

House of Commons
Public Administration Select
Committee

**MINISTERIAL
ACCOUNTABILITY AND
PARLIAMENTARY QUESTIONS:
THE GOVERNMENT RESPONSE
TO THE COMMITTEE'S NINTH
REPORT OF SESSION 2001–02**

First Report of Session 2002–03

House of Commons
Public Administration Select
Committee

**MINISTERIAL
ACCOUNTABILITY AND
PARLIAMENTARY QUESTIONS:
THE GOVERNMENT RESPONSE
TO THE COMMITTEE'S NINTH
REPORT OF SESSION 2001–02**

First Report of Session 2002–03

Report and Proceedings of the Committee

Ordered by The House of Commons to be printed 28 November 2002

HC 136
Published on 5 December 2002 by authority of the House of Commons
London : The Stationery Office Limited
£4.50

PUBLIC ADMINISTRATION SELECT COMMITTEE

The Public Administration Select Committee is appointed by the House of Commons to examine the reports of the Parliamentary Commissioner for Administration, of the Health Service Commissioners for England, Scotland and Wales and of the Parliamentary Ombudsman for Northern Ireland, which are laid before this House, and matters in connection therewith and to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service; and the committee shall consist of eleven Members.

Current Membership

Tony Wright (*Labour, Cannock Chase*) (Chairman)
Mr Kevin Brennan (*Labour, Cardiff West*)
Annette Brooke (*Liberal Democrat, Mid Dorset and Poole North*)
Sir Sydney Chapman (*Conservative, Chipping Barnet*)
Mr Kelvin Hopkins (*Labour, Luton North*)
Mr David Heyes (*Labour, Ashton under Lyne*)
Mr Ian Liddell-Grainger (*Conservative, Bridgewater*)
Mr John Lyons (*Labour, Strathkelvin and Bearsden*)
Mr Gordon Prentice (*Labour, Pendle*)
Hon Michael Trend, CBE (*Conservative, Windsor*)
Mr Brian White (*Labour, Milton Keynes North East*)

Powers

The Committee's powers are set out in House of Commons Standing Orders, principally in SO No. 146. These are available on the Internet via www.parliament.uk.

Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at www.parliament.uk/commons/selcom/pubahome.htm. A list of Reports of the Committee since 1997 is at the back of this volume.

Contacts

All correspondence should be addressed to The Clerk of the Public Administration Select Committee, Committee Office, First Floor, Portcullis House, London SW1A 2LW. The telephone number for general enquiries is: 020 7219 3284; the Committee's e-mail address is: pubadmincom@parliament.uk.

Footnotes

In the footnotes of this Report, references to oral evidence are indicated by 'Q' followed by the question number. References to written evidence are indicated by the page number as in 'Ev 12'.

TABLE OF CONTENTS

	<i>Page</i>
REPORT	
More Openness Welcomed	5
Continuing Problems	5
Information about Unanswered Questions	6
APPENDIX	
Government Response	7
Guidance to Officials on Drafting Answers to Parliamentary Questions	10
PROCEEDINGS OF THE COMMITTEE RELATING TO THE REPORT	
	11
REPORTS	
LAST PARLIAMENT 1997–2001	12
CURRENT PARLIAMENT 2001–03	13

FIRST REPORT

The Public Administration Select Committee has agreed to the following Report:

MINISTERIAL ACCOUNTABILITY AND PARLIAMENTARY QUESTIONS: THE GOVERNMENT RESPONSE TO THE COMMITTEE'S NINTH REPORT OF SESSION 2001-02

1. Ministers have a duty to give accurate, informative and timely answers to Parliamentary Questions. This Committee and its predecessors have, in a series of Reports, held Ministers to account for their performance in this task. The Government's response to our Report of July 2002, which is published as an annex to this Report, shows that it has good intentions and is anxious to improve the machinery for answering Questions. We welcome the progress that has been made.

2. However, the good intentions are still not matched by consistent achievement. Despite many years of prompting from the House, there are still too many examples of Ministers failing to provide proper replies to Parliamentary Questions.

More Openness welcomed

3. In answering Parliamentary Questions, Ministers should never withhold information from Members without very good reason. This is in line with one of the main principles of the Ministerial Code. The Committee has on three occasions recommended that, where information requested in Questions is withheld, the answer should cite the relevant exemption in the *Code of Practice on Access to Government Information*. This is to ensure that Ministers cannot evade accountability by hiding behind vague phrases such as "not normal practice to provide this information" when they refuse to answer. In the past, this has been regrettably common, with some Departments significantly worse than others.

4. The Government's response says that it will in future insist that the relevant exemption is mentioned in Ministers' answers when requested information is not given. **We regard this as an important step towards openness and the protection of the public interest, and we warmly welcome it.** For too long some Departments have been allowed to evade proper scrutiny in dealing with Questions. In agreeing to this central recommendation from the Committee, the Government has taken a significant and welcome step.

5. The Government deserves credit, too, for agreeing to our recommendation that Departments should answer within 20 days our letters about refusals to answer Questions. In previous years, it took up to a year for the Committee to receive an answer from some Departments. We hope that this new guidance will put an end to such neglect of the House's reasonable requests. The only caveat we have is that the Government response adds that "this may not always be possible for requests which involve a significant amount of work." We will interpret the word "significant" very narrowly, so that this does not become an excuse for delay, and trust that the Government will do likewise.

Continuing Problems

6. Regrettably, there are occasions when Departments continue to fail in their duty to Members. A recent and serious example is a response to a Question tabled by Steve Webb MP to the Department for Work and Pensions, on disabled people in hospital. The Department, in a written answer, said that the requested information was not available.¹ However, when the Member used his rights under the 1998 Data Protection Act to obtain internal departmental records, he found that the requested information had been available

¹ HC Deb, 18 Mar 2002, Col 155W

at the time of the question. An apology has been made both to the Member and, through the Speaker, to the House.²

7. When Mr Webb raised the matter in the House on a point of order on 20 November, the Speaker pointed out that the Member could draw the matter to the attention of this Committee which “reviews aspects of ministerial answers to parliamentary questions”.³ This underlines the significance of the recommendation in our last report that we should not merely review unsatisfactory answers but refer them to the Department concerned if requested to do so by a Member, and if such answers are deemed appropriate for such a referral.

8. In its response to this recommendation, the Government asked the Committee for a clear definition of an “unsatisfactory answer”. We do not believe that such a definition should be necessary. An answer is unsatisfactory if it does not follow the rules, guidance and conventions on question-answering, which now include the requirement to cite Code exemptions referred to above. It is for Members themselves to decide when they regard an answer as unsatisfactory.

9. There are a number of ways in which Members can seek fuller information from Ministers when an original answer is inadequate. But if the Member is still dissatisfied after exploring these options, the Committee is determined to help the House to hold Ministers to account by referring Members’ complaints to the Minister concerned. We believe that this will strengthen the scrutiny and accountability of the executive.

10. Mr Webb has now written to the Committee asking us to take action over the DWP Question, and the Committee has agreed to write to the Secretary of State for Work and Pensions to ask him to give evidence on the case. We will in particular be interested to hear what the Secretary of State is doing to ensure that any repetition is avoided.

11. We also plan to write to all Members to inform them of the assistance we can now offer in pursuing unsatisfactory answers to Questions with Departments.

12. There is also evidence that some departments are making excessive use of the type of answer which promises that a Minister will write to the Member and place a copy of the letter in the Library. There were for example a large number of these answers on 7 November 2002, covering such subjects as the registration of sex offenders and police expenditure. This is a form of answer that effectively reduces accountability. It may be true that in some cases such answers were unavoidable because the questions were tabled late and the Session was ending. However, “I will write” answers should only be used in very exceptional circumstances. We will monitor closely any department which appears to be using this device as a way of avoiding scrutiny, and will not hesitate to call Ministers to account if we feel it to be necessary.

Information About Unanswered Questions

13. Information about unanswered Questions is still in short supply. At the request of the Leader’s office, the Library produces a quarterly list of unanswered and “I will write” questions, which is currently imperfect and (to quote the Government) “unsophisticated”. This process is at the moment under review; we hope that the list can soon be made more accurate and usable. In the interests of transparency, and if an improved list emerges, the Committee intends to publish these lists on a regular basis.

² HC Deb, 20 Nov 2002, Col 645

³ Ibid

APPENDIX

GOVERNMENT MEMORANDUM IN RESPONSE TO THE NINTH REPORT OF THE PUBLIC ADMINISTRATION SELECT COMMITTEE (SESSION 2001-02) ON MINISTERIAL ACCOUNTABILITY AND PARLIAMENTARY QUESTIONS

(a) We recommend that departments respond to our letter concerning ministerial refusals to answer questions within the Government's own twenty day target for responding to correspondence (paragraph 13).

1. The Government continues to attach importance to the prompt and efficient handling of Members' correspondence, including the handling of correspondence from Select Committees.

2. The Government regrets the delays in responding to last year's request from the Committee for information relating to Ministers' decisions to refuse to provide information in answer to some Parliamentary Questions. However, the exercise was complicated by the fact that the request for information was issued to Departments after Parliament had been dissolved. In line with guidance set out in Departmental Evidence and Responses to Select Committees, Departments took the view that since Parliament was no longer in existence, responses should be delayed until a new Committee had confirmed that it intended to continue with the programme of work initiated by the Public Administration Select Committee. The composition and remit of Select Committees were not announced until 16 July. The summer recess also intervened and further delayed the process.

3. In future, Departments will aim to respond to this annual request from the Public Administration Select Committee within the 20 day target for handling Members' correspondence although this may not always be possible for requests which involve a significant amount of work.

(b) Despite twice recommending this before (and twice having it accepted by the Government), we recommend again that where departments withhold information under an exemption of the Code of Practice they cite the relevant exemption in their written answers (paragraph 17).

(d) We re-iterate our support of openness in public life and call on the Government to ensure that the public interest is put above all other considerations by increasing the openness of parliamentary answers. (Paragraph 24).

4. The Government accepts this recommendation and the Guidance to Officials on Drafting Answers to Parliamentary Questions has been amended. In future, when Ministers refuse to provide information they should make clear the relevant exemptions of the Code of Practice on Access to Government Information under which they are withholding information. In doing so, Departments must also consider whether any harm or prejudice arising from disclosure is outweighed by the public interest as required by Part II of the Code. The revised guidance is at **Annex A** and has been circulated to all Departments.

5. However, there will continue to be occasions when a full answer cannot be given to a Parliamentary Question because either the information is not available it or could only be obtained at disproportionate cost. The Government made clear in its response to the fourth report of the Public Administration Select Committee on ministerial accountability and Parliamentary Questions that where the information is being refused on the grounds

of disproportionate cost, there should be a presumption that any of the requested information which is readily available should be provided. This continues to be the case.

(c) We recommend that wherever practicable the full answer to a written parliamentary question should be placed on the official record. (Paragraph 21).

6. The Government is committed to being as open as possible with Parliament and the public. Wherever practicable, the full answer to a Parliamentary Question should be placed on the official record. However, there may be occasions where lengthy material has to be deposited in the Libraries of the House as it would take up too much space in the Official Report. With that caveat, the normal practice will continue to be to place the information on the official record.

(e) We recommend that this Committee, through its Chairman, should be asked by the Speaker to refer unsatisfactory answers to questions to the Department concerned if requested to do so by a Member, and if such answers are deemed appropriate for such a referral. (Paragraph 35).

7. The Government notes this recommendation. Before providing a substantive response to this recommendation and to ensure there is no misunderstanding the Government would welcome a clear definition from the Committee as to what would be regarded as an unsatisfactory answer.

(f) We hope that this report, and those in successive sessions, on parliamentary questions will be debated in the House, either in Westminster Hall or in the Chamber. (Paragraph 36).

8. The Government notes this recommendation. However, due to the pressures for time to debate matters on the floor of the House, the Government would like to suggest that when the Committee debate their reports on an annual basis, that these debates take place in Westminster Hall.

(g) We recommend that the Leader of the House reconsider his decision and publish the quarterly reviews of unanswered and 'I will write' questions in Parliament. (Paragraph 42).

9. The quarterly reviews of unanswered and "I will write" questions are compiled by the Library of the House at the request of the Leader's office. The Committee should be aware that the list of "unanswered Parliamentary Questions" includes Parliamentary Questions which may have been delivered to a member but have not yet been printed in Hansard. They do not purport to be fully accurate or very sophisticated. Indeed the accuracy of the reports are currently being discussed between the Leader's office and staff of the Library. As such they are rough guides to Departments on Questions which, according to house data, remain unanswered and allow the Leader to alert Departments to any developing problems. It is open to any Member to ask the House Library to supply them with a copy of the data supplied to the Leader's office.

(h) We concur with the Procedure Committee and hope that their recommendation for rationing named day questions should lead to an increase in the quality and speed of answers and urge the House to implement their recommendation. (Paragraph 44).

10. The Government is grateful to the Committee for its recognition that questions have costs, and that Members should understand the demands they place on Departments. The Government will invite the House to implement the Procedure Committee's recommendation for a quota of five named day questions per day. The Government hopes

that this quota will be sufficiently stringent to reduce the burden of named day questions significantly, so that they no longer threaten to lead to an erosion of the quality of responses and delays in responding.

GUIDANCE TO OFFICIALS ON DRAFTING ANSWERS TO PARLIAMENTARY QUESTIONS

1. Never forget Ministers' obligations to Parliament which are set out in the Ministerial Code:

"It is of paramount importance that Ministers give accurate and truthful information to Parliament, correcting any inadvertent error at the earliest opportunity. Ministers who knowingly mislead Parliament will be expected to offer their resignation to the Prime Minister.

Ministers should be as open as possible with Parliament and the public, refusing to provide information only when disclosure would not be in the public interest, which should be decided in accordance with the relevant statutes and the Government's Code of Practice on Access to Government Information".

2. It is a civil servant's responsibility to Ministers to help them fulfil those obligations. It is the Minister's right and responsibility to decide how to do so. Ministers want to explain and present Government policy and actions in a positive light. They will rightly expect a draft answer that does full justice to the Government's position.

3. Approach every question predisposed to give relevant information fully, as concisely as possible and in accordance with guidance on disproportionate cost. If there appears to be a conflict between the requirement to be as open as possible and the requirement to protect information whose disclosure would not be in the public interest, you should check to see whether it should be omitted in accordance with statute (which takes precedence) or the Code of Practice on Access to Government Information, about which you should consult your departmental openness liaison officer if necessary.

4. Where information is being refused on the grounds of disproportionate cost, there should be a presumption that any of the requested information which is readily available should be provided.

5. Do not omit information sought merely because disclosure could lead to political embarrassment or administrative inconvenience.

6. Where there is a particularly fine balance between openness and non-disclosure, and when the draft answer takes the latter course, this should be explicitly drawn to the Minister's attention. Similarly, if it is proposed to reveal information of a sort which is not normally disclosed, this should be explicitly drawn to Ministers' attention.

7. If you conclude that material information must be withheld and the PQ cannot be fully answered as a result, draft an answer which makes this clear citing the relevant exemption of the Code of Practice, or disproportionate cost or the information not being available. Take care to avoid draft answers which are literally true but likely to give rise to misleading inferences.

PROCEEDINGS OF THE COMMITTEE RELATING TO THE REPORT

Thursday 28 November 2002

Members present:

Tony Wright, in the Chair

Annette Brooke	Mr John Lyons
Sir Sydney Chapman	Mr Gordon Prentice
Mr David Heyes	Hon Michael Trend
Mr Kelvin Hopkins	Mr Brian White
Mr Ian Liddell-Grainger	

The Committee deliberated.

Draft Report [Ministerial Accountability and Parliamentary Questions: Government Response to the Committee's Ninth Report of Session 2001–02], proposed by the Chairman, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.—(*The Chairman.*)

Paragraphs 1 to 13 read and agreed to.

Resolved, That the Report be the First Report of the Committee to the House.—(*The Chairman.*)

Ordered, That the Chairman do make the Report to the House.

Ordered, That the “Government Response to the Committee's Ninth Report of Session 2001–02” be appended to the Report.—(*The Chairman.*)

Ordered, That the provisions of Standing Order No. 134 (Select committee (reports)) be applied to the Report.

[Adjourned till Thursday 5 December at a quarter to Ten o'clock.]

PUBLIC ADMINISTRATION SELECT COMMITTEE REPORTS: PARLIAMENT 1997–2001

Session 1997–98

First Report: Public Appointments (HC 327)

Government Response: Third Special Report, Session 1997–98 (HC 723)

Second Report: Annual Report of the Health Service Ombudsman for 1996–97 (HC 352)

Government Response: Fifth Special Report, Session 1997–98 (HC 1055)

Third Report: Your Right to Know: The Government's Proposals for a Freedom of Information Act (HC 398)

Government Response: Fourth Special Report, Session 1997–98 (HC 1020)

Fourth Report: Ministerial Accountability and Parliamentary Questions (HC 820)

Fifth Report: Report of the Northern Ireland Ombudsman for 1997 (HC 630)

Government Response: First Special Report, Session 1998–99 (HC 53)

Sixth Report: The Government Information and Communication Service (HC 770)

Government Response: Second Special Report, Session 1998–99 (HC 162)

Session 1998–99

First Report: Report of the Parliamentary Ombudsman for 1997–98 (HC 136)

Government Response: Fourth Special Report, Session 1998–99 (HC 817)

Second Report: Annual Report of the Health Service Ombudsman for 1997–98 (HC 54)

Government Response: Third Special Report, Session 1998–99 (HC 816)

Third Report: Freedom of Information Draft Bill (HC 570)

Government Response: Fifth Special Report, Session 1998–99 (HC 831)

Fourth Report: Ministerial Accountability and Parliamentary Questions (HC 821)

Fifth Report: Freedom of Information Draft Bill: The Committee's Response to the Home Office Reply (HC 925)

Sixth Report: Quangos (HC 209)

Government Response: First Special Report, Session 1999–2000 (HC 78)

Session 1999–2000

First Report: The Freedom of Information Bill (HC 78)

Second Report: Work of the Commissioner for Public Appointments: Appointments to NHS Trusts and Health Authorities (HC 410)

Government Response: Cm 5037

Third Report: Review of Public Sector Ombudsmen in England (HC 612)

Fourth Report: Annual Report of the Parliamentary Ombudsman (HC 106)

Fifth Report: Administrative Failure: Inherited SERPS (HC 433)

Government Response: First Special Report, Session 2000–01 (HC 264)

Session 2000–01

First Report: The Annual Report of the Health Service Ombudsman for 1998–99 (HC 60)

Government Response: Second Special Report, Session 2000–01 (HC 374)

Second Report: Ministerial Accountability and Parliamentary Questions (HC 61)

Government Response: Fourth Report, Session 2001–02 (HC 464)

Third Report: The Ministerial Code: Improving the Rule Book (HC 235)

Government Response: Second Report, Session 2001–02 (HC 439)

Fourth Report: Special Advisers: Boon or Bane? (HC 293)

Government Response: Third Report, Session 2001–02 (HC 463)

Fifth Report: Mapping the Quango State (HC 367)

Sixth Report: Public Participation: Issues and Innovations (HC 373)

Government Response: First Report, Session 2001–02 (HC 334)

Seventh Report: Making Government Work: The Emerging Issues (HC 94)

REPORTS: CURRENT PARLIAMENT

Session 2001–02

First Report: Public Participation: Issues and Innovations: The Government Response to the Committee's Sixth Report of Session 2000–01 (HC 334)

Second Report: The Ministerial Code: Improving the Rule Book: The Government Response to the Committee's Third Report of Session 2000–01 (HC 439)

Third Report: Special Advisers: Boon or Bane: The Government Response to the Committee's Fourth Report of Session 2000–01 (HC 463)

Fourth Report: Ministerial Accountability and Parliamentary Questions: The Government Response to the Committee's Second Report of Session 2000–01 (HC 464)

Fifth Report: The Second Chamber: Continuing the Reform (HC 494)

Government Response: Sixth Report, Session 2001–02 (HC 794)

Sixth Report: The Second Chamber: Continuing the Reform: The Government Response to the Committee's Fifth Report (HC 794)

Seventh Report: The Public Service Ethos (HC 263)

Government Response: First Special Report, Session 2002–03 (HC 61)

Eighth Report: “These Unfortunate Events”: Lessons of Recent Events at the Former DTLR (HC 303)

Ninth Report: Ministerial Accountability and Parliamentary Questions (HC 1086)
Government Response: First Report, Session 2002–03 (HC 136)

Session 2002–03

First Special Report: The Public Service Ethos: Government’s Response to the Committee’s Seventh Report of Session 2001–02 (HC 61)

First Report: Ministerial Accountability and Parliamentary Questions: The Government Response to the Committee’s Ninth Report of Session 2001–02 (HC 136)

ISBN 0-215-00664-X



9 780215 006646

Distributed by The Stationery Office Limited and available from:

The Stationery Office

(mail, telephone and fax orders only)

PO Box 29, Norwich NR3 1GN

General enquiries 0870 600 5522

Order through the Parliamentary Hotline *Lo-call* 0845 7 023474

Fax orders 0870 600 5533

You can now order books online at www.tso.co.uk

The Stationery Office Bookshops

123 Kingsway, London WC2B 6PQ

020 7242 6393 Fax 020 7242 6394

68–69 Bull Street, Birmingham B4 6AD

0121 236 9696 Fax 0121 236 9699

9–21 Princess Street, Manchester M60 8AS

0161 834 7201 Fax 0161 833 0634

16 Arthur Street, Belfast BT1 4GD

028 9023 8451 Fax 028 9023 5401

The Stationery Office Oriel Bookshop

18–19 High Street, Cardiff CF1 2BZ

029 2039 5548 Fax 029 2038 4347

71 Lothian Road, Edinburgh EH3 9AZ

0870 606 5566 Fax 0870 606 5588

The Parliamentary Bookshop

12 Bridge Street, Parliament Square

London SW1A 2JX

Telephone orders 020 7219 3890

General enquiries 020 7219 3890

Fax orders 020 7219 3866

The Stationery Office's Accredited Agents

(see Yellow Pages)

and through good booksellers

© Parliamentary Copyright House of Commons 2002

Applications for reproduction should be made in writing to the Copyright Unit,

Her Majesty's Stationery Office, St Clements House, 2–16 Colegate, Norwich NR3 1BQ

– Fax 01603 723000

ISBN 0 215 00664 X