and government back-benchers may give notice (or indeed ask planted questions handed to them by party managers). Before 1997, the Prime Minister answered questions twice a week for 15 minutes, but this was changed following the 1997 election to one 30-minute session. The merit of this reform is fiercely contested and the fact this change was made by the Prime Minister rather than Parliament is an interesting reflection of where power resides in the political system.

Given the high drama and theatrics of Question Time, it may not be effective in either holding the Prime Minister to account or in terms of information-seeking. The Prime Minister’s appearance before the Liaison Committee produces more thorough scrutiny of the Prime Minister. Yet the session is central to the UK constitution and symbolically it is very important for the Prime Minister to be on the floor of Parliament answering questions about his government. It also impacts on party morale and can determine the way a leader is perceived by their party and the public.

**Written Questions**

Written questions are used to obtain information and their number has increased dramatically. In 1964-65 there were 8,270 written questions, rising to 17,468 in 1971-72, 31,808 in 1985-86 and 66,000 to date in 2006-2007\(^\text{107}\). Reasons include the growth in using parliamentary questions for raising local constituency issues, the increased support for MPs in terms of staff, the speed of response compared to normal correspondence with ministers (the majority of questions are answered within a

\(^{106}\) HC Deb, 27 June 2007, c333.

working week) and growing pressures on Members to show accountability to the electorate.\textsuperscript{108}

The government has expressed concern that the increase in questions is placing too big a burden on civil servants and ministers and affecting the quality of answers.\textsuperscript{109} Written questions are popular, however, with Members. Evidence submitted to the Procedure Select Committee in March 2007 outlined the opposition’s belief that Parliamentary Questions are “a vital part of the Parliamentary process and help facilitate effective scrutiny of the prevailing government of the day.” Concerns however were raised at the “trend for ministers to refuse to answer Questions properly by releasing documents or information which is requested; but in turn, such information is subsequently released under Freedom of Information Act requests. The practical effect of such avoidance measures by ministers is to undermine the primacy of Parliament in holding the Government of the day to account, and raises the question as to whether Ministers are being entirely genuine in the reasons they give to Parliament for refusing to disclosure such documents.”\textsuperscript{110}

Questions and select committee hearings have the following consequences for government\textsuperscript{111}:

- Provoke responses in the form of information, explanation and justification
- Absorb time and energy of Ministers
- Shape behaviour and a critical environment for the discussion of particular programmes and actions.
- Ensure greater openness in government
- May have a negative (or positive) impact on policy and careers.

Ministerial Statements

Government ministers make oral statements when:

- a statement of government policy is announced
- a White Paper is published
- a Green Paper or other consultative document is published
- in response to a significant event

Whenever a minister makes a statement, an opposition front-bench Member is allowed to respond. Parliamentary practice ensures that the opposition Member sees the text of the statement shortly before it is delivered. The minister then replies and this exchange is followed by questions and answers from both sides of the House. Since the start of the 2002-03 parliamentary Session, ministers may make written statements with five days notice required.

An important convention is that Parliament should be the first body to hear of an important announcement, although concerns have been raised in recent years that

\textsuperscript{108} Minutes of Evidence to the Procedure Select Committee, 28 March 2007
\textsuperscript{109} Minutes of Evidence to the Procedure Select Committee, 28 February 2007.
\textsuperscript{110} Memorandum from Oliver Heald MP to the Procedure Committee, 28 March 2007.
\textsuperscript{111} Adapted from Philip Norton (2005) \textit{op.cit.} p.136.
ministers are not respecting this convention\textsuperscript{112}. The power of the media and the demand for instant news can make Parliament appear somewhat slow in its response to government announcements when made outside of the chamber.

**Debates**

The oldest method for subjecting the executive to critical scrutiny is debate. There are a variety of types of debate in the Commons. In all debates Members can speak freely as they are protected by parliamentary privilege from possible actions of defamation although reference should not be made to any matters which are sub judice.

**Adjournment Debates**

A Member can use a motion to adjourn the House of Commons to raise issues relating to his or her constituency or matters of public concern and a relevant minister will reply. On 24 May 1999, the House voted to introduce sittings in Westminster Hall on an experimental basis (extended in November 2000) to allow more time for backbenchers to debate issues. These are longer debates (90 minutes) than the 30 minutes allowed in the House. There are now therefore about 500 debating opportunities available each year for backbenchers of which some 160 are on the floor of the House\textsuperscript{113}.

**Opposition Days**

There are 20 days in each parliamentary session where the opposition parties in the House of Commons can choose subjects for debate. The vast majority (17) are chosen by the Leader of the Opposition and the remainder are selected by the second largest opposition party. The debates are held on opposition motions normally critical of government policy or actions, to which the government normally tables an amendment. The reality of party strength in the Commons is that the government’s amendment is normally agreed to, but the ability to debate issues of political controversy and hold the government to account in a topic of the opposition’s own choosing is an important constitutional principle.

**Tools of Accountability: a Summary**

Parliament has a variety of tools at its disposal to hold the government to account. Oral questions can extract information and are effective in terms of party debate and testing the performance of ministers on the floor of the House. They also have an interactive quality which allows the questioner to ask further questions or seek questions. Written Questions are useful to extract additional, perhaps more detailed, information. Debates allow a topic to be explored in depth and express backbench opinion, although they too are subject to partisan rivalry. Finally, departmental and other investigatory committees allow for scrutiny through sustained questioning of ministers and civil servants during hearings and examination of departmental papers. Members can probe in depth and the results are published, and the Government is required to respond. In short, different forms of accountability are suited for different

\textsuperscript{112} See for instance the Speaker’s statement in the House of Commons on 30 October 2000, Commons Hansard, col.513 and Commons Hansard, 13 February, 2001, col.160.

\textsuperscript{113} Blackburn & Kennon (2003) op.cit. p.559.
purposes and it is up to individual Members to decide the most effective tool at a
given point of time.

**Scrutinizing the Legislative Process**

The initiation and formulation of legislation is overwhelmingly an executive-centered
activity\(^{114}\) as governments are elected on a legislative platform. Laws are made by
bills being introduced in Parliament which become Acts of Parliament when they
have received the assent of the House of Commons and the House of Lords\(^{115}\). The
powers of the House of Lords are essentially to delay and governments can therefore
normally rely on their majority in the House of Commons to get their legislation
through. Although Parliament can contribute to the pressure that causes a government
to introduce a bill, its primary function is responsive: to scrutinize and refine
government legislation. Parliament’s ability to perform this function successfully has
long been criticized.

“The inadequate scrutiny of legislation is the greatest single scandal in the
House of Commons”\(^{116}\).

One political analyst describes Parliament as at its weakest when seeking to constrain
government legislation\(^{117}\). The reason for this criticism is government bills are almost
certain to be passed. Within Parliament itself, steps are being taken to reform the
legislative process.

The following set of criteria for the legislative process was established by the Select
Committee on Modernisation of the House of Commons in its 1997 report on *The
Legislative Process*:

- The Government of the day must be assured of getting its
  legislation through in reasonable time (provided that it obtains the
  approval of the House).
- The Opposition in particular and Members in general must have a
  full opportunity to discuss and seek to change provisions to which
  they attach importance.
- All parts of a Bill must be properly considered.
- The time and expertise of Members must be used to better effect.
- The House as a whole, and its legislative Committees in particular,
  must be given full and direct information on the meaning and
  effect of the proposed legislation from those most directly
  concerned, and full published explanations from the Government
  on the detailed provisions of its Bill.

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\(^{114}\) Private Members’ bills rarely become law, and normally require at least tacit support from the
government to become law. However, they can be useful in publicising an issue of concern which may
become government sponsored legislation at a later date. Fridays are set aside for Private Members
Bills.

\(^{115}\) The assent of the Monarch is also necessary for the courts to recognise a measure as an Act of
Parliament.

\(^{116}\) Robert Hazell “The Continuing Dynamism of Constitutional Reform”, *Parliamentary Affairs*, 60
(1) p.3

\(^{117}\) Philip Norton (2005), *op.cit.* p.102. See also House of Lords Select Committee on the Constitution,
Throughout the legislative process there must be greater accessibility to the public and legislation should, so far as possible, be readily understandable and in plain English.

The legislative programme needs to be spread as evenly as possible throughout the session in both Houses.

There must be sufficient flexibility in any procedures to cope with, for example, emergency legislation.

Monitoring and, if necessary, amending legislation which has come into force should become a vital part of the role of Parliament. 118

Pre-Legislative Scrutiny

Since 1992 there has been a movement towards publishing legislation in draft for pre-legislative scrutiny by parliamentary committees. This has been widely welcomed as enabling individual backbenchers and the opposition to input into the form of actual legislation, as “Ministers are likely to be far more receptive to suggestions for change before the Bill is actually published”. 119 It is argued the government would also benefit as it “could, and indeed should, lead to less time being needed at later stages of the legislative process; the use of the Chair’s power of selection would naturally reflect the extent and nature of previous scrutiny and debate. Above all, it should lead to better legislation and less likelihood of subsequent amending legislation.” 120 At the same time, it has enhanced Parliament’s capacity to influence legislation at a formative stage. In November 2002, a new Scrutiny Unit was established in the Committee Office to assist committees examining expenditure and draft bills. The Unit performs a most useful role and has been a valuable addition to Parliament’s infrastructure. Draft bills are often considered by a departmental select committee, and this allows Members who are specialised in the subject to have early influence on the bill.

Members are supportive of the new initiative. During the second reading of the Charities Bill in 2006, one of the Chairmen of the Joint Committee which considered the bill said:

“I remain a real convert to the pre-legislative process … that process is far less partisan and far more open to analysis and debate, and, as a consequence, makes, where is possible, for far better law. Indeed, I should like to see it go much further in this House and in the other place.” 121

However, the movement towards pre-legislative scrutiny has stalled. The table below shows that the government’s progress in increasing the proportion of legislation has fallen since 2003-04 despite its avowed intention and policy to increase the amount of legislation that is subject to pre-legislative scrutiny. In the 2005-2006 Session, the government published only four draft bills, but only three were examined by a

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119 Select Committee on Modernisation of the House of Commons, The Legislative Process, 23 July 1997, HC 190 1997-98, para 20
120 Ibid. para 20.
121 House of Commons Hansard, 26 June 2006, col.43.
committee. Concern has also been expressed at the late timing of publication of
draft bills and the short period available for their scrutiny, unreasonable deadlines for
reporting; and the unavailability or lateness of key supporting documentation.

Table 6: Draft bills and pre-legislative scrutiny since 1997-98

<table>
<thead>
<tr>
<th>Session</th>
<th>No. Government bills published</th>
<th>No. draft bills, etc., published</th>
<th>No. draft bills scrutinised by committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997-98</td>
<td>53</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>1998-99</td>
<td>31</td>
<td>6</td>
<td>5</td>
</tr>
<tr>
<td>1999-00</td>
<td>40</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>2000-01</td>
<td>26</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>2001-02</td>
<td>39</td>
<td>7</td>
<td>6</td>
</tr>
<tr>
<td>2002-03</td>
<td>36</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>2003-04</td>
<td>36</td>
<td>12</td>
<td>10</td>
</tr>
<tr>
<td>2004-05</td>
<td>32</td>
<td>6</td>
<td>2</td>
</tr>
</tbody>
</table>

In practice pre-legislative scrutiny has been used for bills where there is cross-party
consensus, but there is now pressure for the government to include bills that are likely
to be the subject of political controversy. The Hansard Society has called for the
Government to work towards producing all bills in draft form for pre-legislative
scrutiny, unless exceptional circumstances apply. However, the government has
pledged to “at least maintain the proportion of bills published in draft.”

The point at which a bill is sent to a committee can have an impact on the capacity of
a legislature to affect outcomes. Some parliaments, for example New Zealand and
Scotland, refer bills to committees as soon as they are introduced and before they
have been debated on the floor of the House. Whilst UK bills continue to go to
committees after a bill has been agreed in principle by the House, the extended
application of pre-legislative scrutiny has the potential to enhance the role of
Parliament in the legislative process. The announcement by the Prime Minister that
the government will make a statement each summer, prior to the Queen’s Speech, on
the provisional forward legislative programme is a further welcome step to reinforce
the accountability of the executive to Parliament.

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2005, para 35.
124 House of Commons Select Committee on Modernisation of the House of Commons, First Report of
126 House of Lords Select Committee on the Constitution, *Parliament and the Legislative Process: The
Government’s Response*, op.cit. p.5.
127 HOC Debate, 3 July 2007, col. 817.
Public Bill Committees

A Public Bill Committee is appointed for each bill that goes through Parliament and lasts only for the duration of that bill. Members are appointed by the Committee of Selection and names are put forward to them by the party whips. The committee can either accept or reject these recommendations. Unlike the procedure used for Select Committees, the House is not required to approve the Members of such Committees. The size of the committee – ranging between 16 and 50 Members drawn from both sides of the House – is usually agreed by the party whips. The quorum is 17 or one-third of the membership excluding the chairman, whichever is the less. The Speaker appoints the chairman of a Public Bill Committee from the Chairman’s Panel.

A bill is normally referred to a Public Bill Committee immediately after second reading. The committee considers a bill clause by clause and amendments are tabled in the name of one or more individual Members. The Chairman has the power to group amendments for discussion (and thus to select – or not select – them for decision). At the conclusion of the committee stage the bill is reported to the House to await report stage (at which the House may overturn the verdict of the committee) and third reading.

The main criticism of committee scrutiny of legislation has been that they are essentially an extension of the partisan battle on the floor of the House with the government relying on its majority in the House of Commons to get its legislation through. This is a result of the Westminster system and the influence of political parties. On the other hand, some observers have noticed some positive results from the present system:

“the immediate and direct impact of committee stage on the contents of bills is very small: only rarely is an amendment successfully moved against the wishes of the government and only rarely does the government accept an amendment moved by the opposition. Indirectly, the impact is greater: ministers in committee do agree to re-consider proposals from the opposition (often in order to make progress) and this sometimes results in government amendments at a later stage, which more or less accept the opposition’s argument … But none of this is likely to modify the principles of the bill … If, however, the committee is viewed as part of the process which forces the government to explain and to account for its proposals and ministers to subject themselves to questioning and criticism by the opposition, positive results can be seen to be achieved.”

Public Bill Committees do not display all the features or characteristics which have been identified as essential to the effectiveness of a committee system and by extension to the chamber as a whole. For example, there is no continuity of membership. They are, however, an improvement of the old Standing Committees which were unable to receive evidence; powers which are central to the operation of select committees. It is hoped that this change will give Public Bill Committees more information on which to make their decisions. The first bill to use this new power was

128 Standing order 89.
129 A group of some 20 senior backbenchers from both sides of the House who play a neutral role.
130 Blackburn & Kennon op.cit. p.448.
the Local Government and Public Involvement in Health Bill which took witnesses from the Local Government Association and London councils on 30 January 2007.

The Hansard Society and the 1997 Select Committee on Modernisation have recommended greater continuity of membership between committees that examine draft bills and the public bill committees that subsequently examine the formal bill. With a few exceptions, this recommendation has not been implemented in the UK Parliament. The table below shows the proportion of Commons members of pre-legislative committees who have been reappointed to the public bill committee on the same bill.

**Table 7: Members of pre-legislative committees appointed to public bill committee on the same bill, 1997-98 to 2004-05**

<table>
<thead>
<tr>
<th>Proportion of Commons members of pre-legislative committee</th>
<th>Number of bills</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>5</td>
</tr>
<tr>
<td>A quarter or less</td>
<td>14</td>
</tr>
<tr>
<td>Half or less</td>
<td>9</td>
</tr>
<tr>
<td>Three-quarters or less</td>
<td>1</td>
</tr>
<tr>
<td>More than three-quarters</td>
<td>1</td>
</tr>
</tbody>
</table>

Continuity of membership is seen as being crucial in committee systems and synergies between committees that examine draft bills and public bill committees would undoubtedly strengthen Parliament’s ability to scrutinize legislation.

**Post-Legislative Scrutiny**

Whilst some Select Committees carry out scrutiny of legislation once enacted, a more systemic approach to post-legislative scrutiny has been recommended by the Select Committee on the Constitution in the House of Lords.

The main benefits of post-legislative scrutiny are:

“to see whether legislation is working in practice as intended, to contribute to better regulation; to improve the focus on implementation; and delivery of policy aims; and to identify and disseminate good practice so that lessons may be drawn from the successes and failures revealed by the scrutiny work”.

A report on post-legislative scrutiny by the Law Commission, presented to Parliament on 25 October 2006, recommended that Parliament consider establishing a new joint parliamentary committee to undertake post-legislative review.

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131 Select Committee on Modernisation of the House of Commons, *The Legislative Process*, op.cit. p.16.
132 House of Lords Select Committee on the Constitution, Parliament and the Legislative Process *op.cit.*
134 The Law Commission is a non-political independent body, set up by Parliament in 1965 to keep the laws of England and Wales under review, and to urge reform where it is needed.
Enhancing post-legislative scrutiny could improve the accountability of governments and lead to better legislation. Parliamentary committees should be central to this process. As Select Committees are now involved in the pre-legislative scrutiny of legislation, it would seem sensible for those same committees to undertake the review of such legislation. This would ensure the committee has a distinct and autonomous jurisdiction – a factor which is essential in any strong committee system.

**Programming of Legislation**

Whilst the publication of draft bills has been welcomed for helping Parliament to conduct detailed scrutiny and hold the Government to account for its legislation, a controversial proposal from the Modernization Committee was its recommendation to change the Sessional Orders\(^\text{135}\) to allow the timetabling or ‘programming’ of legislation.

Programme motions replaced a ‘guillotine’ motion or “allocation of time motions”. The principal difference between the two is that the latter was generally used during a late stage in the bill’s process (usually when progress was not to the government’s liking) and the former is used to map out a timetable for the bill’s process through the Commons in advance of its passage. Programme motions establish a date by which the bill should be reported by the public bill committee. They are moved immediately after second reading and are not usually debatable. The programming sub-committee of the public bill committee then decides how to allocate time in committee.

Despite criticism from within Parliament, including complaints both from opposition Members of the Modernisation Committee and senior government backbenchers, the House voted on 26 October 2004 to make programming permanent. One senior government backbencher, Gwyneth Dunwoody, led the complaints:

“One suggestion is that this is simply a matter of tidying up the rules, and that there is no real political effect ...That is total, dangerous nonsense. These rules will affect the role of every backbencher. It is also true that a Cabinet Minister chaired the Modernisation Committee that initiated and took these decisions... [Programming] would be all right if one could say that every part of every Bill that has been programmed since 1997 has been considered word by word and line by line, and in such a way that our constituents had had the chance to comment on it. It would not be so bad if every piece of legislation had emerged far better at the end of the process ... The reality is that it does not work like that; automatic programming has produced a lot of legislation that has not been considered in any detail and has consistently required amendment by the Government on Third Reading or in the House of Lords.”\(^\text{136}\)

In the 2003-04 Session, a total of 63 Programme Motions were introduced. The Chairman of Ways and Means\(^\text{137}\) has said that there is little difference between a

\(^{135}\) Sessional orders remain only for the rest of that session or Parliament and are passed by the House on the day of the State Opening.

\(^{136}\) HC Deb 26 October 2004 c1329.

\(^{137}\) The Chairman of Ways and Means is the Speaker's deputy and presides over the House of Commons in the Speaker’s absence.
 programme and a guillotine if there is no agreement between the two sides of the House and criticism persists that the government’s approach to modernisation has focussed too much on efficiency and securing its business than improving the effectiveness of parliamentary scrutiny.\textsuperscript{138}

**Party and Party Groups**

Party cohesion is a feature of British politics, so much so that it was once said to be “so close to 100\% that there is no longer any point in measuring it”\textsuperscript{139}. Party cohesion is a fact of life in both Houses, but government defeats are more common in the Lords. This is explained by reduced levels of party cohesion in the Lords and the more serious consequences of dissent in the Commons. Whilst party cohesion has weakened in recent years – reasons given include the growth of more ambitious MPs; the acceptance that government defeats are not necessarily a matter of confidence; and the realisation that policy concessions can often be extracted from the government – party cohesion “remains the norm, but significantly tempered by backbench dissent”\textsuperscript{140}.

The influence of party has a strong impact on the external and internal environment of Parliament. The effectiveness of parliamentary procedures “depends on the willingness of MPs … to use them and to use them effectively; and that means securing a balance between the partisan and scrutiny roles.”\textsuperscript{141} A further role normally assigned to Members is that of constituency representative and the results of a Hansard Society study show that Members themselves rank this as their most important responsibility (followed by the scrutiny function and then party and influencing or changing party policy).\textsuperscript{142}

Whilst Members may rank scrutiny above party responsibilities, it is not difficult to see how parliamentary scrutiny of the executive is compromised by party loyalties. All MPs are subject to and accept party discipline; the Whips manage their parliamentary parties by keeping members informed of forthcoming business, maintaining the party’s voting strength by ensuring Members attend important debates and vote accordingly, and acting as a conduit for backbench opinions to the leadership. Failure by MPs to attend an important vote (“a Three-line whip”) is judged very seriously and is usually seen as rebellion against the party, leading to the prospect of disciplinary action, even suspension.

The balance between the legislative and the executive will always be affected by the control of party managers or the ‘usual channels’. This has been described as the ‘mindset’ problem facing Members. Party managers could be more helpful by relaxing their control on those issues where a cohesive party line is not essential:

\textsuperscript{142} Rush & Childs (2005), *op.cit.* p.60.
“From time to time there will be minor advances in the cause of improving Parliament’s effectiveness … But until British political parties change, along with the mindsets of those elected to Parliament with their aid, the Parliament of Westminster will remain much as it was: the arena for the acts of party government.”

This is well illustrated by the vote of 29 October 2002 on reform of select committees when, on a free vote but with the whips at work, the House failed to pass reforms which would have removed selection from the hands of whips to a new Committee of Nomination. As one Member wrote:

“It should not be forgotten by those who parrot the glories of parliamentary sovereignty, or denounce wicked government for blocking reforms to strengthen Parliament, that when a Leader of the House provided MPs with an opportunity to decide on a free vote whether they wanted the composition and chairs of their select committees chosen by the whips and the party machines (as at present) or by themselves, they voted for the former option. This is more revealing about the real obstacles to serious reform than innumerable texts on the subject or routine polemics on the tyranny of the executive”.

There is evidence to suggest that party control and influence is waning with greater number of backbench rebellions in recent years, but it is hard to dispute Norton’s conclusion that the most pervasive constraint on legislatures is the party system: “party cohesion is not the product of effective whips. Whips, rather, are effective when parties are cohesive.” In previous sections, we have seen the influence of parties in almost all areas of Parliament’s scrutiny work: whether relating to debates, questions and public bill committees. However, if there is a further shift of emphasis away from the House of Commons chamber to Select Committees and perhaps to Westminster Hall as well, it may be possible to see a future for Parliament outside the narrow confines of party management.

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Conclusion

The figure below provides an overview of the analytical framework used in this paper.

The internal environment of Parliament has changed dramatically in recent years, especially since the introduction of departmental select committees in 1979. This has reinforced the capacity of the legislature. There are other positive internal developments such as the replacement of the old standing committees by public bill committees which are able to hear evidence from witnesses and receive written evidence (previously only Members were able to speak on legislation). Pre-legislative scrutiny can lead to detailed examination on draft law and, if extended to more bills, will certain improve Parliament’s role in the legislative process. Post-legislative scrutiny may ultimately improve the accountability of governments, but this is an
emerging area for parliamentary scrutiny and it may take time to become established. Expanding the role of select committees is crucial in all areas.

Organisational and managerial reform within Parliament has ensured that the House of Commons has control over the finance and provision of services and facilities to their members. It is regrettable that Parliament’s agenda is driven by the government, and reform is needed to ensure that the House decides what matters should be referred to it and when. A change of mindset is certainly essential; Members need to be encouraged to give far greater priority to the institution of Parliament, especially when considering parliamentary matters and when scrutinizing the government. This will be easier if party managers relax their grip on matters which are not crucial to the government’s programme. The new Prime Minister’s constitution proposals, published in a green paper on 3 July 2007, are a positive step forward. Empowering Parliament should be seen as a plus-sum policy which will benefit the political process. It will lead to better and more transparent government, and generate greater interest from both the media and the public in the institution of Parliament.

At the very least, focus on the internal environment of Parliament demonstrates that, whatever its shortcoming, it is not irrelevant to the political process. Governments are secretive and can be often uncooperative, but at the same time the Westminster system ensures ministers are answerable to Members on the floor of the House or through the committee system. Parliament can be treated with disdain, but it can’t be ignored.

The external environment dictates that Parliament has to sustain in office the government of the day (government through parliament) whilst holding it to account. This is no easy task when you have an election system in place which is designed to produce strong government. Indeed, when the result of an election produces a small majority or a hung parliament, governments are derided as being weak and ineffectual and you seldom hear praise that Parliament is strong. The party system provides both external and internal constraints on the UK Parliament while the large number of emerging accountability institutions need to be properly independent of the executive and accountable to Parliament.

The capacity of the UK Parliament to hold the executive accountable is determined by its external environment, but there are many internal variables, such as the committee system, the administration and financing of parliament, which can determine whether the legislature can influence government and reinforce the accountability of ministers for their policies and the conduct of their office. In short, Bernard Crick’s dictum that parliamentary control of government in the Westminster system means “Control means influence, not direct power; advice, not command; criticism, not obstruction; scrutiny, not initiation; and publicity, not secrecy” continues to be an accurate description of Parliament today.

### APPENDIX A

An overview of features designed to promote independence and accountability of the ethical watchdogs\(^{147}\).

#### UK/English Regulators

1. Independence

<table>
<thead>
<tr>
<th>Post</th>
<th>Type of body</th>
<th>Appointed by</th>
<th>Dismissal</th>
<th>Term and renewals</th>
<th>Staff (status &amp; no)</th>
<th>Source of Funding</th>
<th>Budget 05/06</th>
<th>Powers to require information</th>
<th>Government powers of direction over body</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comptroller and Auditor General</td>
<td>Statutory, National Audit Act 1983</td>
<td>Crown on address from Commons</td>
<td>Crown on resolution from both Houses</td>
<td>Statute states holds office during good behaviour. No fixed term, no retirement age</td>
<td>Public servants, 800</td>
<td>Office and NAO funded from consolidated fund</td>
<td>£65,717,000</td>
<td>Statutory powers</td>
<td>Guarantee of independence in legislation</td>
</tr>
<tr>
<td>Parliamentary and Health Service Ombudsman</td>
<td>Statutory independent body, Parliamentary Commissioner's Act 1967</td>
<td>Crown, involvement from PASC chair</td>
<td>Crown on resolution from both Houses</td>
<td>Statute states good behaviour, medical reasons. No fixed term, retirement at 65</td>
<td>Public servants, 280</td>
<td>Salary from consolidated fund, office from independent vote</td>
<td>£22,100,000</td>
<td>Statutory powers</td>
<td>None</td>
</tr>
<tr>
<td>Information Commissioner</td>
<td>Statutory independent body, Data Protection Act 1998 and FoI Act 2000</td>
<td>Crown, via Secretary of State</td>
<td>Crown on resolution from both Houses</td>
<td>Five year term, up to 2 re-appointments. No statutory criteria for dismissal.</td>
<td>Public servants, 240</td>
<td>Commissioner salary consolidated fund, Office grant in aid + fee income</td>
<td>£5m for FoI work, data protection self-financing</td>
<td>Statutory powers</td>
<td>None</td>
</tr>
<tr>
<td>Electoral Commission</td>
<td>Statutory independent body, Political Parties, Election and Reform Act 2000</td>
<td>Crown on address from Commons</td>
<td>Crown on resolution from both Houses</td>
<td>Statute states absence, bankruptcy. Up to 10 years, but first appointments for 4-6 years</td>
<td>Public servants, 161</td>
<td>Salaries and office funded from consolidated fund</td>
<td>£23,974,000</td>
<td>Statutory powers</td>
<td>None</td>
</tr>
<tr>
<td>Parliamentary Commissioner for Standards</td>
<td>Non statutory official</td>
<td>House of Commons Resolution of Commons, after majority vote in Standards and Privileges</td>
<td>Term of five years, no re-appointment. No set criteria.</td>
<td>Commons, staff 4/5</td>
<td>Commons Commission</td>
<td>04/05</td>
<td>Parliamentary privilege via Standards and Privilege.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Committee on Standards in Public Life (CSPL)</td>
<td>Non-statutory advisory NDPB</td>
<td>Prime Minister. No set procedures</td>
<td>Leaders of three major political parties nominate one member each. Normally three year term, possible reappointment. No set criteria.</td>
<td>Cabinet Office secondments, staff 5</td>
<td>Cabinet Office vote</td>
<td>£573,000</td>
<td>CSPL chooses enquiries in consultation with PM.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Civil Service Commissioners</td>
<td>Non statutory office, established by Order in Council</td>
<td>Crown via Prime Minister and Cabinet Office</td>
<td>Prime Minister. No set procedures</td>
<td>Normally three years with one re-appointment. No set criteria.</td>
<td>Cabinet Office, staff 7</td>
<td>Cabinet Office vote</td>
<td>£1,111,000</td>
<td>No initiation powers for investigation. General audit powers over recruitment.</td>
<td>Prime Minister. No set powers.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Public Appointments Commissioner</th>
<th>Non statutory Office, established by Order in Council</th>
<th>Crown via Prime Minister and Cabinet Office</th>
<th>Prime Minister. No set procedures</th>
<th>Three year appointment, one re-appointment. No set criteria.</th>
<th>Cabinet Office, staff 8</th>
<th>Cabinet Office vote</th>
<th>£557,000</th>
<th>No initiation powers for investigation. General audit powers over appointments.</th>
<th>Prime Minister. No set powers.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Appointments Committee</td>
<td>Non statutory committee</td>
<td>Crown via Prime Minister and Cabinet Office</td>
<td>Prime Minister. No set procedures</td>
<td>Three year term with one re-appointment. No set criteria.</td>
<td>Cabinet Office, staff 4</td>
<td>Cabinet Office vote</td>
<td>£184,000</td>
<td>No initiation powers, deals with referrals from civil service and Ministers.</td>
<td>Prime Minister. No set powers.</td>
</tr>
<tr>
<td>Political Honours Scrutiny Committee</td>
<td>Non statutory committee of three Privy Counsellors,</td>
<td>Crown via Prime Minister and Cabinet Office, through Order in Council</td>
<td>Prime Minister. No set procedures</td>
<td>Duration of office of current Government. No set criteria for re-appointment.</td>
<td>Cabinet Office staff.</td>
<td>Cabinet Office vote</td>
<td>None.</td>
<td>Deals with referrals from Prime Minister.</td>
<td>Prime Minister. No set powers.</td>
</tr>
<tr>
<td>House of Lords Appointment Committee</td>
<td>Non statutory Advisory NDPB</td>
<td>Prime Minister via Cabinet Office</td>
<td>Prime Minister. No set procedures</td>
<td>Three year terms, with one re-appointment.</td>
<td>Cabinet Office staff, 3</td>
<td>Cabinet Office vote</td>
<td>£164,000</td>
<td>None. Deals with referrals from Prime Minister and from public.</td>
<td>Prime Minister. No set powers.</td>
</tr>
<tr>
<td>Audit Commission</td>
<td>Statutory Audit Commission Act 1998</td>
<td>Crown via Secretary of State</td>
<td>Secretary of State. Statutory procedure</td>
<td>Statutory criteria, bankruptcy, absence, unfitness etc. Three years, with up to three reappointments. Salary paid.</td>
<td>Public service, staff recruited independently 2,267</td>
<td>90% self-financing from fee income 10% Government grants</td>
<td>2004/5 £233,202 income (£188,234 audit fee income)</td>
<td>Decides own investigations and reports, but liaises with Government.</td>
<td>Secretary of State has broad powers of direction, largely unused.</td>
</tr>
<tr>
<td>Standards Board for England</td>
<td>Statutory Local Government Act 2000 Executive NDPB</td>
<td>Annual report to Secretary of State</td>
<td>Prime Minister. Statutory reasons in Schedule 4</td>
<td>Three year term, one reappointment. Statutory criteria for dismissal</td>
<td>Public service, staff recruited independently 110</td>
<td>Funded through grant-in-aid</td>
<td>2004/5 £9,534,000 income</td>
<td>Deals with complaints from public</td>
<td>No statutory powers</td>
</tr>
<tr>
<td>Judicial Appointments Commission</td>
<td>Statutory body Constitutional Reform Act 2005</td>
<td>Crown via Lord Chancellor</td>
<td>Lord Chancellor</td>
<td>Maximum five year term, one reappointment Statutory reasons for dismissal</td>
<td>After three year start-up process, public service staff recruited independently</td>
<td>Funded through grant-in-aid</td>
<td>Not yet available</td>
<td>None. Will deal with referrals from DCA</td>
<td>None</td>
</tr>
</tbody>
</table>
## Accountability

<table>
<thead>
<tr>
<th>Post</th>
<th>Accountability to Parliament</th>
<th>Accountability to Government</th>
<th>Accountability to the courts by Judicial Review</th>
<th>Audit</th>
<th>FOI</th>
<th>Complaints machinery</th>
<th>Oversight of appointments process</th>
<th>Oversight of ethical standards</th>
<th>Account given direct to the public</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comptroller and Auditor General</td>
<td>Reports to Public Accounts Commission and Public Accounts Committee</td>
<td>None, but draft reports discussed with departments/agencies</td>
<td>No cases, untested possibility, due to parliamentary privilege under Article 9 Bill of Rights 1688.</td>
<td>Audited externally with results to Public Accounts Commission, together with Corporate Plan</td>
<td>Yes. 96 requests</td>
<td>Assistant Auditor General handles external complaints from departments etc. Negligible amount.</td>
<td>Cabinet Secretary selected current appointment in 1988, before OCPA procedures existed.</td>
<td>CSPL in as far as general oversight, not individual cases.</td>
<td>Independent website, publicity budget. Website: 5.3 million hits a year.</td>
</tr>
<tr>
<td>Parliamentary and Health Service Ombudsman</td>
<td>Annual report laid in Parliament. Reports examined by PASC</td>
<td>None, but draft reports discussed with departments/agencies</td>
<td>Yes. Has been reviewed several times.</td>
<td>C&amp;AG</td>
<td>Yes, except for exemptions related to investigations. 231 requests</td>
<td>Internal complaints procedure, Ombudsman or Information Commissioner.</td>
<td>OCPA approved open competition, involvement of PASC chairman.</td>
<td>CSPL</td>
<td>Combined website with health ombudsman 8.1m hits a year, publicity budget</td>
</tr>
<tr>
<td>Information Commissioner</td>
<td>Annual report laid in Parliament. Gives evidence to DCA committee</td>
<td>Annual report to Secretary of State</td>
<td>Yes. 246 requests</td>
<td>C&amp;AG</td>
<td>Yes, 82</td>
<td>Internal complaints procedure, Ombudsman or Information Tribunal, if. Fed/DP</td>
<td>OCPA approved open competition, organised by DCA (then LCD)</td>
<td>CSPL</td>
<td>Independent website, 35.9m hits a year, publicity budget. Stakeholder meeting to launch Annual Report</td>
</tr>
<tr>
<td>Electoral Commission</td>
<td>Reports to Speaker's Committee for budget, DCA for policy</td>
<td>None, but discussions with DCA</td>
<td>Yes, none so far.</td>
<td>C&amp;AG, Parliamentary Ombudsman</td>
<td>Yes, 11</td>
<td>Internal complaints procedure, Ombudsman or if DP/FoI Information Commissioner</td>
<td>OCPA approved open competition, approval from registered parliamentary parties, sponsored by Home Office</td>
<td>CSPL</td>
<td>Independent website, 1.5m hits a year, publicity budget</td>
</tr>
<tr>
<td>Parliamentary Standards Commissioner</td>
<td>Reports to Standards and Privileges Committee</td>
<td>None</td>
<td>No, due to parliamentary privilege. Under Article 9 of the Bill of Rights 1688.</td>
<td>C&amp;AG, House of Commons</td>
<td>Yes, but parliamentary privilege exemption applies.</td>
<td>11 requests</td>
<td>In first instance the Committee on Standards and Privileges, then the House of Commons. No route to Ombudsman</td>
<td>In line with OCPA guidelines, open competition, involvement of House of Commons Commission.</td>
<td>CSPL, and Committee on Standards and Privileges</td>
</tr>
<tr>
<td>Committee on Standards in Public Life</td>
<td>Evidence to relevant committees</td>
<td>Annual report to Prime Minister</td>
<td>Yes. Never.</td>
<td>C&amp;AG</td>
<td>Yes, 4</td>
<td>Parliamentary Ombudsman, never.</td>
<td>OCPA approved open competition, sponsored by Cabinet Office, involvement of Prime Minister</td>
<td>No formal oversight</td>
<td>Website and publicity budget provided by Cabinet Office. 30,000 daily hits</td>
</tr>
<tr>
<td>Civil Service Commissioners</td>
<td>Gives evidence to PASC</td>
<td>Annual report to Crown (PM)</td>
<td>In theory. No cases.</td>
<td>C&amp;AG</td>
<td>Yes, 4</td>
<td>Internal complaints procedure, to Commissioner level, Fed/DP to Information Commissioner</td>
<td>OCPA approved open competition, involvement of Cabinet Secretary and</td>
<td>CSPL</td>
<td>Website and publicity budget provided by Cabinet Office.</td>
</tr>
<tr>
<td>Organization</td>
<td>Permanent Secretaries Consulted</td>
<td>Opposition Parties Consulted</td>
<td>Number of Hits Unknown</td>
<td>CSPL Website</td>
<td>CSPL Publicity Budget</td>
<td></td>
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<tr>
<td>Public Appointments Commissioner</td>
<td>C&amp;AG via Cabinet Office</td>
<td>Via Cabinet Office</td>
<td>OCPA approved open competition</td>
<td>Website and publicity budget provided by Cabinet Office.</td>
<td>Number of hits unknown</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Advisory Committee on Business Appointments</td>
<td>C&amp;AG via Cabinet Office</td>
<td>Yes</td>
<td>About 6</td>
<td>Website and publicity budget provided by Cabinet Office.</td>
<td>Number of hits unknown</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Political Honours Scrutiny Committee</td>
<td>None</td>
<td>No</td>
<td>No formal complaints procedure</td>
<td>No website or publicity</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>House of Lords Appointment Committee</td>
<td>None</td>
<td>No</td>
<td>Chosen from available privy counsellors from major parties by Prime Minister</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Audit Commission</td>
<td>C&amp;AG</td>
<td>Yes</td>
<td>9 requests</td>
<td>Website and publicity budget provided by Cabinet Office.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Standards Board for England</td>
<td>C&amp;AG</td>
<td>Yes</td>
<td>102 FOI requests</td>
<td>Independent website, several million hits per year and independent publicity</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Judicial Appointments Commission</td>
<td>C&amp;AG</td>
<td>Yes</td>
<td>Body not yet in existence</td>
<td>Website and publicity budget currently provided by DCA</td>
<td></td>
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<td></td>
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</tr>
</tbody>
</table>
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