
**Select Committees
under Scrutiny**
by Lucinda Maer and Mark Sandford

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Foreword

This report forms part of the Constitution Unit's research into the scrutiny process. The Unit is currently engaged on a two-year project examining the process of 'scrutiny' by committees at all levels of government in the UK: national; devolved; regional and local. This briefing is the sixth output of the project (see Appendix 3 for details of other outputs).

The aim of this report is to summarise the types of scrutiny practised in the House of Commons and analyse the effectiveness of the different types of scrutiny being carried out. We make recommendations for ways in which select committees' working practices could be improved and draw conclusions on their practices to date. We also compare the types of process and the methods used by Westminster select committees with those used at local and devolved level and hope that this report will be helpful to those in other parliaments and assemblies whose scrutiny committees are still young by comparison to those at Westminster.

Select committees in the House of Commons and the House of Lords are the main focus of non-partisan scrutiny and overview of Government policy and executive decisions. The current system of departmental select committees in the House of Commons was established in 1979. Unlike the new parliaments and assemblies of the UK, the Westminster select committees do not fit into any 'grand design' of parliamentary functioning and are to a large extent still developing in their role. As they develop, the powers afforded to them and their pattern of work changes also. In recent years, select committees have often found themselves at the centre of proposals for strengthening Parliament. This report is set in the context of the Modernisation agenda put into effect under Robin Cook's Leadership of the House of Commons (June 2001–March 2003).

There are, of course, other scrutiny mechanisms within the House of Commons. Members of Parliament scrutinise the executive through a series of methods: oral questions to ministers, oral questions to the Prime Minister, written questions to ministers, debates in the chamber and in Westminster Hall, and in the scrutiny of legislation through debates and Standing Committees.

We took a case-study approach to our research. We focused on four departmental select committees and chose a number of reports from each of these committees. The case-studies were chosen with help from our contacts in the House of Commons. We wanted to ensure that a range of different types of report were studied.

Research took place through studying the final reports of each inquiry. Verbatim transcripts of hearings were studied, as were meeting minutes. Some 20 interviews were carried out with MPs, clerks, officials as well as witnesses and specialist advisers. Non-attributable quotes from the respondents are used in the analysis below.

Although there are also select committees in the House of Lords, Joint Committees of both Houses, and other committees such as the Public Administration Select Committee which do not monitor a department, these fell outside the scope of this study, as did the work of the Public Accounts Committee in the House of Commons.

We would like to thank all of the officials and members of the House of Commons who agreed to be interviewed as part of this inquiry. We would also like to thank Oonagh Gay, Tom Healey, Simon Burton, Paul Seaward, Andrew Kennon, Meg Russell, and Robert Hazell for their continued help and assistance through this stage of the project. We would also like to thank Kaifala Marah for his assistance on scrutiny of estimates and expenditure.

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Executive Summary

- The access that select committees have to people, persons and papers is crucial to carrying out effective scrutiny. There need to be clear protocols about the circumstances in which named officials can be expected to appear before committees and Ministers should not resist giving evidence to committees other than their own if matters within their remit are crucial to a particular inquiry. The government should use Freedom of Information principles when responding to requests for information by committees. Further to this, committees might want to consider how they might use the legislation strategically to gain access to documents.
- In May 2002 the House of Commons agreed core tasks for select committees. The overall effect of the core tasks has been to encourage select committees to carry out the full range of activities currently open to them. The recent increases in the number of committee staff and the creation of the Scrutiny Unit, which has expertise in financial and legislative issues, has greatly increased the capacity of select committees to carry out more routine and rigorous scrutiny. However, committees still spend the majority of their time on policy based inquiries and have considerable scope in setting their own agenda.
- Committees need to set priorities for themselves over a period of time, planning first, major issues to cover, secondly specific inquiries, and thirdly the scope of each inquiry. However, committees also have to remain flexible enough to deal with issues as they arise and include routine tasks in their work plans.
- Committees have several sources of expertise open to them including appointing specialist advisers to assist with specific inquiries. However, the process of appointment is ad hoc. Together with a more formal procedure for appointments, job descriptions should be provided for specialist advisers. Committees should also consider how they might use commissioned pieces of research from outside experts to enhance their inquiries.
- Select committees attempt to influence the behaviour not only of the government, but Parliament and the press. They seek to inform debate in the chamber, and produce documents for debate. Increasingly committees have sought to influence the behaviour of political actors by influencing the media and both encouraging and informing a wider debate.
- The government is obliged to respond to committee reports within 60 days. However, responses are often late and the quality of the response is often questionable. A way of improving the system would be for the 60 day response to be an initial response with a further response one year later allowing for serious consideration of recommendations.



Formal Structures and Powers

1. The current system of select committees dates from the nineteenth century when committees were used to report on specific issues of concern to Parliament. However, the idea that routine examination of policy or administration could improve government did not develop until the latter half of the twentieth century. During the 1960s more systematic scrutiny committees were established. Six committees were established on agriculture, science and technology, education and science, race relations and immigration, overseas aid and development and Scottish affairs. These committees were known as the Crossman Committees, after their instigator—the then Leader of the House of Commons, Richard Crossman. In 1971 a new Expenditure Committee was established to replace a previous committee on Estimates with six sub-committees to scrutinise various areas of government expenditure, and some of the Crossman committees were disbanded.

2. A review was carried out by the Procedure Committee in the dying years of the minority Labour Government of 1974–79. It found that the balance between the executive and parliament was “now weighted in favour of the Government to a degree which arouses widespread anxiety and is inimical to the proper working of our parliamentary democracy”.¹ The committee carrying out the review recommended that the Expenditure Committee and the remaining Crossman Committees should be replaced with 12 committees, responsible for the scrutiny of each government department. The reforms were implemented by the incoming Conservative Government in 1979. The new committees sat alongside the long established Public Accounts Committee, the Select Committee on the Parliamentary Commissioner for Administration and the committee responsible for the House’s organisation.

Structures

Size and Membership

3. There are currently 18 departmental select committees in the House of Commons.² House of Commons select committees have normally consisted of 11 members and this remains their standard size. Two are different: Northern Ireland Affairs has 13 to allow for the representation of minority parties; Environment, Food and Rural Affairs has 17 to enable it to operate two sub-committees reflecting the two departments whose merger in 2001 created DEFRA.

4. Members of Commons select committees are selected in broad proportionality to the parties’ overall strength in the House of Commons (although this is not obligatory under Standing Orders and is varied to allow seats for the very small parties). In the 1997 and 2001 Parliaments this means that in a committee with 11 members, there should be 7 Labour members, 3 Conservative members and 1 minor party member. The Liberal Democrats are grouped in with the other minor parties and their representation across the committee system as a whole broadly reflects their size in the House. The application of proportionality means that the party of government holds a majority on every select committee of the House of Commons.

5. There also is no formal rule about the party balance of committee chairs. In theory, chairs are elected by the committee members from one of their number. In practice, however, a decision is reached through the ‘usual channels’ on which party, and which individual, should occupy the chair of which committee.³ In May 2002 MPs rejected the possibility offered to them to remove the place of the whips in the appointment process.

Powers

6. The remit of the departmental select committees is set out in the House of Commons Standing Order No. 152 which establishes

¹ HC588, 1977–78.

² A full list of the Committees of the House of Commons and House of Lords is available at Appendix 1.

³ For more information on the Usual Channels see, Rush M. and Ettinghausen C., *Opening Up the Usual Channels*, The Hansard Society, 2002.

them.⁴ The House of Commons has delegated powers to select committees to send for persons, papers and records. In theory this grants them the power to require any person or body to attend a meeting of the committee to give evidence orally, to invite any person or body to submit evidence in writing or to require any person or body to submit specified documents to a committee. The power to send for persons and papers is only enforceable by a resolution of the House (where the government can use its majority). So in practice committees have to negotiate with the executive when calling for particular individuals from government and the civil service.

7. Erskine May states that “Members of the House, including Ministers, may not be formally summoned to attend as witnesses before select committees”.⁵ Although a committee cannot compel a minister to appear, in practice convention dictates that ministers do appear. One of the core tasks of committees agreed in May 2002 was that they should take evidence from each Minister in their department at least once a year. In April 2002 the Prime Minister announced that he would give evidence to the Liaison Committee twice a year after previously refusing to give evidence to the Public Administration Select Committee on the Ministerial Code.

8. Ministers generally only resist appearing before a select committee if it is not the select committee which monitors their department, and refusal to do so is very rare. The Health Select Committee took evidence from ministers from both the Department of Education and the Department for Culture, Media and Sport as well as from the Department of Health during their inquiry into Obesity during 2003–04. In recent years there have been particular difficulties getting ministers from the Treasury to give evidence to departmental select committees other than their own. For instance in April 2002 the Chancellor of the Exchequer, Gordon Brown, refused to give evidence to a sub-committee of the then Transport, Local Government and the Regions Committee on PPP for the tube. The Treasury is a special case, however, as theoretically they could be called to give evidence

to any committee on almost any inquiry. However, where Treasury matters are a crucial part of an inquiry they should not resist giving evidence and usually do not. The government needs to be as flexible in its accountability mechanisms as it can be in its policy making and administration.

9. When calling representatives of the government to give evidence, select committees have no power to require a particular individual to attend. The government maintains that appearance of civil servants before select committees is governed by the Osmotherly Rules.⁶ However, these rules are government rules and have never been formally accepted by Parliament. The normal course is for the select committees to leave it to the department concerned to nominate the appropriate civil servant. If they do require specific individuals, there is no obligation for them and not other civil servants to attend. In 1986 the Defence Committee’s investigation into the Westland Affair centred on the exchange of information between specific individuals in government. The government refused to allow the named individuals sought by the committee to appear and twice sent the cabinet secretary instead. In recent years the ability to call named officials has several times been obstructed. For instance in March 2002 the Cabinet Office refused to allow Lord Birt (a then unpaid strategy adviser on transport issues) to give evidence on the Transport Sub-committee’s review of the 10 Year Plan for Transport.

10. Private individuals can be compelled to attend select committee hearings and can be found in contempt of Parliament if they fail to do so. They have in the past been required to answer all questions put to them.

11. Despite the power to call for papers, select committees cannot formally order a Secretary of State to produce papers. The chairman of a committee may seek to move a motion in the House, but in practice this is unlikely to occur because of the lack of opportunities for backbenchers to move motions, and unlikely to be successful because of the government’s majority in the House. Under the 1997 version of

⁴ See Appendix 2.

⁵ Erskine May, *Parliamentary Practice*, 22nd Edition, 1997, eds Donald Limon and W R McKay, p.648.

⁶ For more information on the Osmotherly Rules see: House of Commons Library Standard Note, *The Osmotherly Rules*, SN/PC/2671, January 2004.

the Osmotherly Rules, the government has committed to releasing information to committees in line with openness procedures first introduced with the Code of Practice on Government Information in 1994. The Freedom of Information Act 2000 will replace the Code of Practice when it comes fully into force in 2005. Select committees may want to use the Freedom of Information Act strategically to make targeted requests for information.

12. Following the Hutton Inquiry into the circumstances surrounding the death of Dr David Kelly, the Liaison Committee raised concerns with the Prime Minister regarding the level of access to information and witnesses given to Lord Hutton compared with that given to House of Commons select committees.⁷ The Liaison Committee stated in its 2003 annual report that “the Government has undertaken to co-operate as fully as possible in the provision of information to parliament. It is therefore reasonable to expect that select committees should receive Government co-operation as fully as an inquiry set up by the government itself.”⁸ The Prime Minister has agreed to undertake a review within government of its guidance to officials on the availability of witnesses and evidence.

13. Select committees and the government need to agree clear protocols about the circumstances in which named officials can be expected to appear before committees. The government should use FOI principles when responding to requests for information. They should respond within the statutory deadline for responses to requests for information and give reasons for exempting information.

Sub-committees and ad hoc Committees

14. Each select committee has the power to appoint a sub-committee, and the Environment Food and Rural Affairs Committee has the power to appoint two sub-committees. The ODPM Committee has a sub-committee which consists

of all of the members of the Committee. The purpose of this arrangement in practice is to allow other members to take the chair for small enquiries. Normally the sub-committee will meet weekly for about three weeks or so, produce a short report or carry out a quick scrutiny process, then do nothing for another month.

15. Although sub-committees can be a flexible way of increasing the capacity of the committee, and allowing members to lead individual pieces of work, they do come at a considerable cost both to staff and members.

“Staffing a sub-committee to be effective really means doubling your staff.”

16. Sub-committees on their own are not an answer to increasing the capacity of select committees because they stretch the fixed level of support available to the committee, and members find it difficult to find extra time to sit on them.

17. Select Committees also have the power to work with one another. Select committees and sub-committees can hold concurrent meetings with one or more other Commons select or sub-committees, and any committee of the House of Lords. In practice, however joint meeting and working of committees is rare. This is because of the level of co-ordination, support and time required to organise and staff such a committee. One notable success has been the “Quadripartite Committee”: the Defence, Foreign Affairs, International Development and Trade and Industry Committees have co-operated on a continuing basis since 1997 to examine and report on the government’s new series of annual reports on strategic export controls. Generally, however, the caveats regarding sub-committees also apply to joint working.

⁷ See also the Foreign Affairs Committee, *First Special Report Session 2003–04: Implications for the Work of the House and its Committees of the Government’s Lack of Co-operation with the Foreign Affairs Committee’s Inquiry into the Decision to go to War in Iraq*, HC 440.

⁸ House of Commons Liaison Committee, *Annual Report for 2002*, First Report of Session 2003–2004, HC 446, para. 89.



The work of the Select Committees of the House of Commons

Core Objectives of Select Committees

18. In May 2002 the House of Commons agreed proposals of the Liaison Committee on defining the common objectives for select committees along with a raft of other measures.⁹ Select committees had increasingly been seen as a central part of strengthening parliament against the executive. Two influential reports, of the Commission to Strengthen Parliament (The Norton Commission) and the Hansard

Commission on Parliamentary Scrutiny (The Hansard Commission), had both given significant focus to the work of select committees as well as their membership. The Liaison Committee proposed the core tasks as a way of achieving “a more methodical and less ad hoc approach to the business of scrutiny” and such a list was also proposed by the Modernisation Committee. The list of core tasks the House agreed are in Box 1 below.

Box 1

OBJECTIVE A: TO EXAMINE AND COMMENT ON THE POLICY OF THE DEPARTMENT

Task 1: To examine policy proposals from the UK Government and the European Commission in Green papers, White papers, draft Guidance etc, and to inquire further where the Committee considers it appropriate.

Task 2: To identify and examine areas of emerging policy, or where existing policy is deficient, and make proposals.

Task 3: To conduct scrutiny of any published draft bill within the Committee’s responsibilities.

Task 4: To examine specific output from the department expressed in documents or other decisions.

OBJECTIVE B: TO EXAMINE THE EXPENDITURE OF THE DEPARTMENT

Task 5: To examine the expenditure plans and out-turn of the department, its agencies and principal NDPBs.

OBJECTIVE C: TO EXAMINE THE ADMINISTRATION OF THE DEPARTMENT

Task 6: To examine the department’s Public Service Agreements, the associated targets and the statistical measurements employed, and report if appropriate.

Task 7: To monitor the work of the department’s Executive Agencies, Non-Departmental Public Bodies, regulators and other associated public bodies.

Task 8: To scrutinise major appointments made by the department.

Task 9: To examine the implementation of legislation and major policy initiatives.

OBJECTIVE D: TO ASSIST THE HOUSE IN DEBATE AND DECISION

Task 10: To produce reports which are suitable for debate in the House, including Westminster Hall, or debating committees.

⁹ For a description and discussion of the May 2002 reforms to select committees see Phil Cowley, ‘Parliament: More revolts, more reform’ pp 198–201, in *Parliamentary Affairs*, OUP, April 2003.

19. The core tasks can be seen both as a descriptive list of the types of work that committees have done over the last twenty-five years, and as a prescriptive list telling committees what they ought to be doing. As the Liaison Committee has introduced a requirement that select committees should report on their performance against these tasks some people see them as having this latter effect with respect to some of the less ‘sexy’ tasks of select committees.

“What they have done is force committees to look at the areas of their remit that they have least been interested in. It has always been easy to get committees interested in big political subjects: government policy documents and that sort of thing. Less so with public expenditure, delegated legislation, pre-legislative scrutiny.... Committees don’t want to be seen not taking [the core tasks] seriously and it does mean that, given the committees know they will be reporting at the end of the year against the core tasks, part of the way through the year we ask how far we are fulfilling these things.”

20. However, others do tend to look to the core tasks retrospectively. Those who admitted this approach found that for them, the core tasks were descriptive of their practices.

“We tend to apply them retrospectively to see whether we have done our core tasks rather than seeing them as an agenda.... Having said that we haven’t found it at all difficult to link our work to the core tasks.”

21. Obviously not all of the tasks are equally applicable to all committees every year. There may not be any draft legislation published by the department in the session, or any major public appointments to report on. However, in terms of taking evidence from government ministers on a regular basis, examining departmental expenditure and supplementary estimates, the departmental annual report and the department’s Public Service Agreements, almost all of our interviewees noted an increase in this activity as a result of having to report against them.

“You look at a task and you think ‘are we doing that? If not, why not?’ and if there is a reason why not then fine.”

22. The overall effect of the core tasks has been to encourage select committees to carry out the full range of activities currently open to them. They have given a stronger hand to chairs and clerks in encouraging committees to take part in more routine scrutinies rather than just policy based inquiries, hence perhaps achieving more ‘methodical scrutiny’ as intended. However, committees still spend the majority of their time engaged in policy based inquiries and have considerable scope in setting their own agenda.

23. This study has not looked at case studies across the total range of possible select committee tasks. For instance, we have not looked at scrutiny of draft legislation—a subject which the Constitution Unit hopes to return to in the future.¹⁰ The majority of this report looks at the non-routine work of select committees. Committees’ performance against the more routine of their tasks is outlined briefly here.

Evidence from the Minister

24. If the core tasks were designed to be prescriptive and introduce a more methodical approach to scrutiny, the area in which they have perhaps had the most success is the requirement to take evidence from each Minister in the Department at least once a year. Committees are now doing this regularly, and are seeing the value in it.

“One of the things that the Liaison Committee recommended was that we should have every Minister in the department before us at least once a year. We had one minister in that we didn’t have planned to come before the committee as part of any inquiry for quite a long period of time. I think in some respects that was a good idea because the committee is reminded that it is important to review previous recommendations and see how they are actually implemented.... It is very easy to

¹⁰ For further information on Parliamentary Scrutiny of Draft Legislation see Power, G., *Parliamentary Scrutiny of Draft Legislation 1997–1999*, The Constitution Unit, 2000.

concentrate on sexy areas and miss out some very important areas.”

25. Respondents from the Health, ODPM and Constitutional Affairs committees all linked the increase of this activity to its inclusion in the core tasks. The Education Select Committee had regularly started to take evidence from Ministers in 2001.

26. Respondents also indicated that the requirement to take evidence from a particular minister had made them focus on issues they would not have done otherwise. With the evidence sessions published on the web, often single evidence sessions with ministers are not followed by the publication of a report. This makes the committee more flexible, enabling it to question ministers on issues arising over a broader sphere, including expenditure issues, than just for the two or three large inquiries planned in any one session. **Single evidence sessions with ministers have allowed the committee to cover more ground within their department without necessarily soliciting evidence and producing a report.**

Appointments

27. One of the more problematic tasks for select committees is the requirement to “consider and if necessary report on major appointments by a Secretary of State or other senior Minister”.¹¹ Although this is something which some select committees have been doing regularly for many years, such as the Treasury Committee which has taken evidence from each new member of the Monetary Policy Committee since 1998, select committees have no power by which they can decide against an appointee or make government reconsider its choice.

“I think it is one of the more problematic tasks which have been given to select committees because we are not Congress and we don’t have the power to say yes or no to anybody.”

“This is based on the US model, but since the committees don’t have power to confirm, simply taking evidence from someone who

has got a new job, unless it is an opportunity to put views to a new appointee rather than the other way round, is not necessarily a useful process.”

28. There is therefore little point in using an evidence session as an interview after the event of appointment. The Treasury Select Committee regularly takes evidence in ‘confirmation hearings’ in order “to establish whether those nominated to the Monetary Policy Committee of the Bank of England fulfilled the criteria which we specified, namely demonstrable professional competence and personal independence of the Government”. In one case they have reported against an appointment, questioning whether the appointee (Mr Allsopp) possessed “the skills required to take part in meetings of the Monetary Policy Committee”. They then called on the Chancellor of the Exchequer to rethink Mr Allsopp’s appointment with no effect.¹² A separate argument to be had, although not within the scope of this research, is whether select committees should have any role in the selection procedure for major appointments by their department.

29. However, this is not to say that a single evidence session with a major appointee at the beginning of their tenure is not a valuable activity for a committee. It can be an opportunity for a committee to put down a marker to the appointee, to discover the appointee’s views on their priorities which may help the committee itself plan its agenda. The threat of such hearings may also have an impact on what appointments are made. It gives the committee something to refer to when taking evidence from the appointee again and can enable the committee to build up a relationship of trust with the individual which may be useful for both parties for years to come.

“In a way it is like having in ministers straight after the election. It is putting the base marker down. A couple of years on you can go back to what they said.”

30. In its report on the appointment of the new Chief Inspector of Schools the Education Select Committee used its report as an opportunity to question the appointment process itself,

¹¹ Select Committee on Modernisation of the House of Commons, *First Report 2001–2002: Select Committees*, HC 224, February 2002, para 34.

¹² Treasury Select Committee, *The Monetary Policy Committee of the Bank of England: Confirmation Hearings, Seventh Report of 1999/2000*, HC 520, para. 5.

alongside the new appointee's priorities for OFSTED.¹³ The report describes the process that led to the appointment of Mr Bell and sets out his qualifications and career. It goes on to discuss the issues covered in his oral evidence before recommending that the appointment of Her Majesty's Chief Inspector of Schools should be subject to Parliamentary approval.

31. The Constitutional Affairs Committee received a "valedictory" memorandum from the outgoing Chief Executive of the Legal Services Commission which provided "much useful material both for the session with his successor and for future scrutiny of the work of the Legal Services Commission".¹⁴ One interviewee stated "when someone is leaving an appointment, that is when they would love to give evidence and then tell you precisely what they think." **It would be useful for committees to take evidence from major appointments towards the end of their appointment when they have more of an insight, and less to lose, by giving full and frank evidence.**

Annual reports

32. Although committees had always shown some interest in departmental annual reports, that interest has increased since the publication of the core tasks, and their capacity to give the reports proper attention has increased with the creation of the central resource unit of the Scrutiny Unit in November 2002. As the Scrutiny Unit carries out these tasks for several of the committees, it allows comparisons to be made about the quality and content of reporting across departments as well as year on year within the same department. The ability to carry out this work has greatly added value to the process. The work of the Scrutiny Unit is outlined more fully below but it is worth noting the effect that the core tasks have had:

"Quite a lot of my colleagues have commented that chairmen previously were not interested in annual reports and supplementary estimates and are now

saying 'well shouldn't we be doing a bit of this?'"

Examining the expenditure of the department

33. Objective B, "to examine the expenditure of the department", tackles what has traditionally been seen as a weakness of select committees. The Hansard Commission found that committees gave a "low priority" to finance by select committees.¹⁵ Since the Commission reported, the Scrutiny Unit has been established to provide expertise and support to select committees especially concerning financial issues.¹⁶ The introduction of the Scrutiny Unit and the requirement to report against this objective in committees' annual reports means that financial scrutiny is becoming part of the regular routine business of the committees.

34. The annual reports of the departments can provide a 'way in' to looking at expenditure. Some select committees have a regular annual hearing with the Minister and senior officials where the annual report is looked at alongside expenditure issues it raises.

"The routine the committee has got into with the departmental annual report is every summer it will have the senior officials followed a week or two later by the Secretary of State to talk about general issues regarding the finance of the department."

35. Recently, select committees' attention has increasingly become focused on the supplementary estimates: the changes during the year to the expenditure plans of the government. These provide more interest for committees than the main estimates as they draw attention to things which are changing in the department and allow before rather than after the event scrutiny. The Scrutiny Unit examines the supplementary estimates for the committees and identifies areas of interest, suggesting written questions to be sent to the department.

¹³ House of Commons Education and Skills Committee, *Appointment of New HMCI*, Fourth Report of Session 2001–2002, HC 830.

¹⁴ HC (2003–04) 446.

¹⁵ Hansard Society Commission on Parliamentary Scrutiny, *The Challenge for Parliament: Making government more accountable*, Hansard Society, 2001, para. 5.8.

¹⁶ See section from para. 101 on the Scrutiny Unit below.

“The Scrutiny Unit has raised that act [of probing into estimates and expenditure], and has put departments on the spot because they get regular questions—they usually turn out to be mistakes or the numbers are wrong. It has exposed some financial weaknesses which is a good thing.”

“Some of the supplementary estimates that have come in we have sent questions on—‘why have you suddenly added £150m in for this’—we’d better write to the ministers and ask them to explain.”

36. Select committees are also becoming more attuned to looking at the financial issues when considering policy.

“When we look at the policy we look at the money side of things. For instance, where are you going to get the money to pay educational maintenance allowances. We look at the money as a means to an end rather than scrutinising the estimates like an accountant would.”

For instance, the Health Select Committee asked the Scrutiny Unit to assist them in looking at the use of private health care by the public sector. The Unit worked out that the cost per item purchased from the private sector was likely to be on average around 40% higher than the same treatment from the NHS.

37. The Health Select Committee has its own method of monitoring the expenditure of the Department of Health. Every year since 1991 the committee has sent a Public Expenditure Questionnaire (PEQ) to the department. The questionnaire is roughly the same year on year in order to get comparable figures. It is prepared, and interpreted for the committee, by a panel of health finance experts. The responses from the questionnaire are analysed and the Minister is questioned on issues arising.

38. One of the traditional limitations on financial scrutiny has been the difficulty in fully engaging members’ interest. The level of specialism required to interpret figures has always meant that such work has been predominantly staff led. It is work which more naturally lends itself to scrutiny by correspondence rather than by evidence session. Members’ interests are more focused on policy issues rather than figures, and

they find examination of finances both less interesting and less rewarding than inquiring into a major new policy initiative or area of concern.

39. Even with the added complement of the Scrutiny Unit, select committee resources are tiny compared to those of the government. Rather than attempting or aiming to establish a “mirror bureaucracy”, the Scrutiny Unit and the select committees try to target their resources at areas where they will have the most effect. Again, the supplementary estimates and the annual report, as well as ongoing policy issues, provide the best target. **Concentrating on supplementary estimates, linking expenditure to policy, and added staff support has meant that members’ interests are more fully engaged and committees are becoming more effective and focused in this area.**

40. It is not surprising that committees spend most of their time doing policy-based inquiries, as well as timely investigations into events and appointments, rather than scrutinising estimates and expenditure. It is much harder for this latter sort of work to be member rather than staff led because of the level of specialism and detail involved. Further to this, with the limited capacity of a departmental select committee’s secretariat, even when supplemented by the Scrutiny Unit, total scrutiny of expenditure, estimates and supplementary estimates is not going to be achieved. It is also harder to engage the interest of the members and the public in detailed budget scrutiny. The area where this type of work has captured the imagination of members is where it interacts with policy decisions rather than accountancy errors. Select committees must focus on a few areas where budgetary scrutiny produces information regarding policy rather than attempt to do the impossible.



The Inquiry Process

41. For the work committees do on policy, performance and administration they use an inquiry process. Although all inquiries differ, the basic structure remains the same. Roughly speaking, an issue is identified, a specialist adviser is appointed, written evidence is solicited, oral evidence is taken, and then the committee publishes a report. However, a number of choices are made at various points within this process which can impact on the effectiveness of the output (the report) and the outcome (the change in perceptions or policy a report might produce). This chapter provides a

typology of inquiries, identifies the key choices made during an inquiry and suggests ways in which these choices should be faced. The following chapter then identifies the resources which select committees have access to and ways in which they can be used.

Classification of case studies

42. Although the common objectives outlined above can be one way of classifying committee reports, this study uses its own typology developed in *Scrutiny Under Devolution*.¹⁷ This

Box 2: Typology of scrutiny reports

Strategic Policy Review: These are large-scale forward-looking reviews into widely-drawn policy areas. Despite being forward looking in their focus, these reviews often look in depth at recent approaches to the policy field.

Forward Policy Proposals: These focus on particular issues or policies. These may be inspired by government actions or proposals.

Event Inquiries: These are backward-looking reviews of one-off events.

Non Departmental Public Bodies: These are inquiries looking at the work of arms-length agencies.

Appointments: These are one-off evidence sessions, which may lead to a report, with a recent appointment made by the department which is of public interest.

Table 1: List of case studies

Inquiry	Committee	Type
Judicial Appointments and a Supreme Court	Constitutional Affairs	Forward Policy Proposal
Inquiry into A-level Standards	Education and Skills	Event
The appointment of a new HMC1	Education and Skills	Appointment
The work of OFSTED	Education and Skills	NDPB
Foundation Trusts	Health	Forward Policy Proposal
Victoria Climbié Inquiry	Health	Event
Planning for sustainable housing and communities	ODPM	Strategic Policy Review
Reducing Regional Disparities in Prosperity	ODPM	Strategic Policy Review

¹⁷ See Sandford, M., and Maer, L., *Scrutiny Under Devolution: Committees in Scotland, Wales and Northern Ireland*, The Constitution Unit, London, November 2003, p.12.

typology was not intended as a group of hard and fast categories, but as a means to identifying the range of work that committees can carry out. As opposed to the categories above, it is based on the subject of the inquiry rather than the tasks which committees may perform as part of an inquiry.

43. Table 1 shows our case study inquiries and the type that we have applied to them. Box 2 gives a brief explanation of each typology. The majority of this report refers to work done under our headings of 'forward policy proposals' and 'strategic policy reviews' as broadly speaking this is where Committees themselves focus most of their energy. Our case studies were chosen in close consultation with members of our steering committee and reflect a range of activities of committees.

Choosing issues

"One of my concerns is that the way we select topics is really very much ad hoc and rather hit and miss."

44. Even within the broad themes of strategic policy reviews and forward policy proposals, there is a lot of scope for committees to choose issues to focus on. Major departments produce hundreds of policy papers and proposals every session. A committee is simply not capable at looking at every idea that comes out of government, every facet of a department's work, and every area where improvements can be made.

"I would like to be able to say to you that any major policy like [Foundation Trusts] is bound to be looked at by a departmental select committee. The problem with that is that most of the main reforms we haven't actually looked into like the complete re-organisation of the NHS."

45. Each committee needs to set priorities for itself over a period of time: planning first major issues to cover, second specific inquiries to include as part of the examination of the issue, and third the scope of each individual inquiry. For instance, the

Education Committee has recently focused on secondary school education and has planned a number of large inquiries on that theme which have been interspersed with shorter one-off sessions and short inquiries. This approach appears to be popular with other committees also.

"The committee aims to have a plan for a session broadly of a major inquiry that it will undertake that can be built on over the year."

"We tend to pick two major subjects a year. With the remaining time we will question ministers and do mini-reports on things that are of concern to us and our constituents."

46. Committees should also leave time in their schedule to deal with routine business and issues which arise that the committee is likely to want to consider.¹⁸ Two examples of arising issues were the inquiry into the government's proposals for the new Supreme Court and Judicial Appointments Commission and the Health Select Committee's inquiry into Foundation Trusts. The decision by the ODPM Select Committee to do an inquiry into sustainable communities was made when it became known that John Prescott, Deputy Prime Minister, was about to announce a huge spending programme on the four 'growth areas' in the South East.

"We chose it because it was a topical issue and a flagship policy of the government and there was controversy surrounding it and concerns about some to the proposals."

"The committee cleared the decks and put aside its inquiry into immigration matters. It got stuck into this inquiry. It is very unusual to have something so big that you say fine, whatever we have done so far we put on hold."

However, if committees only respond to the government in choosing issues to inquire into, they miss out on carrying out pro-active forward looking inquiries such as the inquiry into Obesity carried out by the Health Select Committee. Not

¹⁸ In 1997 the Defence Select Committee agreed and published its aims and objectives, including how many agencies should be considered per year and which visits should take place and how regularly. See Defence Select Committee, *First Special Report 1998–99: Annual Report for session 1997–98*, HC273, March 1999.

only should committees respond to the government, but they should pressurise the government into action in areas they are neglecting by setting the agenda:

“We have a range of responsibilities and we cannot let the government write all of our agenda. Indeed, that would distract us from issues they may not be interested in.”

47. The impetus to carry out these less routine inquiries comes from the members, and usually the chair is most influential in this regard. As one interviewee explained “All chairmen have bees in their bonnet, and that is reflected in the range of enquiries we’ve embarked on.” A chair that we interviewed claimed to know himself what the focus of the select committee’s work would be over the next session of parliament, even if the rest of the committee didn’t know yet.

Timetabling

48. Once a plan for the upcoming months has been made, each inquiry then has to be scoped in greater detail and a timetable for the inquiry produced. It became clear through the research that to let an inquiry expand beyond its original scope and time frame was considered a cardinal sin by committee staff and they were adept at devising ways to avoid this. This contrasts with the first years of the devolved assemblies where ‘inquiry creep’ was relatively common.¹⁹

49. One such way is to set deadlines which are linked to external factors. For an inquiry such as the Constitutional Affairs Committee’s investigation into the government’s proposals for the Supreme Court and Judicial Appointments Commission, the external deadline was set by the government—the committee needed to produce a report in time for the second reading of the legislation in order for it to have any effect:

“We had a timetable which was really to limit the evidence session to about five or six weeks...we were intending to report by the early part of the year because we wanted to get the report out before the bill was introduced so that sets a limit on who you can have.”

50. If a deadline is not set by external factors, committees can create an external factor by inviting a minister to give evidence on a particular date. Inquiries almost always end with an evidence session with the Minister and once a time with a minister is set it is difficult to change, hence the inquiry needs to be drawing to a close within a specified time frame. The rationale for this structure was explained as follows:

“The idea is that you take your civil servants up front because they can deal with the detail of the policy. Then you put hard policy questions to the Secretary of State [at the end]. By then everyone has told you their beliefs and had their moan and told you everything. You are almost at the stage when you are writing your report and in a sense you are almost trying out some of the issues and recommendations on the minister to see what he says or how he reacts. Or you might give them one last chance to defend the policy you are about to attack.”

“The classic way of ensuring an end-date is to book a minister. Once you have got a minister you don’t want to say actually after we have had a minister we will think of a couple more boring associations. The inquiry is over.”

51. With longer inquiries, working out at the very beginning the preferred end date can be very difficult: “The aim is to work out how many evidence sessions it will take.... It is not really quite possible with a major inquiry to work out how long it is going to take.” One way of making sure longer inquiries do not drag is to divide the inquiry into two phases, the second phase planned as a result of what was discovered during the first phase.

“quite a lot of committees do a phase one of an inquiry and then think, what have we found out that we need to find out, and then do phase two.”

52. A common way of setting about the design of an inquiry is to begin with a private seminar where experts within the field are invited to make presentations to the committee setting out key

¹⁹ See Sandford M. and Maer L., *Scrutiny Under Devolution: Committees in Scotland, Wales and Northern Ireland*, Constitution Unit, November 2003, pp 15–17.

issues within the subject and discuss the possible way forward for the select committee.

“They have introductory seminars, they have academics in, they go on a visit first, they don’t draw up their terms of reference until they have talked to various odd-bods or experts, they invite comments from the public before they do so.”

53. All these attempts to set clear boundaries around an inquiry do not necessarily lead to a set of objectives for each inquiry. Committees do not tend to set themselves targets other than just getting the right evidence in to lead to a report published within a set timetable. For instance, objectives could be set, as they were in the Constitutional Affairs Select Committee inquiry into the Supreme Court and the Judicial Appointments Commission, to influence the second reading debates when legislation was introduced, with a secondary target of encouraging the government to publish the legislation in draft. **Without setting objectives at the start of an inquiry, it is very difficult to point to achievements at the end. As one respondent indicated: “you can only evaluate the output or outcome if you know what you want to achieve in the first place”.**

Written Evidence

54. Committees usually begin the substantive part of their inquiry by issuing a call for written evidence. The most common method is by sending a press release round to the usual suspects and the trade press.

“What we do is we have a press list of around 500 people. All calls for evidence are in the form of a press release that automatically goes to all those people so that is good and wide. The second thing we do, more often than not, is to target particular organisations that we really do feel we ought to hear from and it is generally the usual suspects.”

55. The aim is not to receive large numbers of documents, but to gather well argued evidence which can then be circulated or advertised to members. In Northern Ireland and Wales especially, calls for written evidence are circulated much more widely than this. The ‘Schools of the Future’ inquiry carried out by the National Assembly for Wales solicited evidence

from every school in Wales. In Northern Ireland advertisements are regularly placed in newspapers calling for evidence. As discussed below, the difference is in part due to the difference in attitude to the role of Parliament in consulting “ordinary people”. As one respondent stated:

“We get tonnes of evidence. If it started increasing I’m not sure we could deal with it.”

56. Although it is true that there is a limit to the amount of written evidence a committee secretariat can be expected to process, there is a danger of committees being unable to break out of consulting the ‘usual suspects’ only. Recent increases in staff for committees should enable more energy to be invested in soliciting evidence from key groups and individuals who might not be consulted regularly and issuing better targeted calls for evidence. If public opinion is sought, committees should consider conducting polling or focus groups as is done more regularly in the Scottish Parliament rather than attempting to reach them through traditional means. **Committees could be clearer about what they are trying to get from any given call for evidence, and perhaps send questions focusing on different areas to different sorts of witnesses.**

57. However, there is a further problem with receiving large amounts of written evidence: members are unlikely to have time to read and evaluate hundreds of responses. Clerks already sometimes use their own judgement in choosing which written memoranda to send to the members, and whether to issue a précis of some of the evidence provided. Some clerks simply advertise a list of evidence to the members who can then choose which pieces they would like to receive. It is standard practice to circulate all memoranda provided by those later called to give oral evidence. **Clerks should always provide a summary of the evidence highlighting the most important and interesting points, and a list of all the memoranda received.**

Oral Evidence

58. Oral evidence is usually taken from a subset of those who provided written evidence. The usual practice is to take evidence from officials first, followed by representative groups and various experts, with evidence from the

responsible minister or Secretary of State last. The choice of the witnesses who appear in the middle section of the inquiry is shaped by the members, clerks, and specialist advisers.

Briefing members

59. One of the main duties of the committee secretariat is to produce briefing materials for members for oral evidence sessions. All briefings contain some level of background information along with suggested questions for members. Some contain biographical information on the witness. Some contain much more heavy background material than others. For instance one brief the researchers were shown included annexes comparing information overseas as well as almost three A4 pages of background for each set of questions.

60. When asked what kind of briefing produces the best prepared members and best evidence sessions answers were mixed:

“We aim for around 15–20 questions with supplementaries that are suggested. We write a brief so that members can come in cold, read the background, and get to see why they are asking the questions. It makes sure that the inquiry runs in an orderly way.”

“You can give them an A4 sheet with 20 questions on it and you can have a really good evidence session and you can give them a 13 page briefing and have a bad evidence session....”

61. Before every public evidence session, the committee meets in private and the questions prepared by the clerks are divided amongst the members. As the quality of the evidence session depends to a large degree on how well prepared the members are, clerks and specialist advisers sometimes give short oral presentations at these private sessions. This is a way of ensuring that all members are fully briefed and recognise the key points which the evidence session is aiming to elucidate, rather than simply circulating a briefing and hoping members have a scheduled time to consider it, and the witnesses’ written memoranda, carefully. However, the effectiveness of such sessions can be limited by the failure of members to attend and arrive on time to the private sessions.

Asking questions

62. The way in which you ask a question can affect the kind of answer you expect to receive. In a system where so much emphasis is put on the written record of an evidence session, members must attempt to get relevant and thorough evidence from their witnesses. Westminster select committees are often vilified for being combative in nature, and often intimidating for witnesses. Our respondents, however, stressed the importance of creating a non-combative atmosphere.

“It should be just natural. Obviously we want people to feel comfortable. They may well be nervous per se. If they are on edge then it is confrontational and they are not going to respond as fluently and as well as possible.”

“I’m not one who believes that frightened witnesses are very helpful to the committee. I think if you can get people thinking about what they are saying and responding to questions rather than reading some sort of pre-prepared brief which some do then you get a better session.”

63. When questioning ministers, members likewise claimed to not be on the attack:

“I like to get ministers, if possible, expressing ideas, giving some thought not just to what is going on now and defending what we have got but where might we go and why aren’t we going in another direction.”

Or, as another put it:

“Whatever you ask doesn’t really make a difference because [the Minister] can talk the hind legs off a donkey on any subject and wander off vaguely on the subject.”

64. However, there is an obvious element of theatre about a select committee hearing and members can sometimes use evidence sessions as such, rather than on focusing on getting the most from their witnesses:

“how far is it theatre, and how far is it inquisitorial? You’ve got to have it a bit theatrical, or people lose interest in it, but if it gets too theatrical it’s a bit unfair on the witnesses.”

65. We have said in our past two reports that short questions are often most effective in eliciting a valuable answer as the witness has less room to be evasive and less opportunity to miss the point of the question. In the House of Commons, members were not so quick to give a preferred ‘type’ of question. There was less use of oral evidence sessions to get factual information out of witnesses. Evidence sessions are more about testing arguments and credibility. There is much more of a culture of sending written questions to departments by committees or asking Parliamentary questions by members to clear factual errors or misunderstandings.

“My initial instinct is that factual questions aren’t suited to oral evidence sessions too much because you should have sorted those things out before. You can always write a letter and ask.”

66. The emphasis on the written record can lead members to speak for longer during their questioning in an attempt to get points onto the transcript. One member stated that:

“Sometimes the person asking the question wants to get something on the record. I’m as guilty of that as anyone.”

67. Reading long statements into the record is not the best use of an evidence session and chairs generally ensure that this activity is kept to a minimum level. However, it must always be remembered that the members of committees are also members of parliament and therefore are politicians. Although party politics usually takes second place at committee table, politicians are bound to try to use the committee as a vehicle for gaining profile for themselves and pursuing their own political interests.

Information gathering

“I think all evidence is largely a symbolic activity and there is far too much of it. It is very difficult to get committees to think what other ways there are of doing things.”

68. The work of select committees is based around taking evidence both in writing and as oral

evidence. Oral evidence is transcribed and published alongside the written evidence and the report. The image of 11 MPs sitting around a horse-shoe shaped table with one or two witnesses sitting before them is only part of the work that select committees do in gathering information. However, it is the most public part, often televised and always web broadcast (though occasionally in audio only), with transcripts available within a week of the witness appearing before them. Committees also do other forms of information gathering which are more or less unseen by those outside. For instance we have already mentioned seminars often held at the beginning of an inquiry in order to help define the boundaries of the investigation and focus the committee on key themes. Another form of gathering information is by undertaking both domestic and international visits.

69. Select committees may apply to the Liaison Committee to seek funding for overseas visits. In the 2002–2003 session 14 of the 18 departmental select committees went on overseas visits at a total cost of £892,000.²⁰

70. Domestic visits were carried out by all of our case study committees during that last session. For instance, the ODPM Select Committee took oral evidence during their visits to Taunton and Newcastle as part of their inquiries into reducing regional disparity. In its annual report on 2002–2003 the Liaison Committee lists examples of evidence taken from “an increasingly diverse range of witnesses”, and domestic informal visits where no evidence is taken.²¹ Informal visits provide a way of members connecting with members of the public, those involved in front-line service delivery, and users of the services they provide.

“What we find most helpful is to undertake domestic visits. We find that by going to a school or a hospital or meeting young people you get more feel for popular feeling than by some attempts to tap it formally.”

71. However, the process of informal evidence taking can be difficult. Although the informality of the process is in itself rewarding through the access it gives committees to front line staff and

²⁰ Source: House of Commons Sessional Returns 2002–2003.

²¹ House of Commons Liaison Committee, *First report of session 2003–2004: Annual Report for 2003*, HC 446, para. 65.

service users, it also provides difficulties especially due to the lack of a written transcript. Firstly, no record of the visit appears on the committee's website although it might be referred to within the final report. Very rarely a note of the visit is included as an appendix to the report; this is routinely the case in the London Assembly. Secondly the lack of a transcript means that it is difficult to make solid use of the information gathered. The memories and notes of those on the visit are relied upon to capture views and facts.

“More of it goes on than appears in public. That is what visits, especially domestic visits, are really about. There are disadvantages. You get eleven members on a visit and they will come back with eleven different accounts of what they heard so how much it can actually feed into an inquiry is problematic.”

72. However, others were of the opinion that the availability of a written transcript had become more of a security blanket for select committees:

“The output from a formal evidence session is a transcript. The advantage of that is that you have a very thorough record of everything that is said. There is a tendency for committees to cling to that.”

73. Information on domestic and international visits by select committees could be included on the committees' websites. Written briefings on committee visits could be included more often as an appendices to reports. This would allow an accurate and agreed record to be made of the event and the process would be more transparent thereby allowing acknowledgement and rewarding select committees for this work.

74. However, the amount of time a committee could give to this task is affected by their priorities. Unlike at the devolved level and in local government, select committees do not see it as one of their key tasks to gauge public opinion and find out what 'people think'. For instance in the

Northern Ireland Assembly, an inquiry into tourism included two large conferences where individuals involved in the Tourism industry were invited to participate. Their views were then channelled into the formulation of the report.²² Overview and scrutiny panels in local government see great value in going out and speaking to service users.²³ The committees of the Scottish Parliament have a 'Participation and events' budget to enable them to carry out this sort of work. Select committees see consultation as being something that governments and political parties facilitate when making policy, and their role more of a consulted body rather than a consulting body. Although MPs represent the views, concerns and interests of their constituents, the select committee is not the main forum for this part of their work.

“If you are looking into the railways you don't really want 10,000 people telling you how awful they are.”

75. However, select committees do have a role to play in the wider agenda of Parliament 'reconnecting' with the public.²⁴

“Select committees are not primarily there to find out what the public thinks about things...but of course because of the concern with public engagement more generally with Parliament, committees get asked to do more to make sure that it is more accessible to the public.”

76. For those committees who are interested in engaging with the public for various inquiries, one method of doing so is through online consultations run through the Hansard Society. However, these can be expensive (a recent online consultation carried out by the Modernisation Committee cost just over £9,000) and not necessarily effective in every situation.

77. Select committees do not have individual budgets to commission research from a leading expert on an issue. The Liaison Committee controls a budget of £50,000 a year for research which is available to all 18 select committees. It

²² See Sandford M., and Maer L, *Scrutiny under devolution: Committees in Scotland, Wales and Northern Ireland*, November 2003.

²³ See Sandford M., and Maer, L., *Old Habits Die Hard? Overview and Scrutiny in Local Government*, February 2004.

²⁴ The Select Committee on Modernisation of the House of Commons has held an inquiry into 'Connecting Parliament with the Public' during the 2003–2004 session.

is little known and not always fully used. In the 2002–2003 session of Parliament, the total cost of ‘work commissioned, specialist publications and interpretation’ was £20,300. Compared to the £890,000 spent on overseas visits and the 2003–2004 (financial) year’s budget of £240,000 for research commissioned by the committees of the Scottish Parliament this figure is relatively small. Although their own staff capacity is growing, and select committees are increasingly able to commission research from the Scrutiny Unit on issues on which they have expertise, there is very little engagement with outside researchers. Although academics are often appointed as specialist advisers to select committees (see from para. 93 below) they are not appointed on the basis of carrying out research for select committees but to hold the committee’s hand and guide them through an inquiry. Commissioned research from outside experts, whose outputs could be published as an appendix to reports, would greatly enhance the work of select committees. **Committees need an adequate budget for commissioning research and guidelines and procedures on how to use it.**²⁵

78. There are limitations on select committees’ ability to innovate, both financially and structurally. As one respondent stated:

“Over the years there is a limit to what you can do with a basic structure of 11 Members wanting to look into a thing—how differently can it be done?”

²⁵ In the Scottish Parliament there are currently four bidding rounds for the research budget each year. The budget is held by the Participation Services Division, but the decisions are made on spending by the Convenors group. For research at a cost of over £5,000 invitations to tender must be sent out. Because commissioning research can be a lengthy process, it requires forward and strategic thinking by the committees.

Expertise and Support

Committee staff

79. Each committee is allocated between three and seven staff, of which one or two are clerks to the committee. Clerks are generalist civil servants working for Parliament who will work for a number of committees and hold various other positions within Parliament during their career. Their skills are complemented by committee specialists who are appointed on a fixed term basis to each committee in order to bring knowledge particular to the departmental subject area to the committee team. During 2003 the House undertook a review of select committee resources. The report recommended that each departmental committee should receive 1.5 extra members of staff. Additional Committee Specialists have already been appointed, as have Inquiry Managers. Further to this, one press officer has been appointed to work with a group of select committees and further appointments are expected.

80. The Liaison Committee has committed itself to a “system of regular review updates, to ensure that select committees are never again expected to carry out evolving duties with out-of-date resources”.²⁶

Specialist Advisers

81. As outlined in the Standing Orders, specialist advisers can be appointed by select committees to assist with their inquiries “either to supply information which is not readily available or elucidate matters of complexity”. For almost every inquiry at least one specialist adviser is appointed. Quite often committees appoint more than one specialist adviser to avoid allegations of bias in their reporting or to cover all aspects of an inquiry. For instance the Constitutional Affairs inquiry into the Supreme Court and Judicial Appointments Commission used two special advisers, one leading on each facet of the inquiry.

82. Unlike in the devolved assemblies there is no formal method by which specialist advisers are appointed. There is no open advertising for the posts, and often no formal interview procedure. When members and clerks were asked about how specialist advisers were

appointed, it emerged that they themselves recognised that there was a lack of open procedures.

“The way in which you get specialist advisers is a bit haphazard in a way.... To some extent inertia plays a role. If there is someone you have worked with who you know is good you tend to favour reappointing them.”

“To an extent it is a random process.”

83. In general, select committees discuss possible specialist advisers. The members, chair and the clerks suggest names. Clerks may seek the opinion of other specialists in the area and may carry out initial research of the subject in order to identify possible candidates. In the case of the Education Select Committee where interviews are held with potential advisers, members from all three parties are included in the interviews to ensure there is no political bias.

84. There is also no real job description for specialist advisers. What they contribute seems very much to depend on the time they have available and their own understanding of the role. Generally, specialist advisers guide the committee through complex issues, often acting as a backstop for them:

“One of the things is that they are a safety net. They ensure that we are not barking up the wrong tree. They act as guides through a subject. At the start of an inquiry they can identify the main themes....”

“You could broadly describe it as stopping the committee from looking stupid.”

The tasks that specialist advisers carry out includes suggesting witnesses to provide oral evidence, drafting questions for evidence session, advising on overseas experience and commenting on, and drafting sections of, the final report.

85. However, very occasionally specialist advisers do not add much to an inquiry, and

²⁶ Standing Order No. 152(4)(b).

instead take up time rather than add to the capacity of a committee secretariat.

“[Specialist advisers] are a mixed blessing. I have learnt that some of them are very good and some of them are actively bad....”

“People are disappointing, misunderstand their role, are simply a nuisance, but others are splendid and can ensure the quality of a report or a brief.”

86. The ad hoc approach of the House of Commons to appointing specialist advisers is obviously open to criticism. Although there may be an argument that it would be difficult to run a formal appointment process in the timescale open to committees, the more committees plan their work ahead, the less of a problem this will become. They also do already know the skills and experience they would be looking for in an adviser. As one interviewee stated, “You are not necessarily looking for people who have strong views. Strong views make good witnesses. What you are looking for is someone who shows good knowledge and analysis of the subject.”

87. Another option would be to keep a list of approved advisers on a central database within the Department of the Clerk of the House. **People interested in becoming special advisers could register their interest and submit their CVs. Committees could then search the list for relevant experts and draw up a short list.** This is a process similar to that in the Scottish Parliament whereby there is a place on the website where potential specialist advisers can register their interest. One respondent commented that “we are not good at sharing our special advisers between committees because very often they have transferable skills”. A central register of potential appointees would help correct this.

88. A more formal approach to appointments should be complemented with job descriptions for specialist advisers outlining their key tasks and duties through the inquiry process. This would demarcate boundaries of responsibility for the adviser, perhaps preventing difficulties that many respondents reported of specialist advisers not being aware of what was wanted and needed from them.

Scrutiny Unit

89. The Scrutiny Unit was established in November 2002 following the House of Commons’ acceptance of proposals of the Modernisation Committee and the Liaison Committee. The Unit provides specialist support for committees on expenditure matters and draft bills, together with support for committees experiencing staff shortages or with a sudden unexpected increase in the amount of work. They also provide the clerking team for draft bills which do not go to an existing select committee. There are 18 members of staff at the Scrutiny Unit including accountants on secondment from the National Audit Office, lawyers, a statistician, an economist and an estimates specialist.

90. As noted in the sections above on routine scrutiny, the Scrutiny Unit has significantly expanded the capacity and the ability of select committees to carry out work on the more routine aspects of scrutiny, and also has provided a resource for research during policy based inquiries which require financial background information. For instance, the Health Select Committee asked the Scrutiny Unit to provide assistance with its inquiry into Foundation Trusts by producing a flow diagram showing how the funding flows to foundation hospitals differed from funding flows to other hospitals. The Education Committee used them to do some comparative work on OFSTED compared to other inspectorate organisations.

“It has certainly helped us to do a broader range of things that we would not have ordinarily done. They have been very useful.”

“Without any question [the Scrutiny Unit] has extended the Committee’s ability to do its job.”

91. There has been a wide variation in the use of the Scrutiny Unit by committees. One reason for this is that those committees which have had to deal with draft legislation have had more use of the Unit. Also, those which have been understaffed have had more substantial use of their time. Even allowing for these disparities, however, there are some committees which have barely used the Unit. When questioned on this, respondents indicated that there were some committees whose chair or clerk had not been supportive of the creation of the Scrutiny Unit and

who now resisted using it. This was thought gradually to be breaking down. Those committees who have used the Unit are pleased and positive with the work that it has done, so it is a pity that others have been slow to respond.

92. A crucial test for the Scrutiny Unit will be the work that they carry out on the upcoming Spending Review in 2004. It will be the first Spending Review since the Unit was created and will provide an opportunity to link their expertise on financial matters with the policy implications which arise from them.

“...if we can get a quick interpretation of what the Spending Review means for departments and programmes and can criticise, give an accurate analysis, that would be a key task.”

As select committees are required to consider public service agreements as part of their work on scrutiny, the existence of the Unit will hopefully give an added capacity to do this effectively following the Spending Review itself.

93. The Scrutiny Unit has undoubtedly increased the capacity and ability of select committees to carry out scrutiny in areas which have a financial or other specialist aspect to them. They have not only taken pressure off committee staff on more routine inquiries but also provided specialist skills for specific inquiries. By committees learning the value of commissioning research internally, they will perhaps begin to see the possibilities which commissioning external research would have.

Members

94. Members of Parliament themselves have considerable expertise and experience on which to draw. Very often, members of committees have backgrounds related to the work of the select committee. The membership of the Health Select Committee includes two social workers (including the Chair of the committee), two doctors, and a former health minister; and the membership of the Constitutional Affairs Committee includes a number of members with a legal background. Further to their relevant experience before entering Parliament, MPs also bring experience from their constituencies to their work as committee members. Although members should not explicitly use select

committees to seek remedies for constituency issues, the knowledge gained through carrying out casework is of use to the members.

95. Having members with a background in the subject area means that they have a real interest in the subject matter and that they are more alert to some of the issues: “It is harder to pull the wool over their eyes.”



Outputs

96. The main output of almost every inquiry is a report which includes conclusions and recommendations for government action. Reports are drawn up by the clerk in close consultation with members. Clerks begin by bringing to the committee a 'Heads of Report' which outlines the shape and scope of the report. That is then discussed and agreed by the committee. The clerks then produce a report in close consultation with the committee chair who brings the final report to the table as his or her report. This is then discussed, amended and if necessary voted on by the committee members.

97. Members of the committee get the draft report in advance of these private deliberative meetings. The more conscientious members will have marked in the written transcript points which they wanted included in the report as the inquiry progressed. They will then look to see whether the report reflects their interests, and whether they can agree with its recommendations and conclusions. As one member said:

"We go through it and we will look to things we may not like or are weak or too strong. We go through it line by line and page by page."

98. If members are less conscientious in keeping track of an inquiry as it progresses, it is much more difficult to then take an active and detailed part in discussions on drafts as often a fair amount of time can pass between the end of oral evidence sessions and the production of a report. As one member commented:

"By the time a detailed draft comes back to members it can be three or four months later..."

99. The most difficult part of a report to write are the recommendations and conclusions because clerks have to reflect the views of the committee which might well be diverse, as well as allowing the conclusions to follow clearly from the evidence received. This can be difficult in cases where political beliefs run strong within the committee. As one clerk commented:

"it is very clear to me what [are] the most effective recommendations the committee

can come up with. I have to leave them completely to one side and think what recommendations are they going to want. And separately perhaps what recommendations are they going to be able to agree. The presumption is in favour of a unanimous report so we are trying to get some sort of compromise. Sometimes we can't do that and we have to decide whether to go to the wall."

Politics

100. Select committees have no actual power to effect change. Their only power comes from their ability to influence the agenda and the actors around them. They are able to do that as a result of their cross-party nature, their expertise, and the fact that they report on the basis of expert evidence. If a cross-party consensus is lost, the ability for the committee to effect change is limited. This was echoed time and time again by respondents:

"If you have a straightforward partisan split in a committee then that is a dangerous development because it undermines the authority of the report."

"My experience of doing reports is that the most effective reports that you can do are those where you have the consensus of members."

101. However, it can be inevitable when looking at some areas of policy that there will be a divide in opinion. For instance, the Health Select Committee's report into Foundation Trusts was only finalised after three divisions were held on amendments. For this report, the split was not across parties but within parties. However, the Committee attempted to minimise division by not setting out to question whether Foundation Trusts should go ahead at all. Instead they looked at the feasibility of the government's proposals in practical terms.

Recommendations and Conclusions

102. Select committee reports all contain key conclusions and recommendations outlined in bold and listed in the report. The recommendations and conclusions of the report

are the most crucial part of the report—it is these that committees seek to persuade the government to act on. Getting the drafting of them right is a crucial part of committee work. Too banal and the committee is stating the obvious; too detailed and the committee may not generate interest outside a specialist audience; too aspirational and they might not work or be possible to achieve; too in line with current thinking and the report will not move a subject forward or challenge the government in any way. Hence, there are very different sorts of recommendations open to committees to make. The choice they make depends on what they set out to achieve. If the aim is to put something on the public agenda, aspirational recommendations serve a purpose. If the aim is to achieve change, more detailed and practical recommendations are more likely to produce a positive response.

103. There was a general feeling amongst respondents that committees should move more towards the practical and detailed recommendations and away from aspirational ones. For instance, with a subject like Foundation Trusts, the Health Select Committee was highly unlikely to be able to persuade government that the proposed reform should be shelved. Whether or not the members felt this, it would have been a pointless recommendation to make because it was not going to happen. Instead they looked at what they could achieve, which was to produce changes in the detail of the proposed legislation. The report therefore focused on two key issues: “will the proposed changes bring about improvements for patients who are treated by foundation hospitals? And what implications will the proposed changes have for patients being treated in the rest of the NHS?” The recommendations and conclusions focus on delivering the policy in the best possible way:

“I think the best kind of recommendation is one that says ‘whether or not we agree with the whole policy we accept it but the evidence says that the way you are going to set out [on it] is going to weaken your ability to achieve its purpose and we have an idea that will make it more effective’.”

“What I think the more skilful chairs enable is that you open the crack in departments with an idea and build on that idea. So recommendations have to be feasible within

the overall political philosophy of the government.... They have to be well supported; they have to show a coalition of supporters within civil society. You have to show they are affordable. And you have to show that they can be done gradually.”

“Members think they are good at solving problems and often they are not. They are very good at describing problems in a realistic and honest way which a government is not always very good at doing. They may find a solution.”

104. Making recommendations realistic can be a difficult task for a select committee which has nowhere near as much information as the executive. Being able to cost them and ensure they are possible within the legal framework means perhaps recommending less, but making sure those recommendations which are made are impossible to dismiss for purely practical reasons:

“We need to harden our recommendations. Firstly, only make recommendations that are worth making. Secondly, think about how legally watertight, how cost effective they are so that what you come up with might only be half a dozen recommendations, but they have been really thought about.”

“I personally think it is a very uneven process. I think I have a staff of six or seven pitted against an employer of 2 million people with a budget of £60 billion. I think it is amazing that anything we do is listened to really.”

105. However, some reports do not seek to recommend practical watertight recommendations. Some want to challenge the government, introduce new ideas to the policy agenda or contribute to debate. It is not only government that committees seek to influence. They also seek to influence the behaviour of other politicians in the Parliamentary process and increasingly seek to influence the media. If committees give more thought at the beginning of an inquiry to those they wish to influence, and what value an inquiry might add, they will be more focused in their approach and more likely to succeed. Often committees do tend to do this, but not perhaps in a strategic or fully conscious way. Recommendations and conclusions should reflect the aims and objectives of the inquiry.

106. It is important to point out that often very important recommendations made by select committees are in fact accepted and acted upon by the government. For instance the government accepted the Health Select Committee's recommendation in their sexual health inquiry to remove a flawed chlamydia test in favour of a much more reliable one, thus preventing some women from becoming infertile as a consequence of the disease being undetected. Following the Constitutional Affairs Committee's inquiry into the Children and Family Court Advisory and Support Service, which recommended that there should be a fundamental review of board membership, the minister subsequently invited the resignation of each member of the Board.

107. Government responses to recommendations will normally be drafted by a civil servant who has been involved in briefing the ministers who appeared at the enquiry. The responses are derived by comparing the recommendations against government policy, and are signed off at ministerial level. It is rare for responses to indicate a substantial rethink as a direct result of select committee criticism: rather, policy is tightened and ideas enabled to percolate through departments via committee reports.



Impact and follow-up work

108. There are a number of ways of measuring the impact and effectiveness of select committee work. Looking at the government response, the development of policy over a longer time period, the reactions of other politicians and the media can all be considered as ways of measuring success.

Government responses

109. A way in which the effectiveness of select committees has been measured in the past is by looking to see how positively the government responds to the report. The government is obliged to respond to select committee reports within 60 days of their publication and their responses are published by the committee. However, using a government response as a guide to the success of a report is only one measure of success. Where there are aspirational or challenging issues contained in a report, the government response is unlikely radically to alter existing policy within 60 days of publishing a report. Often, recommendations are rejected in a government response but might later be adopted by the government who then give no credit to the committee. Where they do accept recommendations, there are often various factors at work.

110. For example, the government response to the Health Select Committee contained two commitments to amend the Health and Social Care (Community Health and Standards) Bill:

“The Government acknowledges the concerns raised by both the select committee and the standing committee scrutinising the Health and Social Care (Community Health and Standards) Bill. The Government has therefore tabled amendments for the Report Stage of the Health and Social Care (Community Health and Standards) Bill which will strengthen the legislative requirements of the governance of the NHS Trust.”²⁷

“In recognition of these concerns, the Government intends to support amendments

to the Health and Social Care (Community Health and Standards) Bill.”²⁸

111. This alone may look like a success for the select committee. However, the government response should be considered within the wider political context. As one respondent put it:

“the government was so worried that they wouldn’t have a majority that anything that was going to buy them votes on the floor of the House of Commons they would do.”

112. Another factor which makes government responses a difficult measure of success is the requirement for them to be produced in 60 days. Although this means the select committee does not send a report off into the ether (which is often the case at local authority level) the ability for the government to produce a considered response is limited. This is particularly true where reports make a large number of strategic-level recommendations, as it takes time for civil servants to co-ordinate a cross-departmental response and ensure that it does indeed accurately reflect government policy:

“I think it is almost completely useless. It focuses the committee too much on a list of recommendations. I think the 60 day period is wholly unrealistic for a number of complicated ideas that a committee is putting forward. I think it is very rare indeed that the government response has any intellectual quality.”

“Some of the problem is that if you are going to receive a response in 60 days the government is going to start drafting it within two or three weeks of the report being introduced and that doesn’t give enough time for policy development.... You could argue that if they responded six months or a year later they would have more of a chance to consider things.”

113. Previously, research into the work of select committees has criticised the quality of government responses. The Hansard

²⁷ The Government Response to the Health Committee’s Second Report of Session 2002–2003 into NHS Foundation Trusts, Cm 5876, July 2003, p. 8.

²⁸ Ibid, p. 8.

Commission recommended that “Government replies should conform to a set of minimum standards. These should include an undertaking that a reply should address each of the committee’s specific recommendations and oblige the Government to formally publish their response.”²⁹ Unfortunately, the quality of government responses does not seem to have improved:

“We expect to see as bland an attempt to fob you off as possible.”

“[Responses] are 80% bland, 10% impertinent and 10% unhelpful. But without them you would be throwing the report into the wind.”

“This year, the Committee published five special reports consisting of responses to our reports. Twice we considered the Government response to be unsatisfactory.... The response of the DfES to the Committee’s report on A Level Standards failed to address one of our key criticisms, namely that the new examination system was not piloted before being implemented nationwide. We returned the response and later received a revised reply, giving a commitment that any major examinations introduced in future would be piloted. The Committee thus asserted its right to a detailed and considered response to its recommendations from the Department.”³⁰

114. The Government does often fail to meet the 60 day time limit. The Liaison Committee annual report from 2003 points out that although departments have become more efficient at meeting the deadline than the previous year, there have been some noticeable examples of failure. This includes the Work and Pensions Committee who, nearly a year after publishing their report into the future role of the Social Security Advisory Committee, had not received a government response to their inquiry.

115. One way of improving the system of government responses would be for the government to give an initial response after

60 days, but a more detailed response one year later allowing for serious discussion of recommendations. Not only might this increase the quality of government responses, but government might be forced into linking changes in policy to the work of select committees more closely. Often at present, when the government does change policy a number of months on from the publication of the select committee report, the change of policy is branded as a government initiative even if the original idea had emerged through select committees. It would also encourage the best practice of committees that follow up their work on a more routine basis. It would provide a tool to monitor the work of government in areas of interest over a longer time period.

Relationship with the department

116. The nature of the relationship between the committees and those they monitor is a delicate matter. Good and close relationships between the two can provide more effective passing of information and more of a concern to inform committees of department’s plans. For instance, giving committees advance notice of government announcements and plans prevents select committees from mirroring consultation work of government departments. During the inquiry into the government proposals for the Supreme Court and Judicial Appointments Commission, the DCA let the Constitutional Affairs select committee use the responses to the government’s consultation as written memoranda, and published the responses in full on their website. The process is two-way: committees should inform government departments of pro-active work they are planning to carry out as they may be able to discover the department itself is keen to reform this area. Good exchanges of information can lead to the committee adjusting its timetable to accommodate important upcoming work.

117. However, creating a close relationship can be problematic. It can lead to an unwillingness to criticise and too great an influence by the department on the committee’s agenda. As one

²⁹ The Hansard Society Commission on Parliamentary Scrutiny, *The Challenge for Parliament: Making Government Accountable*, 2001, para. 3.42.

³⁰ Education and Skills Select Committee, *The work of the committee in 2002–2003*, HC348.

clerk explained, “there is this kind of international freemasonry of bureaucrats so we all feel sympathy for the people who are working for ministers. You can get too close.... But I think the fault more often lies in the other direction.” A good relationship with the department can help the committee to prioritise, and to ensure that it chooses the right topics for inquiry at the right stage to have some influence on the development of policy or the outcome. **Creating a trusting relationship with the department can be invaluable to the committee to help with planning its upcoming work.**

118. If the relationship is too distant and adversarial there can be a lack of trust between the two sides, and a lack of a free flow of information which can be of use to a committee. If a department assumes a committee is going to kick it down from the start on an issue, it is likely to be more obstructive than otherwise. As one respondent stated, “When the Secretary of State thinks the chair has it in for him there is nothing much you can do about it.” Getting the relationship right requires considerable skill. The relationship operates at two levels: clerk to civil servant and committee chair to minister.

119. On the clerk to official level, the formal and initial point of contact is between the clerk and the parliamentary liaison officer in the department. However, this individual is not always the most effective person to contact about committee business. The liaison officer is unlikely to have detailed knowledge of the subject at hand. If a clerk wants information on a particular issue or to discuss an inquiry it is more usual that they speak directly to the civil servant who deals with that policy. Good relations between officials is useful to both the department and the select committee, and clerks are becoming more proactive in building these relations:

“There are more of the younger [clerks] who get hold of the relevant official, not the parliamentary clerk.... They have a long cup of tea together.”

120. Occasionally situations will arise where chairs have to approach ministers over difficulties with co-operation. For instance, a chair might have to directly approach a minister

from another department if civil servants from that department are resisting coming before the committee but these instances are rare (see section above on select committee powers).

Influencing parliament and the press

121. Select committees also attempt to influence the behaviour of parliamentarians. Often they will seek to influence and inform debate in the chamber. Indeed, one of the objectives for select committees is to assist the House in debate and decision. The Constitutional Affairs Committee set out on its inquiry into Judicial Appointments and a Supreme Court for the UK with this objective in mind: “The purpose of the inquiry is to examine the Government’s proposals and responses to the two Consultation Papers and to define the main issues in order to inform the second reading debate.”³¹ In the event there were four separate references to the report during the debate. This can be seen as a success. Also, although the government did not produce a Constitutional Reform Bill in draft form as recommended by the committee, the committee’s recommendation may have been a factor in the House of Lords deciding to send the Bill to a special select committee for further scrutiny.

122. A further way of select committee reports affecting what goes on in the chamber of the Commons is by linking reports to other debates. Select committees can make a request of the initiator of the main business that the report is ‘tagged’ to the debate. If the initiator agrees, a note appears under the title of the debate naming the committee report as a relevant document. As time to debate select committee reports is limited (see below) this is a useful device to raise the discussion and dissemination of select committee work.

123. Increasingly, however, select committees have sought to influence the behaviour of Parliament and the government by influencing the media and encouraging and informing a wider debate. Although this cannot be measured in the same way as the number of recommendations which receive a positive

³¹ House of Commons Constitutional Affairs Committee, *First Report of Session 2003–04: Judicial appointments and a Supreme Court (court of final appeal)*, HC48-I, para. 3.

response or number of citations in the chamber, it can be just as influential:

“If it shapes the debate and the agenda that is positive. If it pushes the issue ahead in public perception, if it makes people think and revise their views or come up with ideas to improve a situation that is all a bonus.”

124. Respondents also pointed out that it is not just at the publication stage of a report that select committees can exert influence. Members of the Health Select Committee cited the ongoing inquiry into obesity as an example of where a select committee’s interest in an issue can spark media interest leading to a national debate.

“The very fact that our committee announces that it will do an inquiry can be influential.”

“If you look at our obesity inquiry, I doubt that many of the recommendations would make the slightest bit of difference to what the government says it will do. For instance if we call for a ban on advertising during children’s television the government will say no. But we have taken evidence for a year now and every time I put my television or radio on they are talking about obesity. We have been part of the process of raising awareness of this huge public health disaster that is looming over us.”

125. However, this can fail to happen. The Environment Food and Rural Affairs Committee published the report of its inquiry into Gangmasters in September 2003. Five months later when the Morecambe Bay Cocklers tragedy occurred, suddenly the media spotlight was on this issue and the government announced plans to back a Private Members’ Bill.

126. It was widely recognised that press coverage for select committee work was largely a good thing as by influencing the media Parliament was influencing the government by putting things into the public agenda. As one member stated: “Without press interest what are we? We have no influence other than speaking out in public.” However, there was some concern that if committees focused too much on what would play well with the media they could well become distracted from the more routine or less headline grabbing topics hence limiting the

effectiveness of committees to carry out serious and detailed work.

“There is a tension between a report which is a report to the House, a formal document and the modern world which is about influencing opinion and debate.”

127. There was also a concern that often press coverage was gained by committees who gave stark criticism to the government department and its minister. The creation of an adversarial relationship in the public eye was considered by some to endanger effective scrutiny:

“You’ve got a decision. You can use a select committee just to kick the government the whole time on everything. To my mind that somewhat devalues the process. Yes you get on the Today programme but the government then resents it because all these committees have Labour majorities. The government then digs its heels in. Or you can have a more philosophical approach. You come up with what you think will be an intelligent contribution to the debate devoid of political point scoring. Then if the media think it is a sensible contribution to the debate you get on the media.”

128. The way that parliamentary select committees interact with the media has seen something of a revolution in recent years. The capacity and ability of committees to engage with the media has been increased by the appointment of a full-time Select Committee Media Officer in 2003.

“Previously clerks ran the public relations side of things and I don’t think we did it very well. Most clerks sent out a press notice and that was it.”

129. The increase in the number of media staff in the House of Commons may encourage the committees to plan more effectively the type and volume of media interest required for any particular report. Also, there is an issue about what is interesting about the inquiry: the announcement that an inquiry will take place, revelations or interesting discussion during the oral evidence sessions, or at the publication of the report. Committees are now routinely sending out press releases in advance of every oral evidence session and at every report publication. This may not be either necessary or

advisable as committees risk swamping the press with so much information, so that what is newsworthy becomes lost in the noise.

“If you set out at the start what kind of media attention you want to get you are more likely to get it...”

Producing documents to debate

130. Core task number 10 is “to produce reports which are suitable for debate in the House, including Westminster Hall, or debating committees”. This a different activity from the objective it sits under—“To assist the House in debate and decision”. It is this latter core task which we now address.

131. There are few opportunities to debate Commons select committee reports on the floor of the House of Commons. In the first 10 years of the select committees (1979–1989) only four of around 500 reports were debated. This increased to 29 reports being debated between 1997 and 2000. The introduction of ‘parallel debates’ in Westminster Hall in 1999 has enabled far more reports to be debated, but normally these debates are very poorly attended.

132. There are currently 30 opportunities a year for debates on committee reports (six on the floor of the House during annual estimates days and 24 in Westminster Hall). A committee which wants to follow the publication of a report with a debate must apply to the Liaison Committee which decides which reports should have priority. Many of our interviewees told us that there was ‘no queue’ for debates in Westminster Hall yet almost all saw some value in ensuring debate. It is considered an opportunity to give a report an airing six months down the line, forcing the government to reply, and encouraging the opposition parties to make position statements on the issue. However, there was a feeling that often debates in Westminster Hall on Committee reports were just a chance to air rehearsed points of view. **Debates on select committee reports would perhaps be more useful if, as recommended above, departments were compelled to respond to the committee report more fully after a longer period.**

“It serves some value. I wouldn’t go overboard on it. It is sometimes rehearsing fixed positions. Occasionally it is worth doing just to evaluate after six months.”

“The committees volunteer for these. There isn’t a vast queue because often committees think there is no point in debating it further.”

Follow up

133. In order for select committees to monitor the government’s response and their own effectiveness, committees must follow up the publication of their report. This may be through sustained press coverage, through debates in Westminster Hall, through questioning the minister on issues subsequently and by carrying out a follow-up inquiry. (For instance, the Environment Food and Rural Affairs Committee is carrying out a follow-up inquiry on Gangmasters.) However, there is often not sufficient planning of which methods to use for which inquiry, and no routine tracking of committee recommendations.

“One approach is to tell the department to regularly update you on all its recommendations, which is what the Northern Ireland Affairs Committee used to do which is very irritating for the department...”

134. Following up every single recommendation could be a disproportionate drain on select committee resources. One report can have around 40 recommendations. And each committee can publish around 8 reports per session. To monitor the government’s behaviour against all these recommendations would be disproportionate to the benefit produced. When receiving the government response, the committee should pause, reflect and prioritise the issues which they particularly care about and have a realistic prospect of achieving change. **A system of prioritising issues and recommendations, and then tracking them over the following Parliament would be of great use to committees. In order to do this, committees should decide when considering the government’s response to their report, which of the responses and which of their own recommendations they particularly wish to pursue, and could set those out in a short reply to the government’s response.**

135. If departments were obliged to give a ‘12 months on’ report to select committees as part of the response process, this itself would be an effective method of follow up for committees as

the responses are likely to be more considered. Issues of continuing interest should regularly appear on the agenda when questioning ministers during routine evidence sessions.

Conclusions and Recommendations

- Select committees and the government need to agree clear protocols about the circumstances in which named officials can be expected to appear before committees. The Government should use Freedom of Information principles when responding to requests for information from select committees. They should respond within the statutory deadline and give reasons for exempting information. Further to this, select committees should consider how they might use the legislation to enhance their inquiries.
- The overall effect of the core tasks has been to encourage select committees to carry out the full range of activities currently open to them. They have given a stronger hand to chairs and clerks in encouraging committees to take part in more routine scrutinies rather than just policy based inquiries, hence perhaps achieving more 'methodical scrutiny' as intended. However, committees still spend the majority of their time engaged in policy based inquiries and have considerable scope in setting their own agenda.
- Single evidence sessions with ministers have allowed committees to cover more ground within their department without necessarily soliciting evidence and producing a report. This makes the committee more flexible.
- It would be useful for committees to take evidence from major appointments towards the end of their appointment when they have more of an insight, and less to lose, by giving full and frank evidence.
- Although committees had always shown some interest in departmental annual reports, that interest has increased since the publication of the core tasks, and their capacity to give the reports proper attention has increased with the creation of the Scrutiny Unit.
- Concentrating on supplementary estimates, linking expenditure to policy, and added staff support has meant that members' interest is more fully engaged and committee are becoming more effective and focused at examining the expenditure of the department.
- The Scrutiny Unit has undoubtedly increased the capacity and ability of select committees to carry out scrutiny in areas which have a financial or other specialist aspect to them. They have not only taken pressure off committee staff on more routine inquiries but also provided specialist skills for specific inquiries.
- Sub-committees are not an answer to increasing the capacity of select committees because they stretch the fixed level of support available to the committee, and members find it difficult to find extra time to sit on them.
- Each committee needs to set priorities for itself over a period of time: planning first major issues to cover, second specific inquiries to include as part of the examination of the issues and third the scope of each individual inquiry. Committees should also leave time in their schedule to deal with routine business and issues which arise that the committee is likely to want to consider. Creating a trusting relationship with the department can be invaluable to the committee to help with planning its upcoming work.
- Without setting objectives at the start of an inquiry, it is very difficult to point to achievements at the end. If committees give more thought at the beginning of an inquiry to those they wish to influence, and what value an inquiry might add, they will be more focused in their approach and more likely to succeed.
- Committees should be clearer about what they are trying to get from any given call for evidence, and perhaps send questions focussing on different areas to different sorts of witness. Clerks should

always provide a summary of the evidence highlighting the most important and interesting points, and a list of all the memoranda received.

- Information regarding domestic visits by select committees could be included on the committees' websites. Written briefings on committee visits could more often be included as appendices to reports.
- Committees need an adequate budget for commissioning research and guidelines and procedures on how to use it.
- People interested in becoming specialist advisers could register their interest and submit their CVs. Committees could then search the list for relevant experts and draw up a short list. A more formal approach to appointments should be complemented with job descriptions for specialist advisers outlining their key tasks and duties through the inquiry process.
- One way of improving the system of government responses would be for the government to give an initial response after 60 days, but a more detailed response one year later allowing for serious discussion of recommendations. Not only might this increase the quality of government responses, but government might be forced into linking changes in policy to the work of select committees more closely. Often at present, when the government does change policy a number of months on from the publication of the select committee report, the change of policy is branded as a government initiative even if the original idea had emerged through select committees. It would also encourage committees to follow up their work on a more routine basis and provide a tool to monitor the work of government in areas of interest over a longer time period.
- A system of prioritising issues and recommendations, and then tracking them over the following Parliament, would be of great use to committees. In order to do this, committees should decide when considering the government's response to their report, which of the responses and which of their own recommendations they particularly wish to pursue, and could set those out in a short reply to the government's response. Issues of continuing interest should regularly appear on the agenda when questioning ministers during routine evidence sessions.
- The increase in the number of media staff in the House of Commons may encourage the committees to plan more effectively the type and volume of media interest required for any particular report.

Appendix 1: List of Committees of the House of Commons

Departmental Select Committees	Cross Cutting Committees	Legislative Committees	Internal Committees
Constitutional Affairs	Environmental Audit	Consolidation, &c., Bills	Modernisation of the House of Commons
Culture, Media and Sport	European Scrutiny	Human Rights	Procedure
Defence	Liaison	Regulatory Reform	Selection
Education and Skills	Public Accounts	Statutory Instruments	Standards and Privileges
Environment, Food and Rural Affairs	Public Administration	Tax Law Rewrite Bills	Accommodation and Works
Foreign Affairs			Administration
Health			Broadcasting
Home Affairs			Catering
International Development			Finance and Services
Northern Ireland Affairs			Information
Office of the Deputy Prime Minister			
Science and Technology			
Scottish Affairs			
Trade and Industry			
Transport			
Treasury			
Welsh Affairs			
Work and Pensions			

Appendix 2: Standing Order no. 152

152.—(1) Select committees shall be appointed to examine the expenditure, administration and policy of the principal government departments as set out in paragraph (2) of this order and associated public bodies.

(2) The committees appointed under paragraph (1) of this order, the principal departments of government with which they are concerned and the maximum numbers of each committee shall be as follows: [...]

(3) Each select committee appointed under this order shall have the power to appoint a sub-committee, and the Environment, Food and Rural Affairs Committee shall have power to appoint two sub-committees.

(4) Select committees appointed under this order shall have power—

(a) to send for persons, papers and records, to sit notwithstanding any adjournment of the House, to adjourn from place to place, and to report from time to time;

(b) to appoint specialist advisers either to supply information which is not readily available or to elucidate matters of complexity within the committee's order of reference; and

(c) to report from time to time the minutes of evidence taken before sub-committees, and to lay upon the Table of the House the minutes of the proceedings of sub-committees; and the sub-committees appointed under this order shall have power to send for persons, papers and records, to sit notwithstanding any adjournment of the House, to adjourn from place to place, to report from time to time the minutes of their proceedings, and shall have a quorum of three.

(5) Unless the House otherwise orders, all Members nominated to a committee appointed under this order shall continue to be members of that committee for the remainder of the Parliament.

Appendix 3: Effective Scrutiny Publications

Mark Sandford and Lucinda Maer, *Issues of Importance, The scrutiny role of the London Assembly*, July 2004, 43pp, £10.00.

Mark Sandford and Lucinda Maer, *Old Habits Die Hard? Overview and scrutiny in local government*, February 2004, 57pp, £10.00.

Lucinda Maer and Mark Sandford, *The Development of Scrutiny in the UK; an overview of procedures and practice*, January 2004, 58pp, Available on line.

Mark Sandford and Lucinda Maer, *Scrutiny under devolution: committees in Scotland, Wales and Northern Ireland*, November 2003, 51pp, £8.00.

Mark Sandford and Lucinda Maer, *Annotated Bibliography of Effective Scrutiny*, Available on line (pdf)

Mark Sandford and Lucinda Maer, *Effective Scrutiny in the Devolved Institutions*, ESRC Devolution Programme Briefing No. 6, February 2004, 6pp.





