

## BRIEFING

# PARLIAMENTARY SCRUTINY: WHAT IS IT AND WHY DOES IT MATTER?

September 2023  
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## Summary

- Government accountability to parliament is central to our democratic system. To facilitate this, various kinds of parliamentary scrutiny take place in both the Commons and the Lords, on the floor as well as in committees.
  - Parliamentary scrutiny ensures that the government is publicly accountable for its actions. This helps to ensure that its decisions are seen as legitimate, and that government policy is carefully thought through. Parliamentary proceedings require ministers, but also to an extent opposition parties, to explain and justify their choices transparently on the public record.
  - There have been various concerns in recent years about decline of parliamentary scrutiny, and various proposals for how such scrutiny could be strengthened.
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## Background

Parliament lies at the heart of UK politics. The legislature is a core institution in any democracy, but is particularly important in the UK, due to our tradition of '[parliamentary sovereignty](#)'. The government is dependent on the [confidence of the House of Commons](#), which can potentially remove it from office. Parliamentary consent is required for [primary legislation](#), and parliament is a particularly central and important body in holding ministers to account day-to-day.

This makes scrutiny – the detailed examination of policy proposals, actions and plans – one of the essential roles of parliament. Other functions include representation, and serving as a space for national debate – which in turn feed into parliament's scrutiny function.

This briefing summarises why parliamentary scrutiny matters, what different kinds of parliamentary scrutiny exist at Westminster, some recent concerns about the decline of scrutiny, and ways in which it can be protected and strengthened.

## Why does parliamentary scrutiny matter?

The government is responsible for much day-to-day decision-making, in terms of national policy formulation and implementation. But the government itself is not directly elected, and depends for its survival on the continued confidence of the House of Commons. This makes parliament one of the central [checks and balances](#) in the constitution – arguably the most central one of all. To provide government accountability, one of the core functions of parliament is scrutiny.

Parliament is a very public arena, with debates televised and transcribed on the public record. Hence parliamentary scrutiny means that ministers must justify their policies in front of an audience, which provides transparency and accountability, and helps to ensure that policies are seen as legitimate.

Crucially, parliament contains many and varied political voices. MPs are elected from diverse constituencies all over the UK, and represent different political parties. The House of Lords includes members from a wide range of backgrounds, many of whom are independent of political party, and some of whom are respected experts in their field. Parliamentary debates, and other mechanisms such as committee calls for evidence, also enable specialist groups and individual citizens to hear about policy and feed in their expertise, evidence and concerns. All of this ensures that different perspectives are heard in parliament when considering government policy.

The mere existence of parliamentary scrutiny, given its public nature and diverse contributors, can have an important effect. Even where nothing visibly changes as a result (e.g. if a government bill remains unamended) [studies show](#) that ‘anticipated reactions’ are important. Policy is more carefully thought through because ministers and officials know that it will be scrutinised by parliament. Hence scrutiny improves the quality of decision-making; and if it is lacking, policy may be poorer as a result.

## What are the key forms of parliamentary scrutiny?

Scrutiny takes place both in the Commons and in the Lords, and both on the floor of the chamber and in various kinds of committees. At Westminster, even processes not focused directly on government policy require a ministerial response. Scrutiny and accountability thereby come through numerous mechanisms. These same forums also to some extent subject opposition parties to scrutiny, in the sense that they too must set out their own views on the public record.

The key forms and venues for scrutiny are set out below. In a number of these areas there have been recent concerns expressed about weakness or decline in scrutiny, which deserve attention.

### 1. Scrutiny of legislation

- Most obviously, parliament conducts scrutiny of [government legislation](#), and also of [private members’ bills](#), with slightly different mechanisms operating in the Commons and the Lords.
- Despite occasional backbench rebellions resulting in visible government climbdowns, scrutiny in the Commons is often seen as weak. But this [can be overstated](#), given that ministers think carefully about the acceptability of bills to MPs before they are introduced. Changes in the Lords also often respond to concerns raised (including behind the scenes) in the Commons.
- Nonetheless, adequate bill scrutiny depends on government cooperation. Ministers must ensure that bills are in good shape before introduction, and (given government’s extensive control of the Commons agenda) allow sufficient time for debate. They also need to be willing to listen and respond to reasonable points made by parliamentarians. There have been recent concerns about [bills being rushed](#), and about [late government amendments](#).
- There are various known weaknesses in the legislative scrutiny process. Commons [public bill committees](#) are temporary and nonspecialist, unlike in many other legislatures, and the process of evidence-taking could be improved. Meanwhile, there is no formal evidence-taking stage for bills introduced in the Lords, or that have their committee stage in the Commons on the floor. This limits opportunities for expert input.
- Perhaps the biggest concern in recent years has been about the growing use of [delegated \(or ‘secondary’\) legislation](#), and increasing powers delegated to ministers in bills. This legislation receives very limited parliamentary scrutiny, raising clear accountability gaps if it implements major policy. Particular controversies emerged in this area [during the Covid-19 pandemic](#), but overuse of delegated legislation has [long been criticised](#), including by [parliamentary committees](#), and expert groups such as the [Hansard Society](#).

## 2. Parliamentary questions and government statements

- Written and oral [questions](#) in both chambers put ministers on the spot about policy. Aside from scheduled questions, more ad hoc [urgent questions](#) allow sustained questioning on a topic, and their use has grown in recent years. Voluntary [government statements](#) take a similar form – and when not offered on key topics may trigger an urgent question.
- [Prime Minister's Questions](#) (PMQs) are the highest profile forum and have long been subject to criticism for their 'bearpit' and adversarial nature. They attract attention, but are unrepresentative of most forms of questioning, which can be more constructive but are lower profile. There are [regular calls to reform](#) PMQs but even they may have important 'anticipated reactions' functions.
- The [Cabinet Manual](#) states that 'the most important announcements of government policy should, in the first instance, be made to Parliament', but there have been many recent complaints about ministers flouting this rule. This again occurred particularly frequently [during the pandemic](#), but has continued – often to the [displeasure](#) of the Commons Speaker. Making major announcements outside parliament denies the opportunity for the kind of sustained questioning and democratic accountability that occurs when making announcements to MPs. Follow-up statements or urgent questions sometimes follow, but may be lower profile.

## 3. Opposition, backbench and adjournment debates

- Parliament holds various kinds of debates in non-government time, including Commons [backbench business](#) debates, [opposition day debates](#) and [adjournment debates](#). Irrespective of the topic, ministers must always appear and explain the government's position, creating additional accountability. Often such debates are directly focused on government policy, and/or on topics that ministers would prefer to avoid.
- Backbench business debates and opposition day debates may result in a vote on a substantive motion. In recent years there have been criticisms of the government's relatively new practice of instructing MPs to abstain on opposition motions. Although decisions in these votes are not enforceable, the House of Commons [Public Administration and Constitutional Affairs Committee](#), has suggested that this shows a 'lack of respect for the House'.
- These two forms of debate are guaranteed a minimum number of days per session in standing orders. But recent years have seen a number of long sessions (2010–12, 2017–19, 2019–21), which gives [excessive control to the government](#) over their scheduling.

## 4. Select committees

- The [select committees](#) are seen as jewels in Westminster's crown. They are unusual in international terms for conducting extensive and careful non-legislative scrutiny, for their nonpartisan ethos, and for generally producing unanimous reports. Committees in the Commons mostly shadow government departments, while those in the Lords are more crosscutting.
- Committees gather expert and other evidence (including some recently using [citizens' assemblies](#) to elicit considered public views). Ministers are often called to give evidence to the committees, as well as the government being required to respond to their reports. There have been occasional concerns about ministers [cancelling committee appearances](#), but this is the exception.
- [Research shows](#) that, while the select committees have little 'hard power' to force changes, they can be influential through putting topics onto the political agenda, feeding valuable evidence into

wider debates, and having an ‘anticipated reactions’ effect – through forcing ministers to consider policy carefully, because they know they may have to publicly explain it to committees later.

- In the Commons, select committee structures are routinely changed when government departments are reorganised. This can cause concerns – for example most recently when the [abolition of the International Trade Committee](#) left little opportunity for scrutiny by MPs of important international agreements (though such scrutiny remains in the Lords).

## How can parliamentary scrutiny be strengthened?

There have been some welcome changes to mechanisms for parliamentary scrutiny in relatively recent years, such as the election of House of Commons select committee members and chairs (since 2010), and introduction of evidence-taking by Commons public bill committees (in 2006).

But this briefing has mentioned various weaknesses in parliamentary scrutiny processes, including recent concerns about decline – for example through primary legislation being rushed or subject to late government amendments, and an overreliance on delegated legislation. [Recent polling](#) shows that the public wants new laws to be subject to full parliamentary scrutiny. [Improved government behaviour](#) could make a good deal of difference in this area, but the [Hansard Society](#) has also proposed procedural changes.

Proposals exist for [strengthening Commons public bill committees](#) – e.g. by injecting greater permanence and specialism – and for publishing [more government bills in draft](#). The Commons [Procedure Committee](#) has proposed improvements to the private members’ bill process.

Government control of the House of Commons agenda creates weaknesses, including over the timetabling of bills, ministers’ ability to withhold backbench and opposition days, and parliament’s inability to recall itself from recess. The [Constitution Unit](#) has proposed changes in this area.

Fundamentally, improved scrutiny depends on better behaviour by government, but also on strong engagement by backbenchers and other non-government parliamentarians. Even seemingly ‘toothless’ scrutiny mechanisms can have important effects, by subjecting government policy to public exposure and debate. Both government and non-government parliamentarians therefore have important responsibilities to maintain the system of parliamentary scrutiny – in order to uphold good quality government decision-making, and the legitimacy of politics in the eyes of the public.

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