



House of Commons
Liaison Committee

Annual Report for 2003

First Report of Session 2003–04



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Report, together with appendices and formal minutes

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Liaison Committee

The Liaison Committee is appointed to consider general matters relating to the work of select committees; to advise the House of Commons Commission on select committees; and to choose select committee reports for debate in the House.

Current membership

Mr Alan Williams MP (*Labour, Swansea West*) (Chairman)

The Chairmen for the time being of the Select Committees listed below:

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Administration – Mrs Marion Roe MP (*Conservative, Broxbourne*)
Broadcasting – Mr David Lepper MP (*Labour/Co-op, Brighton Pavilion*)
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Information – Mr Robert Key MP (*Conservative, Salisbury*)
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Northern Ireland Affairs – Mr Michael Mates MP (*Conservative, East Hampshire*)
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Regulatory Reform – Mr Peter Pike MP (*Labour, Burnley*)
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Standards and Privileges – Sir George Young MP (*Conservative, North West Hampshire*)
Statutory Instruments – Mr David Tredinnick MP (*Conservative, Bosworth*)
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Transport – Mrs Gwyneth Dunwoody MP (*Labour, Crewe and Nantwich*)
Treasury – Mr John McFall MP (*Labour/Co-op, Dumbarton*)
Welsh Affairs – Mr Martyn Jones MP (*Labour, Clwyd South*)
Work and Pensions – Sir Archy Kirkwood MP (*Liberal Democrat, Roxburgh and Berwickshire*)

and Mr Richard Allan MP (*Liberal Democrat, Sheffield Hallam*)

Powers

The powers of the Committee are set out in House of Commons SO No 145. 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/parliamentary_committees/liaison_committee.cfm

Committee staff

The current staff of the Committee are George Cubie (Clerk), Robert Wilson (Second Clerk), Lis Partridge (Committee Assistant) and Catherine Close (Secretary).

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Contents

Report	<i>Page</i>
Summary	3
1 Introduction	5
2 Review of Committees' Work	6
Core Tasks	6
Task 1: Scrutiny of policy proposals	8
Task 2: Identification and examination of areas of emerging or deficient policy	10
Task 3: Scrutinising draft bills	12
Task 4: Examination of departmental decisions, circulars, guidance etc	16
Task 5: Scrutiny of expenditure plans and outturns	16
Task 6: Scrutinising Public Service Agreements and targets	21
Task 7: Monitoring the work of agencies and others	23
Task 8: Scrutiny of major appointments	24
Task 9: Implementation of legislation	25
Task 10: Debates in Westminster Hall and the Chamber	27
3 Working Practices	30
Sub-Committees	30
Information gathering	30
On-line consultation	32
Engaging the public and the media	32
Webcasting	32
Media advice	33
4 Committee Activity and Resources	34
Select committee activity	34
Committee resources	36
In-House expertise: the Scrutiny Unit	36
Review of select committee resources	39
Current costs of select committee work	40
5 Recent Developments and Concerns	41
Scrutiny of Government: The Hutton Inquiry	41
Witnesses	41
Relations with departments	42
Access to confidential or sensitive information	42
Government responses	43
Northern Ireland legislation	45
6 Highlights of 2003	47
Conclusions and recommendations	52

Appendix 1: List of Select Committee Annual Reports for 2003	55
Appendix 2: Memorandum from the Chairman of the Joint Committee on Human Rights	57
Appendix 3: Memorandum on the Work of the Scrutiny Unit	62
Formal minutes	67
Reports from the Liaison Committee since 1996	68

Summary

Scrutiny of Government by select committees during 2003 continued at a high level of activity along with our own twice-yearly evidence from the Prime Minister. More systematic coverage has been encouraged by the core tasks, drawn up in accordance with the House's decision, which we have used to review the achievements of the year. Committee inquiries centred mainly on:

- policy, where committees had significant influence on some of the most pressing policy debates;
- legislation, both bills and the increasing number of draft bills;
- expenditure plans, as set out in departmental annual reports;
- public service agreements and targets.

Better notice of draft legislation has been useful. Post-legislative work could develop further, and would be helped by periodic assessments of selected legislation by departments.

Committee staffs are being reinforced as the Review of Select Committee Resources is implemented. The Scrutiny Unit, now at full complement, is valued for its specialist support on scrutiny of bills and expenditure.

Committees are engaging with the public by more on-line consultation, extended webcasting, modernised report formats and the provision of summaries. Dedicated media advice, currently available to a group of committees, is to be provided more generally.

At our request, the Government's rules on access to information requested by committees are to be reviewed. Committees need fuller co-operation, in particular on:

- access to No. 10 policy advisers;
- availability of current policy reviews and reports;
- evidence on 'joined-up' policies from Government departments involved, including HM Treasury.

The fuller access to persons and papers within Government that was given to the Hutton Inquiry was welcome, and should be extended to Parliament.

1 Introduction

1. This annual review of scrutiny of Government by select committees covers the calendar year 2003, with some reference to events in early 2004. Activity levels remain high.¹

2. Landmarks since last year's Report include:

- ongoing reinforcement of committee staffs as a result of a Review of Select Committee Resources;
- greater use of pre-legislative scrutiny, with better notice of forthcoming draft bills;
- support from the Committee Office Scrutiny Unit now at full complement;
- more on-line consultation;
- a modernised two-colour format for reports;
- dedicated media advice and support to a group of committees, enabling pro-active media work;
- extension of webcasting² to all public meetings of committees, either in sound or vision, with a 14-day archive;
- an increasing quota of debates on committee reports in Westminster Hall;
- continuing twice-yearly sessions of evidence from the Prime Minister.

3. Some themes emerge in the annual reports which, as last year, have been issued separately by each committee.³ We have drawn on them for the text in the rest of this Report.

1 There was a 35% increase in substantive reports issued by departmental select committees in Session 2002–03 and a new Sessional high overall of 350 reports; departmental select committees issued 161 substantive reports in Session 2002–03, compared with 119 in Session 2001–02.

2 From January 2004.

3 See Appendix 1 for a full list; Appendix 2 contains a memorandum from the Chairman of the Joint Committee on Human Rights. The Joint Committee on Statutory Instruments' First Special Report of 2002–03, *Departmental Returns 2000–2002*, HC 1329, reviews the action taken by Departments on defects in instruments reported upon by the Committee. The Regulatory Reform Committee published its most recent annual report on *The Operation of the Regulatory Reform Act 2001* on 5 November 2003. (First Special Report of Session 2002–03, *The Operation of the Regulatory Reform Act 2001*, HC 908.)

2 Review of Committees' Work

4. In this section of our Report we provide an oversight of the range of work carried out by committees in 2003, focused around core tasks. Our aim is not to give a comprehensive account of each aspect of committee work undertaken, but instead to:

- illustrate the breadth and depth of committee scrutiny;
- give examples of innovative or best practice; and
- highlight concerns raised by committees.

Core Tasks

5. In June 2002 our Chairman wrote to all committees setting out our guidance on committee objectives and core tasks, following the Resolution of the House of 14 May 2002 which approved the Modernisation Committee's Report on Select Committees,⁴ and invited us to "establish common objectives for select committees".⁵ Core tasks are a means to achieve "a more methodical and less *ad hoc* approach to the business of scrutiny"⁶ and we now have an opportunity to report on their first full year of operation.

6. The objectives and core tasks, listed below, cover the range of government activity and put flesh on the bones of committees' duties set out in Standing Orders to examine departmental expenditure, administration and policy.⁷ Committees remain free to decide how best they should interpret those duties; however, in doing so they should take account of the House's endorsement of common objectives, as expressed in its Resolution.

4 First Report of Session 2001–02, *Select Committees*, HC 224

5 *Votes and Proceedings*, 14 May 2002, p 864–5

6 Liaison Committee, Second Report of Session 2001–02, *Select Committees: Modernisation Proposals*, HC 692, para 16

7 SO No 152

	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, NDPBs, 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.

7. An indication of the wide range of activities encompassed by the core tasks is given in annual reports of a number of committees which use tables to show progress against each core task on an inquiry-by-inquiry basis.⁸

8. We welcome the inclusion in a number of committees' annual reports of a table showing the range of core tasks covered by each inquiry, and encourage other committees to adopt this practice.

9. For understandable reasons, not all committees' work falls neatly within the core tasks. This is especially the case for the Northern Ireland Affairs, Scottish Affairs, and Welsh Affairs Committees, and cross-departmental committees such as the Environmental Audit and Public Administration Committees. Nonetheless, these committees have reported on their coverage of core tasks in so far as they are applicable.

10. The discipline of assessing their work against core tasks has encouraged committees to ensure that they monitor the widest possible range of departmental activity; it also allows the public and the media to appreciate more easily the comprehensive examination of Government which committees undertake. Below we give examples relating to certain core tasks and flag up areas of best practice, or concern.

Task 1: Scrutiny of policy proposals

11. Government policy emanates from many different sources, and may not have been foreshadowed by much prior parliamentary activity. A number of committee reports had a significant influence on the most pressing policy debates of 2003, including:

- aviation;⁹
- NHS Foundation Trusts;¹⁰
- the Future of Higher Education;¹¹
- Iraq;¹²
- international terrorism;¹³
- the Future of UK Pensions;¹⁴
- the Euro.¹⁵

8 One example is included in the Annual Report from the EFRA Committee, Second Report of Session 2003–04, HC 225

9 Environmental Audit Committee, Ninth Report of Session 2002–03, *Budget 2003 and Aviation*, HC 672; Transport Committee, Sixth Report of Session 2002–03, *Aviation*, HC 454

10 Health Committee, Second Report of Session 2002–03, *Foundation Trusts*, HC 395

11 Education and Skills Committee, Fifth Report of Session 2002–03, *The Future of Higher Education*, HC 425

12 Foreign Affairs Committee, Ninth Report of Session 2002–03, *The Decision to go to War in Iraq*, HC 813; International Development Committee, Fourth Report of Session 2002–03, *Preparing for the Humanitarian Consequences of Possible Military Action against Iraq*, HC 444

13 Defence Committee, Sixth Report of Session 2002–03, *A New Chapter to the Strategic Defence Review*, HC 93

14 Work and Pensions Committee, Third Report of Session 2002–03, *The Future of UK Pensions*, HC 92

15 Treasury Committee, Sixth Report of Session 2002–03, *The UK and the Euro*, HC 187

12. Committees have reacted to the first core task by examining a range of policy documents produced by the UK Government and the European Commission. Even the most active committee cannot cover in detail all policy-related documents produced by a department: for example, the Home Affairs Committee's Annual Report noted that "since the start of the 1997 Parliament the Home Office has launched over 120 consultation papers".¹⁶ Examples of UK Government policy documents subjected to in-depth scrutiny are included in the table below:

Committee	Policy documents	Committee method
Defence	MoD's White Paper, <i>The Strategic Defence Review: A New Chapter</i>	Inquiry and Report ¹⁷
Education and Skills	DfES White Paper <i>The Future of Higher Education</i> DfES Green Paper <i>Every Child Matters</i>	Inquiry and Report ¹⁸ Oral evidence from Ministers
Environmental Audit	Energy White Paper	Inquiry and Report ¹⁹
Environment, Food and Rural Affairs (EFRA)	Defra strategy papers on animal health and welfare	Inquiry and Report ²⁰
Health	DoH's <i>Guide to Foundation Trusts</i> (2002) DoH consultation document <i>Better Prevention, Better Services, Better Sexual Health: The National Strategy for Sexual Health and HIV</i>	Inquiry and Report ²¹ Inquiry and Report ²²
ODPM	ODPM's <i>Living Places: Cleaner, Safer, Greener</i> <i>Fire Service White Paper</i> ²³	Inquiry and Report ²⁴
Science and Technology	<i>Future of Higher Education White Paper</i> Energy White Paper	Evidence session with Secretaries of State for Education and Skills and for Trade and Industry Inquiry and Report ²⁵
Trade and Industry	DTI White Paper on <i>Modernising Company Law</i>	Inquiry and Report ²⁶

16 Home Affairs Committee, Third Report of Session 2003–04, *The Work of the Home Affairs Committee in 2003*, HC 345, para 5

17 HC (2002–03) 93

18 HC (2002–03) 425

19 Eighth Report of Session 2002–03, *Energy White Paper: Empowering Change?*, HC 618

20 HC (2003–04) 225, para 8

21 HC (2002–03) 395

22 Third Report of Session 2002–03, *Sexual Health*, HC 69

23 Third Report of Session 2003–04, *The Fire Service*, HC 43

24 Eleventh Report of Session 2002–03, *Living Places: Cleaner, Safer, Greener*, HC 673

25 Fourth Report of Session 2002–03, *Towards a Non-Carbon Fuel Economy: Research, Development and Demonstration*, HC 55

26 Sixth Report of Session 2002–03, *The White Paper on Modernising Company Law*, HC 439

Treasury Sub-Committee	<i>Detailed Proposals for the Child Trust Fund</i> Paper produced by HM Treasury and the Inland Revenue	Inquiry and Report (published in time for the House's Second Reading of the <i>Child Trust Fund Bill</i>) ²⁷
Work and Pensions	DWP Green Paper <i>Pathways to Work</i>	Inquiry and Interim Report ²⁸

13. Committees also examined European Commission policy proposals, an example being the EFRA Committee in its inquiry into the *Mid-Term Review of the Common Agricultural Policy*,²⁹ as well as its inquiry into the *End of Life Vehicles Directive* and *Waste Electrical and Electronic Equipment Directive*.³⁰ Committees have also visited key Commission figures. For example, in December 2003, the Health Committee met the outgoing EU Health Commissioner to discuss its inquiry into *Obesity*.³¹ Likewise, the Trade and Industry Committee continued its practice of meeting Commissioners and European Commission officials and in 2003 discussed liberalisation of EU energy markets; the impact of EU enlargement on the internal market; EU regional aid policy; the economy of the eurozone; enterprise policy and its regulatory impact; the WTO negotiations and other external trade issues; and the development of the Commission's proposals for a Directive on consumer credit.³²

14. The main responsibility for examining the detail of EU documents remains with the European Scrutiny Committee. During 2003 the Committee examined 1080 documents, of which 535 were deemed of legal and/or political importance, and 48 were selected for debate. The Committee agreed 33 weekly reports, in addition to their Annual Report and two Reports on the Convention on the Future of Europe, the scrutiny of which formed an important aspect of the Committee's work.³³ We note from the Foreign Secretary's announcement on 11 February 2004, that there is likely to be further work in this area in the future, building on the strengths of the document-based scrutiny system.³⁴

Task 2: Identification and examination of areas of emerging or deficient policy

15. As well as looking at policy proposed in Green and White Papers and other documents, committees have a pro-active role to play in respect of emerging or deficient policy (the second core task). The Public Administration Select Committee broke new ground by producing its own draft bill on the Civil Service, whereas the Government, despite having undertaken to do so, has so far failed to publish draft legislation.³⁵

27 Second Report of Session 2003–04, *Child Trust Funds*, HC 86

28 Fourth Report of Session 2002–03, *Employment for All: Interim Report*, HC 401

29 Third Report of Session 2002–03, *The Mid-Term Review of the Common Agricultural Policy*, HC 151

30 Fourth Report of Session 2003–04, *End of Life Vehicles Directive and Waste Electrical and Electronic Equipment Directive*, HC 103

31 First Report of Session 2003–04, *The Work of the Health Committee, 2003*, HC 239, para 6

32 First Report of Session 2003–04, *The Work of the Committee in 2003*, HC 260, para 15

33 Eighth Report of Session 2003–04, *The Committee's work in 2003*, HC 42-viii, paras 2–3

34 HC Deb, 11 February 2004, col 1415

35 First Report of Session 2003–04, *A Draft Civil Service Bill: Completing the Reform*, HC 128

16. Other committees highlighted policy areas on which departments had not focused energetically enough, or where policy had been inadequate, such as:

- the Constitutional Affairs Committee's inquiry into *Asylum and Immigration Appeals*;³⁶
- the Defence Committee's inquiry into *Missile Defence*;³⁷
- the Environmental Audit Committee's inquiry into *Waste*³⁸ and the linked EFRA Committee Report into the *Future of Waste Management*;³⁹
- the EFRA Committee's inquiry into the implementation of the *Water Framework Directive*;⁴⁰
- the Education and Skills Committee's inquiry into *Secondary Education: Diversity of Provision*, which focused on Specialist Schools;⁴¹
- the Health Committee's inquiry into *Obesity*;⁴²
- the Home Affairs Committee's inquiries into *Asylum Applications* and *Asylum Removals*;⁴³
- the International Development Committee's work on the *Humanitarian Crisis in southern Africa*;⁴⁴
- the Northern Ireland Affairs Committee's inquiry into *the Illegal Drugs Trade and Drug Culture in Northern Ireland*;⁴⁵
- the ODPM Committee's inquiries into *Affordable Housing* and the *Effectiveness of Government Regeneration Initiatives*;⁴⁶
- the Science and Technology Committee's inquiry into *the Scientific Response to Terrorism*;⁴⁷

36 Second Report of Session 2003–04, *Asylum and Immigration Appeals*, HC 211

37 First Report of Session 2002–03, *Missile Defence*, HC 290

38 Fifth Report of Session 2002–03, *Waste—An Audit*, HC 99

39 Eighth Report of Session 2002–03, *The Future of Waste Management*, HC 385

40 Fourth Report of Session 2002–03, *The Water Framework Directive*, HC 130

41 Fourth Report of Session 2002–03, *Secondary Education: Diversity of Provision*, HC 94

42 Ongoing

43 Second Report of Session 2003–04, *Asylum Applications*, HC 218 and Fourth Report of Session 2002–03, *Asylum Removals*, HC 654

44 Third Report of Session 2002–03, *The Humanitarian Crisis in southern Africa*, HC 116

45 Eighth Report of Session 2002–03, *The Illegal Drugs Trade and Drug Culture in Northern Ireland*, HC 1217

46 Third Report of Session 2002–03, *Affordable Housing*, HC 75 and Seventh Report of Session 2002–03, *The Effectiveness of Government Regeneration Initiatives*, HC 76

47 Eighth Report of Session 2002–03, *The Scientific Response to Terrorism*, HC 415

- the Transport Committee’s inquiries into: *Overcrowding on Public Transport*; and *Jam Tomorrow?: The Multi Modal Study Investment Plans*,⁴⁸ which formed a significant contribution to the national debate on congestion charging;
- the Work and Pensions Committee’s inquiry into *Childcare for Working Parents*.⁴⁹

17. Committees have shown that examining discrete elements of public policy is an area of real strength for them. The range of reports published illustrates the breadth of subjects covered, providing in-depth scrutiny across all Government departments. In the words of a previous Leader of the House, “Good scrutiny makes for good Government”.⁵⁰

Task 3: Scrutinising draft bills

18. The Government has again expressed its support for pre-legislative scrutiny. The Leader of the House, the Rt Hon Peter Hain, recently stated that he was “convinced that the scrutiny of draft Bills leads to better legislation”.⁵¹ Mr Hain has been notably helpful to committees by providing better notice of planned draft legislation. Following our request for fuller information after the Queen’s Speech, he wrote to our Chairman giving notice of the subjects on which the Government expected to publish draft bills during Session 2003–04.

19. In 2003, the following draft Bills or Orders were scrutinised by departmental select committees:

Draft Bill or Order	Committee
draft Civil Contingencies Bill ⁵²	Defence Committee ⁵³
draft Electricity (Transmission and Trading) Bill; and the draft Nuclear Sites and Radioactive Substances Bill (later combined into a single Energy Bill)	Trade and Industry Committee ⁵⁴
draft Housing Bill	ODPM Committee ⁵⁵
draft Firearms (Northern Ireland) Order	Northern Ireland Affairs Committee ⁵⁶

48 Seventh Report of Session 2002–03, *Overcrowding on Public Transport*, HC 201; and Third Report of Session 2002–03, *Jam Tomorrow?: The Multi Modal Study Investment Plans*, HC 38

49 Fifth Report of Session 2002–03, *Childcare for Working Parents*, HC 564

50 Memorandum to the Modernisation Committee, Session 2001–02, HC 440, para 2

51 HC Deb, 10 February 2004, col 1331W

52 The draft Bill was referred to a joint committee, although the Defence Committee decided to conduct its own pre-legislative scrutiny before the joint committee was appointed.

53 Seventh Report of Session 2002–03, *Draft Civil Contingencies Bill*, HC 557

54 Fifth Report of Session 2002–03, *The British Electricity Trading and Transmission Arrangements: Pre-legislative scrutiny of the draft Electricity (Trading and Transmission) Bill*, HC 468; and the Seventeenth Report of Session 2002–03, *The Nuclear Decommissioning Authority: Pre-legislative Scrutiny of the draft Nuclear Sites and Radioactive Substances Bill*, HC 968

55 Tenth Report of Session 2002–03, *The Draft Housing Bill*, HC 751

56 Fourth Report of Session 2002–03, *The Control of Firearms in Northern Ireland and the draft Firearms (Northern Ireland) Order 2002*, HC 67

draft Public Audit (Wales) Bill	Welsh Affairs Committee ⁵⁷
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20. The Joint Committee on Human Rights (JCHR) examines all draft bills with respect to issues of compliance with the Convention rights. However, it undertook a wider-ranging scrutiny of the draft Gender Recognition Bill, since the bill's central purpose was to remedy any incompatibilities of UK law with the Convention rights identified in judgements of the European Court of Human Rights.⁵⁸ The JCHR and the departmental committees have the advantage over ad hoc committees of being able to follow-through their recommendations relating to a draft bill with the bill as introduced: the inability of ad hoc committees to do so is a lacuna in the scrutiny process.

21. A number of departmental committees scrutinised bills which had not been published in draft form, including:

- the Constitutional Affairs Committee (in its earlier incarnation as the Committee on the Lord Chancellor's Department) (*Courts Bill [Lords]*⁵⁹);
- the Defence Committee (*Arms Control and Disarmament (Inspections) Bill*⁶⁰ and the *Armed Forces Pensions and Compensation Bill*⁶¹); and
- the Home Affairs Committee (*Sexual Offences Bill* and *Asylum and Immigration (Treatment of Claimants, etc.) Bill*⁶²).

In addition, the JCHR examines all bills introduced to either House in detail, though exclusively from the perspective of their compliance with the Convention rights and the provisions of other international human rights instruments to which the UK is signatory.

22. Consideration of bills once they are published can be a second best to examining bills in draft form. If bills are reported on as they are going through the House, and are amendable, committees may find themselves 'attempting to hit a moving target', as with the *Courts Bill [Lords]*.⁶³ Furthermore, as the Work and Pensions Committee noted "the lack of notice and relatively short duration between presentation of a Bill and its progress through the House make it difficult to accomplish any meaningful scrutiny allowing proper time to gather and assess the necessary written and oral evidence. Additionally, the lack of notice may mean that the committee's agreed planned programme is disrupted."⁶⁴

23. The need for adequate notice and planning also applies to draft bills. The Home Affairs Committee commented that "effective pre-legislative scrutiny also depends on the committee having sufficient time to carry out a serious inquiry. That in turn depends on

57 Fifth Report of Session 2002–03, *The Draft Public Audit (Wales) Bill*, HC 763

58 Nineteenth Report of Session 2002–03, *Draft Gender Recognition Bill*, HC 1276

59 Committee on the Lord Chancellor's Department, First Report of Session 2002–03, *Courts Bill*, HC 526,

60 Third Report of Session 2002–03, *Arms Control and Disarmament (Inspections) Bill*, HC 321

61 First Report of Session 2003–04, *Armed Forces Pensions and Compensation*, HC 96

62 Fifth Report of Session 2002–03, *Sexual Offences Bill*, HC 639; and the First Report of Session 2003–04, *Asylum and Immigration (Treatment of Claimants, etc.) Bill*, HC 109

63 Third Report of Session 2003–04, *Work of the Committee 2003*, HC 410, para 9

64 First Report of Session 2003–04, *The Committee's Work in 2003*, HC 227, para 18

the department supplying them with a draft bill sufficiently far in advance of the date for publication of the actual bill. Giving a committee just two or three weeks to consider draft legislation will not lead to effective scrutiny. Good forward planning by the department, and regular liaison with the committee, are pre-requisites for successful pre-legislative scrutiny.”⁶⁵

24. Examination of bills, draft or otherwise, creates additional burdens for committee secretariats. For the first time in 2003, committees were able to draw on the expert support of the Scrutiny Unit for this work. The Unit, which we cover in more detail at paragraph 75 below, provided significant support to select committees undertaking scrutiny of bills as well as providing staff for the four ad hoc Joint Committees on the draft *Corruption, Civil Contingencies, Gambling and Mental Incapacity Bills*.

25. Committees were successful in helping to improve legislation on a number of occasions in 2003:

- referring to the draft *Housing Bill* the Deputy Prime Minister thanked the ODPM Committee for its Report which had “once again demonstrated the value of pre-legislative scrutiny.... and anyone reading the report can see how it adds to the value of the Bill.... In our response....we were able to respond positively to 40 of the Select Committee’s recommendations, out of approximately 72, and to its conclusions, including those on houses in multiple occupation, the right to buy and the possible phased introduction of home information packs”;⁶⁶
- the Constitutional Affairs Committee notes that its Report on the *Courts Bill [Lords]* was “referred to extensively at Second Reading.... and was used by Members at Committee and Report Stage”;⁶⁷
- the draft *Firearms (Northern Ireland) Order* has been redrafted by the Government in important areas identified by the Northern Ireland Affairs Committee as needing attention,⁶⁸ resulting in a revised draft Order which is “considerably more coherent, and accurate”, in the words of the Committee;⁶⁹
- as the Defence Committee noted in its Report,⁷⁰ the Armed Forces Pensions and Compensation Bill has responded to many of the Committee’s criticisms of the Ministry of Defence’s original proposals made in its Report on *the Ministry of Defence Reviews of Armed Forces’ Pension and Compensation Arrangements*.⁷¹

65 HC (2003–04) 345, para 23

66 HC Deb, 1 December 2003, col 242

67 HC (2003–04) 410, para 9

68 Relating to: character references required by applicants for firearms licenses; the replacement of the insufficiently developed ‘competency’ provision with a simplified provision allowing the Chief Constable to require that license holders be supervised for a specified period; and the strengthening of provisions relating to supervision.

69 First Report of Session 2003–04, *The Committee’s Work in 2003*, HC 146, para 10

70 HC (2003–04) 96

71 Third Report of Session 2001–02, *The Ministry of Defence Reviews of Armed Forces’ Pension and Compensation Arrangements*, HC 666

- the Government accepted some of the recommendations made by the Welsh Affairs Committee and will, as a result, ensure that the draft *Public Audit (Wales) Bill's* regulatory impact assessment and explanatory notes are updated or revised, and that the Bill will be amended to impose duties of consultation on the Auditor General for Wales and the Audit Committee.⁷²

26. However, a number of committees expressed disappointment that they had not been given the opportunity to examine draft bills. Despite their Chairman's expression of the Work and Pensions Committee's enthusiasm to undertake pre-legislative scrutiny, and that Committee's recommendation that the expected *Pensions Bill* should be so scrutinised, the Government declined to subject the bill to pre-legislative scrutiny and instead introduced the actual Bill in this Session.⁷³ The Science and Technology Committee expressed regret that the Human Tissue Bill had not been published in draft form to permit thorough consideration.⁷⁴ Earlier, the Queen's Speech in November 2002 announced three bills within Defra's remit: the *Water Bill*; the *Wastes and Emissions Trading Bill*; and the *Hunting Bill*. The Environment, Food and Rural Affairs (EFRA) Committee has expressed its regret that "the Government did not invite [the Committee] to undertake pre-legislative scrutiny of any of these Bills; nor did it make time available to do so."⁷⁵

27. The Defence Committee had argued that expertise built up during previous inquiries made it well-placed to conduct pre-legislative scrutiny of the draft *Civil Contingencies Bill*. However, the Government decided that the draft Bill should be referred to a joint committee. In the event, the Defence Committee produced a report just three weeks after the publication of the draft Bill—and before the appointment of the Joint Committee. The latter picked up and examined many of the issues identified in the Defence Committee's Report and that of the JCHR on the draft Bill, which also identified serious human rights concerns about the proposals of the draft Bill. The Defence Committee concluded that "a select committee with existing expertise in a particular field is able to conduct pre-legislative scrutiny and, where necessary, can do so much more quickly than a specially appointed select or joint committee."⁷⁶ The Bill as introduced was substantially altered from the draft in response to the concerns expressed by these committees.

28. Select committees are able to bring a great deal of expertise and enthusiasm to the consideration of legislation. However, for these to be exploited, certain conditions need to be met:

- the Government needs to recognise that existing select committees are often the best forum in which a bill can be scrutinised because of their members' knowledge and experience;
- adequate notice needs to be given to committees of forthcoming draft bills, so that they are able to integrate work on such bills into their wider programme of work;

72 First Special Report of Session 2003–04, *Government Response to the Fifth Report of the Committee Session 2002–03: The Draft Public Audit (Wales) Bill*, HC 87

73 HC (2003–04) 227, paras 16–19

74 First Report of Session 2003–04, *Annual Report 2003*, HC 169, para 10

75 HC (2003–04) 225, para 17

76 Second Report of Session 2003–04, *Annual Report for 2003*, HC 293, para 40

- draft bills need to be published in good time and realistic timetables set; and
- there must be effective liaison between committee secretariats and departments.

29. While expressing pleasure in the step change towards greater pre-legislative scrutiny, we call on the Government to continue to produce an increasing number of bills in draft form; to have a working assumption that existing departmental select committees are usually the most appropriate means by which draft bills can be scrutinised, unless there are compelling reasons for an alternative approach, such as reluctance by the committee because of its existing programme, or the wish to include a wider range of Members from both Houses; to provide realistic timescales for the scrutiny of draft bills; and to co-operate fully with chairmen and committee secretariats.

Task 4: Examination of departmental decisions, circulars, guidance etc

30. This core task to examine specific output from the department expressed in documents or other decisions complements task 1, which is to examine policy proposals. The most striking example of such work is the detailed work on licensing decisions relating to arms exports which is undertaken by the Quadripartite Committee. This is constituted from the membership of the Defence, Foreign Affairs, International Development and Trade and Industry Committees. During 2003 the Committees produced a joint Report on the Government's Annual Report for 2001 on Strategic Export Controls.⁷⁷ This followed evidence taken in April from representatives of industry and NGOs on the Government's proposals for secondary legislation under the Export Control Act, which had been put out to consultation. They also took evidence on the same afternoon from the Secretary of State for Trade and Industry. The secondary legislation itself has now been laid before Parliament, and will come into force in May 2004. As the Committees note in their Report, "the test of the law will be how it works in practice".⁷⁸

31. One of the illustrative tasks listed in the House's resolution of 14 May 2002 was for committees "to examine treaties within their subject areas". The JCHR has instituted a long-term programme of examining the UK's compliance with its obligations under the various major international human rights treaties. In 2003, it produced a Report on *the UN Convention on the Rights of the Child*.⁷⁹

Task 5: Scrutiny of expenditure plans and outturns

32. In addition to the expenditure issues raised in the course of inquiries principally concerned with policy, in 2003 committees continued to carry out the core task of examining expenditure by scrutinising departmental annual reports, either by correspondence or, more commonly, by taking oral evidence from Ministers or officials. Some examples of such work are given in the table below.

77 Second Joint Report of Session 2002–03, *Annual Report for 2001, Licensing Policy and Parliamentary Scrutiny*, HC 474

78 First Joint Report of Session 2002–03, *The Government's proposals for secondary legislation under the Export Control Act*, HC 620

79 Tenth Report of Session 2002–03, *The UN Convention on the Rights of the Child*, HC 81

Committee	Scrutiny of expenditure undertaken
Defence	<ul style="list-style-type: none"> • Routine monitoring of defence expenditure carried out through the inquiry and Report into <i>Defence Procurement</i>⁸⁰ • Oral evidence session on the cost of the campaign in Iraq as part of the inquiry into the <i>Lessons of Iraq</i>⁸¹
Education and Skills	<ul style="list-style-type: none"> • Production of Report focusing on schools' funding following oral evidence with the Secretary of State, the Permanent Secretary and others⁸²
Environment, Food and Rural Affairs (EFRA)	<ul style="list-style-type: none"> • Report produced into the Department's Annual Report⁸³ • Correspondence with Defra about the Winter and Spring Supplementary Estimates
Foreign Affairs	<ul style="list-style-type: none"> • Report on Departmental Annual Report following oral evidence from the Accounting Officer⁸⁴
Health	<ul style="list-style-type: none"> • Detailed questionnaire submitted to DoH as part of the Committee's annual <i>Public Expenditure</i> inquiry (PEQ)
Home Affairs Committee	<ul style="list-style-type: none"> • Annual scrutiny of Home Office expenditure by means of a questionnaire, followed by an oral evidence session with the Permanent Secretary • Specific queries arising from the Main and Supplementary Estimates pursued in writing with the Home Office
International Development	<ul style="list-style-type: none"> • Report produced on Departmental Annual Report following oral evidence with the Permanent Secretary⁸⁵
ODPM	<ul style="list-style-type: none"> • Report produced on Departmental Annual Report and Accounts⁸⁶ • Inquiry into <i>Effectiveness of Government Regeneration Initiatives</i> was designed to establish whether money spent on regeneration was used effectively⁸⁷

80 Defence Committee, Eighth Report of Session 2002–03, *Defence Procurement*, HC 694

81 Minutes of Evidence, 7 January 2004, *Lessons of Iraq (Costs and Equipment)*, HC 57-v

82 First Report of Session 2003–04, *Public Expenditure: Schools' Funding*, HC 112

83 Twelfth Report of Session 2002–03, *The Departmental Annual Report 2003*, HC 832

84 Twelfth Report of Session 2002–03, *Foreign and Commonwealth Office Annual Report 2003*, HC 859

85 Eighth Report of Session 2002–03, *Department for International Development: Departmental Report 2003*, HC 825

86 First Report of Session 2003–04, *ODPM Annual Report and Accounts 2003*, HC 102

87 HC (2002–03) 76

Science and Technology	<ul style="list-style-type: none"> • Reports into expenditure of Research Councils drawing attention to a number of expenditure issues
Transport	<ul style="list-style-type: none"> • Report on Departmental Annual Report following oral evidence and extensive correspondence⁸⁸ • Examination of the reports and plans of the Department's executive agencies⁸⁹ • Examination of the Estimates (but see paragraph 39 below)
Work and Pensions	<ul style="list-style-type: none"> • Pursued by correspondence specific inquiries on the Main and Supplementary Estimates⁹⁰

33. Examples of serious expenditure issues raised by committees include:

- the Department for Transport's 66% increase in administration costs over five years and its decision to provide £940 million in 'de-risking grants' to London & Continental Railways to facilitate completion of the Channel Tunnel Rail Link (*Transport Committee*);⁹¹
- the significant overspend in the legal aid budget (*Constitutional Affairs Committee*);⁹²
- the "lack of a linkage" between the additional funding provided for the Department for International Development (DfID) in the 2002 Spending Review and "any assessment of an increase in what is delivered" (*International Development Committee*);⁹³
- evidence of poor financial management at the Medical Research Council and the National Environment Research Council (*Science and Technology Committee*);⁹⁴
- weaknesses in the way in which the Department for Education and Skills had introduced changes in the funding provision for schools (*Education and Skills Committee*);⁹⁵
- concerns that Treasury-imposed efficiency targets will damage the FCO's ability to carry out its core activities; and that appreciating assets (real estate, including distinguished embassy buildings and residences) are being sold off and some of the proceeds spent on depreciating assets (IT systems) (*Foreign Affairs Committee*).⁹⁶

88 Second Report of Session 2003–04, *The Departmental Annual Report 2003*, HC 249

89 Fourth Report of Session 2003–04, *Transport Committee Annual Report 2002–03*, HC 317, para 20

90 HC (2003–04) 227, para 21

91 HC (2003–04) 317, para 20

92 HC (2003–04) 410, para 12

93 Third Report of Session 2003–04, *Annual Report 2003*, HC 312, para 26

94 HC (2003–04) 169, para 12

95 Second Report of Session 2003–04, *The Work of the Committee in 2003*, HC 348, para 7

96 First Report of Session 2003–04, *Foreign Affairs Committee Annual Report 2003*, HC 220, paras 44–48

34. Committees also found areas in which departmental annual reports were inadequate. Although the Northern Ireland Affairs Committee found that there were “some helpful innovations in this year’s Departmental report” it said that “the presentation of the report was again marred by a lack of careful proof-reading, particularly in financial tables” and noted errors in such tables and criticised poorly explained changes in departmental targets. It also found “considerable variation in the quality and quantity of the information provided by the NIO’s offices, agencies and executive NDPBs”.⁹⁷ The EFRA Committee reported that “in general, the Department’s account of its expenditure was much improved compared to 2002. Nevertheless, we noted in our Report that there are ways in which transparency might be further improved, such as by giving a commentary of performance against objectives, and by setting out the key financial data relating to each Departmental objective.”⁹⁸

35. Some departments produced better reports this year: although the Foreign Affairs Committee thought that the FCO’s Annual Report continued to gloss over the less successful stories and concentrated on good news, they regarded it as “a helpful account to Parliament” and were “pleased to note continuing improvements in the FCO’s presentation of its annual Departmental Report, particularly the inclusion of cost-benefit analyses.”⁹⁹

36. Examination of expenditure by committees has often been viewed in the past as the poor relation of policy work. While the latter continues to occupy the most significant proportion of committees’ time and resources, **it is evident that committees are developing closer coverage of their departments’ expenditure, through:**

- **in-depth examination of annual reports;**
- **substantial inquiries into expenditure-focused issues;**
- **detailed scrutiny of Estimates; and**
- **following up queries raised during these exercises.**

37. **They have raised significant issues about departmental expenditure and have made constructive comments about departmental annual reports which, if implemented, would increase the transparency and accessibility of those reports.** Committees’ ability to highlight such issues has been greatly enhanced by the Scrutiny Unit’s expert assistance.

38. Under Standing Order No. 55, three days each Session are allocated for the consideration of Estimates recommended for debate by this Committee. In our last Annual Report we noted that for the system to work, committees need adequate time to examine the Estimates, seek further information from Departments where necessary, and, if appropriate, report their conclusions to the House. In the case of the 2002 Winter Supplementary Estimates, insufficient time was given, with the interval between the formal presentation of the Estimates to the House and their being put to the House for its approval on 5 December being the bare minimum necessary to comply with the “seven clear days”

97 HC (2003–04) 146, para 23

98 HC (2003–04) 225, para 20

99 HC (2003–04) 220, para 31

laid down in the Standing Order. We further noted that the Winter Supplementaries do not have to be voted in the House until 6 February, and that taking the first Estimates day before Christmas “appears to be driven by business management considerations rather than the convenience of the House.”¹⁰⁰

39. The Chairman of the Transport Committee reported to our Chairman her concerns regarding the laying of Estimates, and he wrote to the Chief Secretary to the Treasury to seek his comments. The Chief Secretary proposed that committees should be supplied with proof copies as soon as they were approved by the Treasury, rather than, as previously, when they were “signed off for the presses”. His reply did not, however, address the question of the timing of the Estimates days and their scheduling unnecessarily far ahead of the latest date specified in the Standing Order. We therefore recommended that “Government business managers should consult our Chairman before fixing the dates for Estimates days.[and that] they should accept any reasonable request for a postponement of the Estimates day to a date up to and including the deadline specified in the Standing Order.”¹⁰¹

40. The commitment to supply proof copies at an earlier stage to committees was welcome but unfortunately has not been fulfilled. For example, the Transport Committee’s Annual Report states that “to assist Committees, the Treasury provides advance proofs of the Estimates, but these consistently arrived only a day before they were formally presented.”¹⁰²

41. Following a further exchange of letters between our Chairman and the Chief Secretary, Mr Boateng undertook,¹⁰³ in the context of separate Government proposals, to modify the Parliamentary Supply and Appropriation process, to amend Standing Order No. 55 so as to extend from seven clear days to fourteen the period which must elapse between presentation of the Estimates and their being formally put to the House (the so-called “roll-up”). Our Chairman replied,¹⁰⁴ welcoming this proposal as a “helpful change”. He pointed out, however, that where the Estimates are presented just before a Recess or Prorogation “much of the gain [in time] could be lost in practical terms”, and he expressed the hope that, in such circumstances, it would be possible to give longer notice than the 14 days set out in the (revised) Standing Order.

42. For scrutiny of Estimates to be worthwhile, committees need to have sight of them in good time before debates. We welcome the proposal made by the Chief Secretary that the minimum number of days required between presentation of Estimates and them being put formally to the House should be increased to fourteen. However, we remain concerned that the Chief Secretary’s undertaking that committees should have earlier sight of proof copies is not, in practice, being fulfilled. We expect him to take steps to rectify this.

100 Liaison Committee, First Report of Session 2002–03, *Annual Report for 2002*, HC 558, para 24

101 *Ibid.*, para 29

102 HC (2003–04) 317, para 22

103 Letter dated 16 January 2004

104 Letter dated 23 February 2004

Task 6: Scrutinising Public Service Agreements and targets

43. Committees approached this core task in various ways. Many noted that Public Service Agreements (PSAs) were covered as part of the scrutiny of departmental annual reports; for example, the Work and Pensions Committee stated that “the majority of the subjects chosen for the Departmental Report session corresponded with the Department’s PSA targets...., enabling Members to question the Secretary of State on the Department’s—self-appraised—performance as given in its Report.”¹⁰⁵

44. In some cases, PSAs were at the core of committee inquiries, examples including the ODPM Committee’s inquiry into *Reducing Regional Disparities in Prosperity* which examined the PSA target to reduce disparities in growth¹⁰⁶ and the Environmental Audit Committee’s Report on *The Sustainable Development Headline Indicators 2002*.¹⁰⁷

45. Additionally, committees frequently undertake inquiries which do not explicitly focus on PSAs, but which in fact serve to scrutinise them. The Defence Committee’s Annual Report states that “we have been directly assessing through our inquiry into the Lessons of Iraq the MoD’s performance against its first Public Service Agreement objective, to ‘achieve success in the military tasks we undertake at home and abroad’. We will also be addressing issues of readiness, the MoD’s second objective, through this inquiry.”¹⁰⁸ The EFRA Committee’s Annual Report shows clearly how a range of inquiries related to PSA targets:¹⁰⁹

Inquiry	PSA target
Mid-Term Review of the CAP Reform of the CAP	Target 8 (SR 2000); target 5 (SR 2002)
Water Framework Directive	Target 15 (CSR 1998)
Countryside and Rights of Way Act	Target 14 (SR 2000); target 3 (SR 2002)
Rural Payments Agency	Target 10 (SR 2002)
Badgers and Bovine TB Vets and Veterinary Services	Target 6 (CSR 1998)
Future of Waste Management	Target 3 (SR 2000); target 6 (SR 2002)
Poultry Farming in the UK	Target 12 (SR 2000); target 9 (SR 2002)

46. The Culture, Media and Sport Committee devoted a large part of its Report on the work of the Department of Culture, Media and Sport in 2002-03 to a systematic and comprehensive examination of the Department’s Public Service Agreement targets. This covered the targets for both the current period (2001–04) and the next (2003–06) and drew

105 HC (2003–04) 227, para 24

106 Second Report of Session 2003–04, *Annual Report to the Liaison Committee 2003*, HC 221, para 19

107 Eleventh Report of Session 2002–03, *Sustainable Development Headline Indicators*, HC 1080

108 HC (2003–04) 293, para 53

109 HC (2003–04) 225, para 24

attention to the “marked differences” between the two. The Committee intends to repeat this exercise in future years.¹¹⁰

47. Committees made a number of criticisms concerning the operation of PSAs:

- the Culture, Media and Sport Committee, in addition to criticising aspects of individual PSA targets (both in terms of their robustness and the Department’s performance against them), also expressed general concern about “the indistinct linkage between the interventions of the DCMS (and its associated public bodies) and the movement of the indicators on which [the Department’s reporting of its targets] was based.” The Committee asked to be informed of the outcome of an NAO validation of the data systems used by the Department to report its PSA targets;¹¹¹
- the EFRA Committee criticised Defra because many PSA targets were aspirational and performance against them unmeasurable; argued that Defra should reduce the number of PSA targets, but nevertheless include commentary against internal objectives in areas not covered by PSAs; and recommended that the departmental annual report should give more details about correcting under-performance and about accountability where PSAs were cross-departmental;¹¹²
- the Home Affairs Committee, in the context of a PSA target relating to removing failed asylum seekers which had to be abandoned as unachievable, said that “we deprecate the setting of wholly unrealistic targets which serve only to arouse false expectations and which can only prove demoralising for all concerned... It is surely not too much to expect that, if it is thought necessary to set targets for removals, they should be rational and achievable”;¹¹³
- the International Development Committee noted that performance was below target for six of 26 targets and that the Departmental Annual Report contained insufficient information about how this underperformance was being addressed; it also criticised DfID’s intention only to report progress against new PSAs and said that it should remain accountable for outstanding targets;¹¹⁴
- the Regulatory Reform Committee remarked on the Government’s slow progress in bringing forward regulatory reform orders, and warned that the Government’s commitment to a PSA target of 60 regulatory reform orders by the end of the financial year 2005–06 could lead to an “unreasonably high level of regulatory reform business being presented to the House in the next two years”;¹¹⁵
- the Science and Technology Committee found that, despite criticism in last year’s Committee Annual Report, the “DTI Departmental Performance Report still contains some vague measures and unsubstantiated assessments of performance” (although the

110 Second Report of Session 2003–04, *DCMS Annual Report: Work of the Department in 2002–03*, HC 74

111 Fourth Report of Session 2003–04, *The Work of the Committee in 2003*, HC 404, para 19

112 HC (2003–04) 225, para 25

113 HC (2002–03) 654, para 32

114 HC (2003–04) 312, para 29

115 HC (2002–03) 908, paras 14–6

Committee was pleased to see that, following its criticism, the Office of Science and Technology had commissioned an independent report to develop a better set of indicators);¹¹⁶

- the Transport Committee was surprised to find that the Department was still in the process of developing a new method for measuring congestion, almost a third of the way through the ten year plan; but welcomed the fact that the Government was in the process of developing a new and more meaningful measure; more generally, it was concerned that “targets may distort policy decisions....[but that] the Department had dodged discussion about this”.¹¹⁷

48. The Public Administration Select Committee’s inquiry into Public Service Reform looked into the targets regime set by the Government, which included a survey of government performance by assessing PSAs across each of the Government’s Spending Reviews. It applauded the Government’s aspirations, but identified a number of failings and called for fewer national targets and for independent validation of targets: a call which the Government rejected in its response. The Pre-Budget Report of December 2003 announced that fewer key national targets would be announced as part of the 2004 Spending Review and, in line with the Committee’s thinking, said that greater emphasis would be placed on local targets with more input from front-line staff.¹¹⁸

49. We welcome the fact that committees are routinely looking at PSAs as part of their scrutiny of departmental annual reports, and particularly that a number of committees have been able to conduct in-depth assessments of PSAs and have made telling criticisms of some aspects of their operation. **We expect departments to engage with the constructive criticism of specific PSAs made by committees.**

Task 7: Monitoring the work of agencies and others

50. Committees take evidence from many agencies and other bodies during the course of their inquiries, sometimes as witnesses with expertise relevant to the subject matter of an inquiry, and sometimes as the subject matter of an inquiry: for example, the Education and Skills Committee took evidence from the Teacher Training Agency, the National College for School Leadership and the General Teaching Council, as part of an inquiry into *Teacher Retention*; and also conducted an inquiry into *The Work of OFSTED*, from which it took evidence on two occasions in 2003.¹¹⁹

51. Some committees have a rolling programme of one-off evidence sessions with agencies, such as:

- the Treasury Sub-Committee which took oral evidence from the Inland Revenue, Customs & Excise, the Office for National Statistics, National Savings and Investments, the UK Debt Management Office, the Statistics Commission, the Royal Mint and the

116 HC (2003–04) 169, para 17

117 HC (2003–04) 317, paras 24–25

118 Public Administration Committee, Second Report of Session 2003–04, *The Work of the Committee in 2003*, HC 229, paras 14–17

119 HC (2003–04) 348, para 15

Adjudicator's Office; the main Committee also examined the Financial Services Authority and the Complaints Commissioner for the FSA;¹²⁰

- the Transport Committee which last year took evidence on the work of the Driving Standards Agency, the Strategic Rail Authority, the Driver, Vehicle and Licensing Agency and the Highways Agency, about which it produced serious criticisms, the validity of which was recognised by the Department;¹²¹
- the Home Affairs Committee which held one-off evidence sessions with bodies associated with the Home Office, namely HM Inspectorate of Probation, the Government's Reviewer of Anti-Terrorism Legislation (Lord Carlile of Berriew QC) and the Parole Board;¹²²
- the Trade and Industry Committee which continued its rolling programme of informal meetings with Executive Agencies and others, including Oftel and Ofgem;
- the Science and Technology Committee which has set itself the target of examining all seven Research Councils over the course of the present Parliament, and in 2003 published Reports on *The Work of the Medical Research Council*, *The Work of the Natural Environment Research Council* and *the Work of the Engineering and Physical Sciences Research Council*.¹²³

Task 8: Scrutiny of major appointments

52. Committees do not routinely carry out prior scrutiny of appointments in the sense of taking part in the selection procedure. However, it is common practice for committees to hold oral evidence sessions with incumbents of major posts soon after their appointment, either as one-off evidence sessions, or as part of larger inquiries. Examples of such oral evidence include those with:

- members of the Bank of England Monetary Policy Committee (*Treasury Committee*);
- the new Permanent Secretary at the Department of Transport, during the session on the Departmental Annual Report (*Transport Committee*);
- the Chief Executive of the NHS, as part of the *Public Expenditure* inquiry (*Health Committee*);
- the new Chief Executives of the Economic and Social Research Council and the Medical Research Council, and the new Director General of the Innovation Group, Department of Trade and Industry (*Science and Technology Committee*);
- the new Chief Executive of the Legal Services Commission (*Constitutional Affairs Committee*);

120 Treasury Committee, Fourth Report of Session 2003–04, *Annual Report for 2003*, HC 386, para 16

121 HC (2003–04) 317, para 29

122 HC (2003–04) 345, para 13

123 Third, Fifth and Ninth Reports of Session 2002–03, *The Work of the Medical Research Council*, *The Work of the Natural Environment Research Council* and *The Work of the Engineering and Physical Sciences Research Council*, HC 132, HC 674 and HC 936

- the new Chief of the Defence Staff (*Defence Committee*).¹²⁴

53. In addition, the Public Administration Select Committee undertook the first major Parliamentary examination of the system of public appointments. The resulting Report included 36 recommendations which “aimed to limit ministerial patronage, while strengthening the role of Parliament over major appointments and opening up the system in order to encourage greater diversity and innovation.”¹²⁵ The Government subsequently accepted 20 of the Report’s recommendations, but rejected the Committee’s call for an enhanced role for Parliament in the scrutiny of key posts and the establishment of a Public Appointments Commission. The JCHR also noted that when the proposed Commission for Equality and Human Rights is established, it will be important for Parliament to be involved in ensuring the accountability of the commissioners as independent guardians of the rights and liberties of citizens.¹²⁶

54. Despite the EFRA Committee’s recommendation last year that Defra should inform it in advance of major appointments, the Committee was not told by Defra in advance (or afterwards) of a number of such appointments. The Committee’s Annual Report states that “we recommend, as we did last year, that the Department put in place procedures to inform us in advance of all major appointments pending and/or made, in line with the recommendation of the Liaison Committee.”¹²⁷ **We understand that Ministers have now accepted that such arrangements should be made. We would also see value in other committees requesting such information from their Departments on a routine basis.**

55. 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 LSC”.¹²⁸ **We invite other committees to consider whether asking for ‘valedictory’ memoranda from outgoing senior appointees would assist them in their scrutiny function.**

Task 9: Implementation of legislation

56. Many committee inquiries are in practice devoted to examining the implementation of policy and enforcement of law, whether that is UK or European law. Examples in 2003 included:

- the Committee on the Lord Chancellor’s Department’s inquiry into the Children and Family Court Advisory and Support Service (CAFCASS), which was established under the Criminal Justice and Court Services Act 2000;¹²⁹

124 Evidence taken before the Defence Committee, 11 June 2003, Session 2002–03, HC 771-i

125 HC (2003–04) 229, paras 11–12

126 See Appendix 2, task 7

127 HC (2003–04) 225, para 15

128 HC (2003–04) 410, para 17

129 Third Report of Session 2002–03, *Children and Family Court Advisory and Support Service (CAFCASS)*, HC 614

- the Education and Skills Committee's inquiry into Diversity and Provision in Secondary Education which focused on specialist schools, a major part of the Government's schools improvement policy;¹³⁰
- the Environmental Audit Committee's inquiries into the way ECGD fulfils its commitment to have due regard to sustainable development in making export credits available¹³¹ and into the implementation of the conclusions of the 2002 Johannesburg World Summit on Sustainable Development;¹³²
- inquiries by the EFRA Committee into the Countryside and Rights of Way Act 2000, progress on implementation of the Water Framework Directive, the Delivery of Education in Rural Areas and into the badger culling trials;¹³³
- the Health Committee's Report on Patient and Public Involvement in the NHS, which examined proposals initially set out in the 2000 NHS plan and subsequently fleshed out in the consultation document 'Involving patients and public in healthcare'; the Committee looked at the implementation of this policy and were able to point out delays and possible hitches in the process;¹³⁴
- the ODPM Committee's inquiries into the Effectiveness of Government Regeneration Initiatives which explicitly covered the outcome of a number of past and current policy initiatives;¹³⁵
- the Transport Committee's inquiry into Local Roads and Pathways, which covered implementation of the New Roads and Street Works Act 1991.¹³⁶

57. Any serious examination of current administration is often de facto a critique of the existing legislative framework. Inevitably a more explicit review is carried out by departments as part of preparing new legislation or policy, which is covered under Task 1. We believe that there is growing recognition of the benefits of committee examination of the outcome of some individual pieces of legislation and of identifiable Government initiatives. In July 1997 the Modernisation Committee in its First Report laid some emphasis on the perceived benefits of post-legislative monitoring, noting that it drew in a valuable way on Members constituency work, and offered far greater flexibility over timing than was possible during the process of legislation.¹³⁷ The recent review by a panel of Privy Counsellors of the Anti-Terrorism, Crime and Security Act 2001, mandated in the statute itself, offers a further example of the sort of committee activity which could be yet more frequent. In January 2004 the Leader of the House declared his sympathy for the case for

130 HC (2002–03) 94

131 Seventh Report of Session 2002–03, *Export Credits Guarantee Department and Sustainable Development*, HC 689

132 Twelfth Report of Session 2002–03, *World Summit on Sustainable Development 2002 - From Rhetoric to Reality*, HC 98

133 Fifth Report of Session 2002–03, *Countryside and Rights of Way Act 2000*, HC 394; Fourth Report of Session 2002–03, *The Water Framework Directive*, HC 130; Ninth Report of Session 2002–03, *The Delivery of Education in Rural Areas*, HC 467; and Seventh Report of Session 2002–03, *Badgers and Bovine TB*, HC 432

134 Seventh Report of Session 2002–03, *Patient and Public Involvement in the NHS*, HC 697

135 HC (2003–04) 221, para 16

136 HC (2003–04) 317, para 34

137 First Report of Session 1997–1998, *The Legislative Process*, HC 190

greater post-legislative scrutiny. While anxious to avoid overloading departmental select committees, and recognising that they might require extra resources to carry out post-legislative scrutiny on a systematic basis, he described them as “the obvious vehicles for such post-legislative scrutiny”.¹³⁸

58. A number of committee inquiries are already undertaken along these lines, and committees are often able to come to constructive and forward-looking conclusions and recommendations from ex post facto scrutiny. Committees can be more candid than government-led or -sponsored reviews, and more responsive to the views of stakeholders.

59. Obviously, not all the 50 or 60 statutes passed each year lend themselves to periodic review: nor do all the mass of distinct initiatives and programmes. But many do. The easiest way of facilitating such review is for departments to produce their own factual analysis of outcomes: proactively, following a request from a select committee, or as required in the parent statute. **We recommend that Ministers should commit themselves to greater willingness to accept amendments to bills requiring some form of regular report to Parliament—or better still to provide for such reports in bills presented to Parliament. Ministers could also display greater willingness to report on the outcome of comparably significant non-legislative initiatives.**

Task 10: Debates in Westminster Hall and the Chamber

60. Westminster Hall, as a parallel Chamber, has continued to serve as the main forum in which committee reports are debated. Standing Order No. 10 (13) stipulates that the Speaker shall appoint not more than six Thursdays on which the business in Westminster Hall should be debates on select committee reports. The Government makes further Thursdays available. Last year we expressed the fear that the share of Westminster Hall debates risked being reduced below the two-thirds figure recommended by the Modernisation Committee. **We are pleased to note that the number of Westminster Hall debates on select committee reports has been proportionately increased: in the 2002–03 Session, 23 days out of 35 were allotted to select committee reports (including one day allocated but not used), compared with 22 out of 39 in the 2001–02 Session. In the current Session, the proportion is 8 out of 10 [up to and including 11 March]. We acknowledge the Government’s readiness to provide additional time for debates on select committee reports. Although some dates have had to be changed, we are pleased to note that the Government has shown better consideration in giving notice to the committees concerned, unlike the practice noted in last year’s Report.**¹³⁹ Subjects debated in the 2002–03 Session were:

¹³⁸ HC Deb, 13 January 2004, cols 667–9

¹³⁹ HC (2002–03) 558, para 59

Committee	Report or issues
Constitutional Affairs	Children and Family Court Advisory and Support Service (CAFCASS)
Education and Skills	The Future of Higher Education
Environmental Audit, Science and Technology, and Trade and Industry	Energy Issues
Environment, Food and Rural Affairs (EFRA)	Badgers and Bovine TB
European Scrutiny	Democracy and Accountability in the EU and the Role of National Parliaments
Foreign Affairs	Human Rights Annual Report 2002
Health	National Institute for Clinical Excellence
Human Rights (Joint Committee)	The Case for a Human Rights Commission
International Development	Global Climate Change and Sustainable Development
International Development	Humanitarian Disaster in Southern Africa
International Development	Trade and Development at the WTO: Issues for Cancún
Northern Ireland Affairs	Financing of Terrorism in Northern Ireland
ODPM	Affordable Housing
ODPM	Reducing Regional Disparities in Prosperity
Public Administration	'These Unfortunate Events': Lessons of Recent Events at the former DLTR
Quadripartite (Defence, Foreign Affairs, International Development and Trade and Industry)	Strategic Export Controls—Annual Report for 2000, Licensing Policy and Prior Parliamentary Scrutiny
Quadripartite (Defence, Foreign Affairs, International Development and Trade and Industry)	Strategic Export Controls—Annual Report for 2001, Licensing Policy and Prior Parliamentary Scrutiny
Quadripartite (Defence, Foreign Affairs, International Development and Trade and Industry)	The Government's proposals for secondary legislation under the Export Control Act
Science and Technology	Science Education from 14 to 19
Transport	Urban Charging Schemes
Transport, Local Government and the Regions	10 Year Plan for Transport
Transport, Local Government and the Regions	The New Towns: their Problems and Future
Treasury	The Financial Regulation of Public Limited Companies

61. In addition, the following reports were debated on the Floor of the House during Estimates days: *The Government's Drugs Policy: Is it Working?*¹⁴⁰ (Home Affairs Committee) (5 December 2002); *Foreign Policy Aspects of the War Against Terrorism*¹⁴¹ (Foreign Affairs Committee) (11 March 2003); *The Conduct of Investigations into Past Cases of Abuse in Children's Homes*¹⁴² (Home Affairs Committee); *The Future of Waste Management*¹⁴³ (EFRA Committee) and *Waste—An Audit*¹⁴⁴ (Environmental Audit Committee) (19 June 2003).

140 Third Report of Session 2002–03, *The Government's Drugs Policy: Is it Working?* HC 318

141 Second Report of Session 2002–03, *Foreign Policy Aspects of the War Against Terrorism*, HC 196

142 Fourth Report of Session 2002–03, *The Conduct of Investigations into Past Cases of Abuse in Children's Homes*, HC 836

143 HC (2002–03) 385

144 HC (2002–03) 99

3 Working Practices

62. Our analysis of committees' execution of core tasks gives an indication of the depth and breadth of committee work undertaken in the past year. Much of this work has relied on the traditional techniques of the full committee collecting written evidence, taking formal oral evidence at Westminster, and producing reports. That method is highly effective; however, in 2003 there were examples of committees engaging in innovative practice at every stage in that process, in terms of:

- working in units smaller than the whole committee, i.e., via sub-committees and rapporteurs;
- information-gathering;
- and seeking to ensure that reports, and committee business generally, engaged the attention of the public and the media.

Sub-Committees

63. In our last Report, we reviewed the use made of sub-committees in recent years, addressing in particular the effects of the July 2001 changes to Standing Orders which gave all departmental select committees the power to set up a sub-committee.¹⁴⁵ We recorded that, while half a dozen committees had permanent sub-committees, most did not.

64. The situation has remained broadly the same in 2003. The EFRA Committee continues to set up "inquiry-specific" sub-committees. The ODPM and Treasury Committees have permanent sub-committees. The Health Committee's Maternity Services Sub-Committee completed its work in July. The Environmental Audit's Sustainable Education Sub-Committee completed its work in July 2003, and a new Environmental Crime Sub-Committee has been established and has begun its work. The only additions, both strictly speaking in 2004 rather than 2003, have been:

- the creation in January 2004 of a Northern Ireland Affairs Sub-Committee, mainly to undertake inquiries into matters that previously fell within the remit of the Northern Ireland Assembly, in view of continuing suspension of the Assembly;
- the creation of a sub-committee of the Work and Pensions Committee to inquire into the Department for Work and Pension's handling of major IT projects.

Information gathering

65. Effective scrutiny relies on effective information gathering. Committees are fortunate in generating many responses when they request written evidence as part of an inquiry, and these are essential, as are the oral evidence sessions held at Westminster during which Members question witnesses. However, in 2003 committees proved to be innovative in the

145 HC (2002–03) 558, paras 46–53

methods used to collect information, formal evidence and otherwise. Committees also collected such evidence from an increasingly diverse range of witnesses, for example:

- as part of its inquiry into *Learning the Sustainability Lesson*, the Environmental Audit Committee “took oral evidence from five members of the public, including two school children... We chose the unusual venue of their co-ordinator’s Nottingham ‘eco-home’—a Victorian, semi-detached home which is being converted to improve its energy efficiency.... During the course of the inquiry we also visited students and teachers at Hampstead Comprehensive (Cricklewood), and Ealing, Hammersmith and West London College”;¹⁴⁶
- as part of its inquiry into *Light Pollution*, the Science and Technology Committee paid “a night-time visit to the Royal Observatory Greenwich to observe the stars and to meet members of a number of astronomical societies. This visit gave us a real flavour of the issues involved and enabled far more amateur astronomers to put their concerns directly to us than would be possible in a formal oral evidence session”;¹⁴⁷
- the International Development Committee pioneered the use of formal evidence-taking by video-link, when it heard the views of South Africa’s parliamentary committee on trade and industry; it “intends to build on this work to encourage ‘southern voices’ to engage with our inquiries”;¹⁴⁸
- the Health Committee met informally with a number of school age children on Manchester Young People’s Council during the course of its inquiry into *Sexual Health*; it found their views “so compelling” that they subsequently decided to take formal oral evidence at Westminster from a group of young people aged 15 to 21;¹⁴⁹
- as part of its inquiry into the *Empowerment of Children and Young People*, the Welsh Affairs Committee met children and young people in an informal setting and subsequently took formal evidence from young people on two occasions. Evidence given by one witness from Funky Dragon (the Welsh Youth Assembly) was given in Welsh, the first such occasion by a witness at Westminster;¹⁵⁰
- the Public Administration Select Committee “co-hosted a major public conference to highlight the issues surrounding civil service reform. Organised jointly with the Committee on Standards in Public Life, Office of the Civil Service Commissioners, Constitution Unit at University College, London and the First Division Association, the conference was very well attended with nearly 200 people. The Cabinet Secretary, Sir Andrew Turnbull, Baroness Prashar, the First Civil Service Commissioner, and Sir Nigel Wicks, the Chair of the Committee on Standards in Public Life were among a number of senior figures to make presentations and answer questions”;¹⁵¹

146 First Report of Session 2003–04, *Annual Report 2003*, HC 215, para 31

147 HC (2003–04) 169, para 35

148 HC (2003–04) 312, para 6. In the past, such links had been used for informal evidence by the Trade and Industry and Foreign Affairs Committees.

149 HC (2003–04) 239, para 21

150 Second Report of Session 2003–04, *Work of the Committee in 2003*, HC 178, paras 10–11

151 HC (2003–04) 229, para 5

- the ODPM Committee spent three days in Oldham in September as part of its inquiry into *Social Cohesion*, visiting local organisations before taking evidence in public for a day and a half; referring generally to visits, the Committee reported that “to see examples of good and bad practice is something we regard as important as a means of gathering information and views—a ‘reality check’”.¹⁵²

66. The collection of written memoranda of evidence and the taking of formal oral evidence remain the principal means by which committees accumulate information. However, as the examples above show, **committees are becoming increasingly versatile in their approach, reaching out to witnesses not previously able to contribute to inquiries. Such novel approaches not only improve the quality of information available to committees when reaching conclusions, but also give them an opportunity to engage with a more diverse range of members of the public.**

On-line consultation

67. In last year’s Annual Report we noted the potential benefit of on-line consultation as a means of accessing public participation in committee inquiries, and noted the positive comments of the Joint Committee on the draft Communications Bill, which had pioneered the method. Following work at official level on the possible benefits of on-line consultation, the Science and Technology Committee has decided to conduct an on-line consultation exercise as part of its inquiry into *Human Reproductive Technologies and the Law*. **We welcome the expanded use of this consultation technique.**

Engaging the public and the media

68. Successful committee inquiries do not take place in a vacuum. Gaining the attention of the public and the media is a worthy objective for two principal reasons: if the public are better informed about how they are governed as a result of Ministers and officials having publicly to explain their actions as part of a select committee inquiry, a fundamental requirement of a functioning democracy has been served; secondly, the more public interest there is in a particular inquiry, the greater will be the public debate that it generates, and the more pressure there will be for the Government to recognise the importance of the recommendations based on the evidence received. Therefore, **gaining the attention of the public and the media is a necessary select committee objective.**

Webcasting

69. Committee evidence sessions are frequently broadcast on television, our evidence sessions with the Prime Minister being perhaps the most prominent example. Committee reports and transcripts of evidence are freely available on the Internet and, following an earlier trial, from September 2003, the House has established a permanent webcasting service, allowing access to committee proceedings through the use of video and audio internet broadcasts. This service allows simultaneous audio-visual coverage of up to four select or standing committees, and from January 2004 coverage of committees which are meeting in public but which are not being televised has been available in audio-only for the

¹⁵² HC (2003–04) 221, para 3

first time. All committee coverage is accompanied by on-screen explanatory notes about the committee, the inquiry and the witnesses giving evidence.¹⁵³ In the longer term, there are plans for live television or audio coverage of all committees meeting in public.¹⁵⁴ An archive retains webcast meetings for 14 days. **Webcasting of committee evidence sessions provides an exciting new way to engage the public and the media in our work. We are grateful to the House of Commons Commission and the Director of Parliamentary Broadcasting for achieving this expansion of the service and we look forward to further enhancements.**

Media advice

70. In order to be able to engage effectively with the media, committees need to have access to relevant expertise. As part of the enhancement of committee staffs recommended by the Review of Select Committee Resources, a full-time Select Committee Media Officer has been in post since October and has been able to assist a group of six committees by:

- helping with publicity for reports;
- providing strategic and tactical advice and support to select committees on media-related aspects of their work;
- liaising with lobby journalists and specialist correspondents to improve awareness of committee work;
- developing media best practice across a range of committees.

71. The Review of Select Committee Resources, which we cover at para 82 below, recommended that three Media Officers be appointed. **We welcome the appointment of the first Select Committee Media Officer and look forward to the provision of the additional support envisaged.**

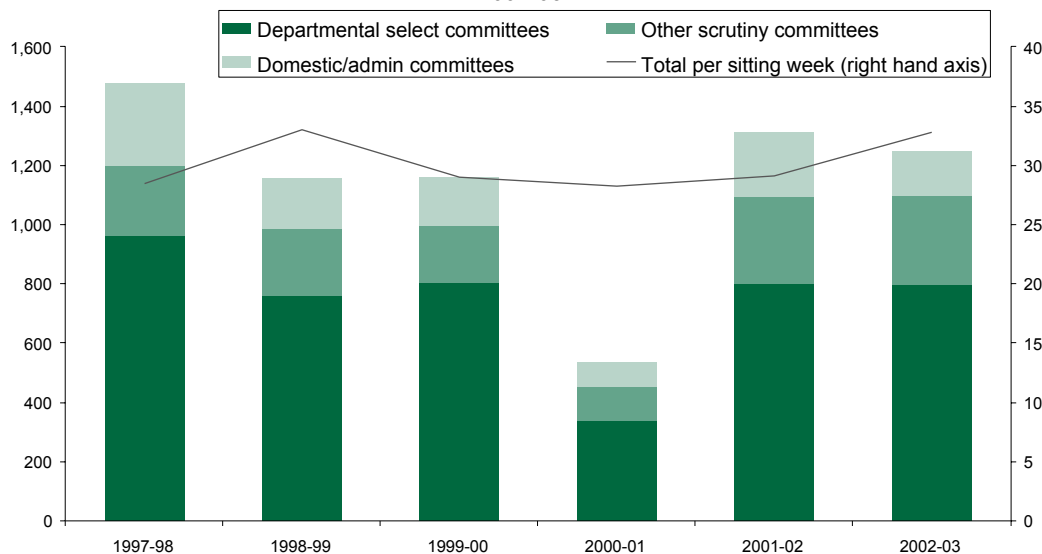
153 These are based on the notes for visitors which are made available to the public and media who are present at the meeting.

154 <http://www.parliamentlive.tv/>

4 Committee Activity and Resources

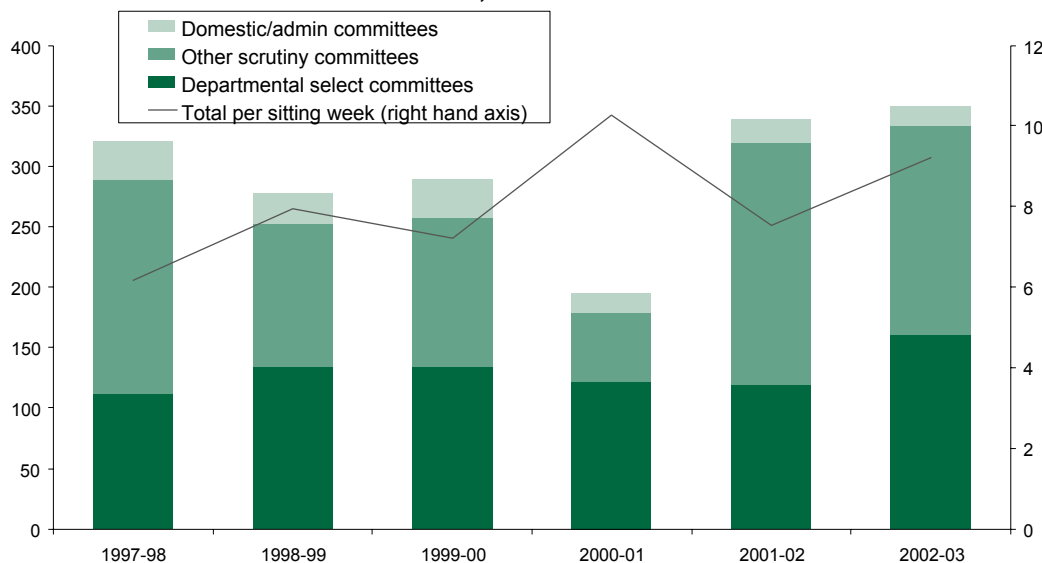
Select committee activity

Figure 1: Committee meetings by type of committee and session, 1997-98 to 2002-03



72. Figure 1 and the appended Table 1 show that there has been relatively little change in the number of committee meetings, other than that associated with the length of session. The total number of meetings fell marginally in Session 2002–03, but the number per sitting week (shown by the line in Figure 1) increased. **The total number of public meetings in Session 2002–03 was the highest since 1997–98 and the number per sitting week was the highest in any year shown.**

Figure 2: Number of substantive reports published by type of committee and session, 1997-98 to 2002-03



73. **The number of substantive committee reports published reached another new high of 350 in Session 2002–03.** Figure 2 and Table 2 (appended) show that in the last year the number produced by other scrutiny and “departmental/admin committees” fell, but this was more than made up by the **35% increase in reports published by departmental committees.** Both the total number and the average per sitting week in 2002–03 were above the equivalent figures for the second session of the last Parliament.

Table 1: Select committee meetings by session, 1997–98 to 2002–03

	Departmental select committees		Other scrutiny committees		Domestic/admin committees		All committees	
	All meetings	of which public ^(a)	All meetings	of which public ^(a)	All meetings	of which public ^(a)	All meetings	of which public ^(a)
Number								
1997–98	959	617	240	81	279	24	1,478	722
1998–99	756	478	230	117	168	14	1,154	609
1999–00	803	535	191	65	166	16	1,160	616
2000–01	339	197	117	51	81	5	537	253
2001–02	801	496	292	118	219	15	1,312	629
2002–03	798	567	295	132	152	13	1,245	712
Rate per sitting week ^(b)								
1997–98	18.4	11.9	4.6	1.6	5.4	0.5	28.4	13.9
1998–99	21.6	13.7	6.6	3.3	4.8	0.4	33.0	17.4
1999–00	20.1	13.4	4.8	1.6	4.2	0.4	29.0	15.4
2000–01	17.8	10.4	6.2	2.7	4.3	0.3	28.3	13.3
2001–02	17.8	11.0	6.5	2.6	4.9	0.3	29.2	14.0
2002–03	21.0	14.9	7.8	3.5	4.0	0.3	32.8	18.7

(a) Meetings at which oral evidence was taken wholly in public

(b) Weeks where the House of Commons sat for at least two days, excluding emergency recalls

Departmental select committees: Committees (and sub-committees) shadowing government departments or functions/initiatives performed by those departments.

Other scrutiny committees: Public Accounts, Joint Committee on Human Rights, European Scrutiny Committee, the Statutory Instruments Committees, Regulatory Reform Committee, Environmental Audit, Consolidation, Tax Law Rewrite Bills and ad hoc Bill Committees.

Domestic/admin committees: Apart from the Domestic Committees, this includes: Standards and Privileges, Procedure, Liaison, Selection, Modernisation Committees etc.

Source: *Sessional Returns, Sessions 1997–98 to 2002–03*

Table 2: Substantive committee reports published by session, 1997–98 to 2002–03

	Departmental select committees	Other scrutiny committees	Domestic/admin committees	All committees
Number				
1997–98	112	177	32	321
1998–99	134	118	26	278
1999–00	134	123	32	289
2000–01	122	57	16	195
2001–02	119	201	19	339
2002–03	161	173	16	350
Rate per sitting week^(a)				
1997–98	2.2	3.4	0.6	6.2
1998–99	3.8	3.4	0.7	7.9
1999–00	3.4	3.1	0.8	7.2
2000–01	6.4	3.0	0.8	10.3
2001–02	2.6	4.5	0.4	7.5
2002–03	4.2	4.6	0.4	9.2

(a) Weeks where the House of Commons sat for at least two days, excluding emergency recalls

Departmental select committees: Committees (and sub-committees) shadowing government departments or functions/initiatives performed by those departments.

Other scrutiny committees: Public Accounts, Joint Committee on Human Rights, European Scrutiny Committee, the Statutory Instruments Committees, Regulatory Reform Committee, Environmental Audit, Consolidation, Tax Law Rewrite Bills and ad hoc Bill Committees.

Domestic/admin committees: Apart from the Domestic Committees, this includes: Standards and Privileges, Procedure, Liaison, Selection, Modernisation Committees etc.

Source: *Sessional Returns, Sessions 1997–98 to 2002–03*

Committee resources

74. Faced with this high level of activity, committees need adequate resources to be able to function effectively. This requires committee secretariats of sufficient size and ability to meet committees' demand, and provision of in-House expertise. We now look at developments in these areas.

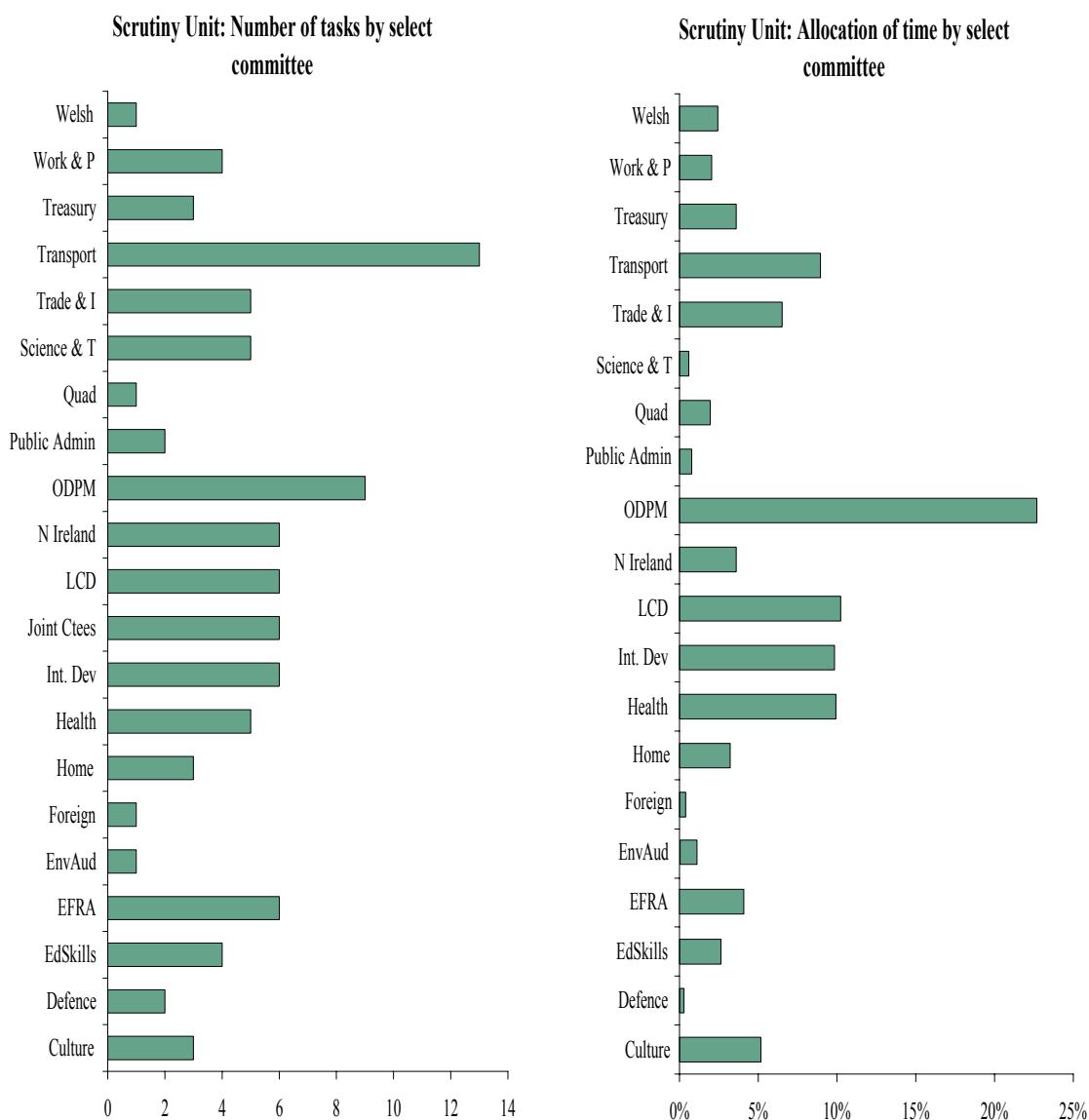
In-House expertise: the Scrutiny Unit

75. The Committee Office Scrutiny Unit was set up in November 2002 following recommendations from this Committee and the Modernisation and Procedure Committees, and the approval of the House of Commons Commission. As we noted above

at paras 24 and 37, the Unit provides specialist support for committees on expenditure matters and draft bills together with an element of ‘surge’ capacity at times of unexpected demand or temporary staffing shortages. The Unit reached its full complement in January 2004 with ten specialists (including six secondees—three accountants from the NAO, an Estimates expert from a government department, a Library statistician, and a performance audit adviser from the Audit Commission—and two lawyers and two economic/social policy experts on short-term contract) and seven core staff.

76. Since its inception the Unit has carried out over 100 tasks for select committees, which have varied significantly in size. Initially the Unit concentrated on expenditure matters, but with the publication of draft bills in the middle of the year, this latter area became the largest proportion of the Unit’s work, not least because of the heavy commitment involved in providing staff for four joint committees.

77. The following table shows the number of tasks completed by the Unit for select committees, and the allocation of time by select committee:



78. In terms of its expenditure work for committees, the Unit has so far focused on Supplementary Estimates for which committees have commissioned the Unit to provide analyses. The Unit provides material for committees to use as they see fit: 13 committees made such requests in respect of the 2003 Winter Supplementaries, and the Unit's work led in some cases to further correspondence with departments, or questions at evidence sessions. The Unit has also advised committees on their departmental annual reports: ten committees benefited from this advice in 2003, including some assistance with drafting reports. Identification and analysis of many of the expenditure and departmental annual report issues noted relied on Scrutiny Unit input.

79. In terms of draft bills, the Scrutiny Unit has devoted significant resources to providing staff to joint committees, the heaviest commitment having been to the ad hoc Joint Committee on the draft *Gambling Bill*, where 300 person days of work involving five staff had been provided by February 2004. However, the Unit also assisted four departmental committees in their examination of five other bills in total, as well as helping the then Committee on the Lord Chancellor's Department with its inquiry into the *Courts Bill [Lords]* and the Quadripartite Committee in its examination of secondary legislation on export controls.

80. Committees have been appreciative of the assistance provided by the Scrutiny Unit. Annual Reports noted:

- “[the Unit] has provided support and briefing on many subjects, particularly on those with a financial angle. It is useful to have an in-house unit with financial expertise, which can be called in to deal with matters such as Estimates quickly without disrupting the rest of the Committee's timetable. We believe that this central resource for Committees has proved its worth over the last year”¹⁵⁵ (*Transport Committee*);
- “during 2003 the Unit provided briefing and other material relating to our inquiries into the *Rural Payments Agency*, the *Delivery of Education in Rural Areas*, the *Departmental Annual Report*, and the *Ofwat Annual Report*. Staff of the Unit also advised the Clerk of our Committee about Supplementary Estimates produced during the year, and about Defra's proposal to alter the way in which its Estimate is presented. We continue to be strongly supportive of the work of the Scrutiny Unit, which complements our own staff”¹⁵⁶ (*EFRA Committee*);
- “the task of examining the Main and Supplementary Estimates... is a complex and specialist one and so we have worked closely with the Scrutiny Unit, harnessing their technical expertise in financial matters, to conduct a more detailed and comprehensive audit of the Department's Vote”¹⁵⁷ (*Work and Pensions Committee*).

81. Although this Report covers only its first full year of operation, it is evident that the Scrutiny Unit has already had a significant beneficial impact on the work of

155 HC (2003–04) 317, para 8

156 HC (2003–04) 225, para 30

157 HC (2003–04) 227, para 21

committees, contributing substantially to better examination of expenditure and draft legislation by committees.

Review of select committee resources

82. As we noted last year, following a recommendation of our Chairman, a review was undertaken into the specialist and other support staff resources available to committees. The resulting report found that levels of committee activity had increased, and were likely to increase further, but that resources had not risen commensurately. The report recommended that the numbers of staff in the Committee Office be increased so that, on average, each departmental committee would receive 1.5 extra members of staff, to assist them with inquiry management and administrative functions.

83. The House of Commons Commission approved the implementation of the review and it is being phased in over the current and the following two financial years. The first additional Committee Specialists have been appointed, as have new Inquiry Managers on secondment from the House of Commons Library; additional administrative staff will be taking up posts very soon. **We very much welcome the provision of additional staff for committee secretariats resulting from the Review of Select Committee Resources. Expectations of what committees should do are—rightly—being raised by the existence of the core tasks, and the increasing numbers of draft bills being subjected to pre-legislative scrutiny. It is right that committees should have the resources to meet those expectations.**

84. Taken together, the introduction of the Scrutiny Unit and the implementation of the Review of Select Committee Resources means that select committees are receiving their most significant increase in resources for over twenty years, which we welcome. We shall continue to take a close interest to ensure that adequate support is available to committees to enable them to carry out their work effectively. When the current Review has been fully implemented, there should be a system of regular review updates, to ensure that select committees are never again expected to carry out evolving duties with out-of-date resource allocations. The time gap between reports of reviews should never exceed five years.

Current costs of select committee work

85. Comprehensive details of expenditure attributable to individual select committees are included in the Sessional Return for Session 2002–03.¹⁵⁸ Overall the costs of select committee work in the financial year 2002–03 can be estimated as follows:

	£ million
Staff Costs	7.0
Select Committee Expenses	2.2
Printing and Publishing Costs	1.4
TOTAL	10.6

86. As noted above, the full effect of the Review of Select Committee Resources has not yet been achieved. At present,¹⁵⁹ the Committee Office has a complement of some 176 staff reinforced by 34 full-time equivalents in other Offices, which we consider a modest level of support for select committee work. The estimated total annual cost compares very favourably with costs of outside inquiries, and contrasts with the £430 billion¹⁶⁰ of Government expenditure which committees need to monitor.

158 HC 1 of Session 2003–04. See Section 10C, General Statistics Relating to Select Committees, pp 327–339

159 As at 8 March 2004

160 The gross total of resource expenditure for which Supply authority has been sought in 2003–04 (including spring supplementary estimate), less machinery of government changes.

5 Recent Developments and Concerns

Scrutiny of Government: The Hutton Inquiry

87. At our most recent session of oral evidence from the Prime Minister, we raised with him the contrast between the level of access to information and people achieved by Lord Hutton in his investigation into the circumstances surrounding the death of Dr David Kelly,¹⁶¹ and that available to select committees.

88. Most of the select committees which we chair are granted by the House the power to send for “persons, papers and records” under Standing Orders. The House of Commons gives this power to its committees in order to ensure that no obstacle should hamper them in carrying out their work.

89. **The Government has undertaken to co-operate as fully as possible in the provision of information to Parliament.¹⁶² 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.**

90. **During evidence to us on 3 February,¹⁶³ the Prime Minister agreed to undertake a review within Government of its guidance to officials relating to the availability of witnesses and evidence (usually known as ‘the Osmotherly Rules’).¹⁶⁴ The Leader of the House gave a similar undertaking on 5 February,¹⁶⁵ and we look forward to discussing the results of the review with him. We have drawn the Government’s attention to particular aspects of the problem, about which we have been concerned for some time:**

- access to No. 10 policy advisers;
- availability of current policy reviews and reports;
- evidence on ‘joined-up’ policies from Government departments involved, including HM Treasury.

91. Our forthcoming dialogue with the Government will also be informed by the work of the Public Administration Select Committee. Its investigation of Government by Inquiry, to which Lord Hutton will be contributing, is likely to highlight the differences between parliamentary and extra-parliamentary processes.

Witnesses

92. In order to be as effective as possible committees need access to those witnesses who are able to supply them with relevant information. The House does not condone witnesses

¹⁶¹ *Report of the Inquiry into the Circumstances Surrounding the Death of Dr David Kelly C.M.G.*, Session 2003–04, HC 247

¹⁶² See the Resolution of the House on Ministerial Accountability to Parliament, CJ (1996–97) 328

¹⁶³ Liaison Committee, Minutes of Evidence, HC 310-i, Q 1

¹⁶⁴ Departmental Evidence and Response to Select Committees, Cabinet Office, 1997

¹⁶⁵ HC Deb, 5 February 2004, col 905

being prevented from providing information or being harassed if they do so. A case currently referred to the Standards and Privileges Committee at the request of the Constitutional Affairs Committee raises this very serious issue.¹⁶⁶

93. The Science and Technology Committee raised a concern about the ability of witnesses to give evidence free from outside pressure. An important part of the Committee's examination of the work of Research Councils involves contributions from interested organisations and individuals. However, the Committee noted:

“Many individual researchers have been reluctant to voice their concerns in public for fear of affecting future grant applications. We regret that these fears appear to be so widespread. We hope that the Research Councils are not deliberately the cause of such concerns and will take the necessary steps to counter them. We hope that some of the private representations we receive might in future be able to be printed.”¹⁶⁷

94. A different problem concerning the ability of witnesses to give evidence was raised by the Transport Committee. Its Annual Report said:

“We were extremely startled when the Secretary of State declined to answer a question on the grounds that to do so might expose him to judicial review. The Chairman has pursued this matter in correspondence with the Secretary of State himself, and the Attorney General. We acknowledge that the courts are increasingly using the Official Report in their proceedings, but it is at the least unfortunate that this should reduce the ability of select committees to inquire into matters of general public interest, which are not at that time actually sub judice.”¹⁶⁸

95. Witnesses' evidence is vital to successful scrutiny. Anything which prevents witnesses being able to speak freely to committees is a matter of serious concern.

Relations with departments

96. We were pleased to note from annual reports that, in general, committees have good working relationships with departments. However, concerns have been raised by some committees about two issues: access to confidential or sensitive information; and Government responses to reports.

Access to confidential or sensitive information

97. The Foreign Affairs Committee said, about its Inquiry on *The Decision to go to War in Iraq*, that “the Government hampered the Committee in carrying out its scrutiny role effectively by refusing to provide the relevant intelligence-related material which we had repeatedly requested”.¹⁶⁹ Relating to other areas of its remit, the Committee also made the point that “while we appreciate being taken into the FCO's confidence, and always respect

166 Votes and Proceedings, 15 January 2004. Constitutional Affairs Committee, First Special Report of Session 2003–04, *Protection of a Witness—privilege*, HC 210

167 HC (2003–04) 169, para 19

168 HC (2003–04) 317, para 5

169 HC (2003–04) 220, para 28

the confidentiality which the Government attaches to its documents, we are not convinced that such confidentiality is always necessary”.¹⁷⁰

98. The Defence Committee expressed a similar view:

“We have had some difficulty in encouraging openness and transparency within the MoD. We have on several occasions encountered refusals to provide documents that we have requested to see in confidence.... MoD witnesses are not always as forthcoming as they might be: the MoD’s advice to witnesses, published on the Hutton Inquiry website, appears to encourage reticence rather than the helpfulness which elected representatives might expect to receive.”¹⁷¹

99. Regarding access to confidential information and evidence provision generally, the Science and Technology Committee made serious criticisms in its Report into *The Scientific Response to Terrorism*, in which it said:

“The Home Secretary has been unnecessarily sensitive about this inquiry. It is perplexing and disappointing that he took steps, belatedly, to prevent us hearing from certain witnesses from his Department and that he apparently sought to instil this uncooperative attitude in other Departments. The Home Secretary’s actions have sought to undermine the role of select committees. We recommend the Liaison Committee establish clear ground rules on the nature and extent of co-operation which is expected from Government in select committee inquiries”¹⁷²

100. We note the concerns of the Foreign Affairs, Defence, and Science and Technology Committees regarding access to confidential information and openness generally. We will take these into consideration in our dialogue with the Government on access to information and people (see para 90 above).

Government responses

101. Criticisms of Government responses to reports fell into two categories: complaints that departments failed to meet the two month deadline for responding; and dissatisfaction with the substance of the responses. While departments generally were more efficient in meeting the deadline than was the case last year,¹⁷³ two examples of poor performance stand out:

- the Health Committee’s Annual Report, referring to that Committee’s three Reports on Maternity produced during the last Session, states:

“We can see the logic of the Department issuing a single reply to three interlinked Reports. But the first of these Reports was published seven months ago and the last six months ago. So we are taking the opportunity that this Report provides to register

170 *Ibid.*, para 33

171 HC (2003–04) 293, para 59

172 HC (2002–03) 415, para 228

173 See, for example, Scottish Affairs Committee, Second Report of Session 2003–04, *Work of the Committee in 2003*, HC 344, paras 7–8

our irritation at this shoddy treatment by the Department which we regard as wholly unacceptable”;¹⁷⁴

- the Work and Pensions Committee held a short inquiry into the future role of the Social Security Advisory Committee (SSAC), at a time when its quinquennial review was underway. In its Annual Report, the Committee finds:

“It surprising and disappointing that, nearly a year after we published our Report on SSAC, a Government reply is still awaited. Although we understand that the need to thoroughly consider the quinquennial review and the involvement of another Department may have caused a prolonged delay beyond the normal two month deadline, we are disappointed with the Government’s failure to provide a substantive reply to our Report”.¹⁷⁵

102. If a committee is dissatisfied with the delay in receiving a reply from the Department, it is open to it to preface its publication of the reply once received with a criticism of the delay, and a request for a full explanation. For example, in July 2002 the Environmental Audit Committee reported on *Buying Time for Forests: Timber Trade and Public Procurement*, following claims that some of the timber being used in the refurbishment of the Cabinet Office had not come from legal and sustainable sources.¹⁷⁶ Despite a number of private and public promptings, no reply was forthcoming until 1 July 2003, the day before the Committee’s public oral evidence session on comparable concerns expressed over the construction of the new Home Office headquarters. The Committee set this timetable out in a Report fronting the Reply, and called for an explanation.¹⁷⁷ This was forthcoming in a September 2003 letter from the Minister of State. He apologised for the length of time, attributable in part to the need for detailed consultation between departments and stakeholders, but also due to an administrative error within Defra which “led to the draft response being buried for three months”.¹⁷⁸

103. Generally departments have raised their game in producing replies to reports within reasonable timescales, for which we are grateful. It is entirely unacceptable, however, that one committee has waited for more than six months and others for nearly a year for substantive replies.

104. Committees complaining about the nature of Government replies included the Science and Technology Committee, which condemned the increasing tendency of Ministers to respond instantly to committee reports. They gave an example which showed, in their opinion, an example of a Ministerial assertion by way of reply being “simply wrong”. They concluded that “such blatant attempts to rewrite the record, whilst not in themselves hugely significant, serve to undermine relations with committees and also to

174 HC (2003–04) 239, para 9

175 HC (2003–04) 227, para 6

176 Sixth Report of Session 2001–02, *Buying Time for Forests: Timber Trade and Public Procurement*, HC 792

177 Sixth Report of Session 2002–03, *Buying Time for Forests: Timber Trade and Public Procurement - Government Response to the Committee's Sixth Report*, Session 2001-02, HC 909

178 Fifth Special Report of Session 2002–03, *Government Response to the Committee's Sixth Report*, Session 2002-03, HC 1082

underline the benefits of reserving judgement until the properly considered response in the formal Government reply.”¹⁷⁹

105. Publication of committee reports often puts subjects high on the daily political agenda. If Ministers feel compelled to reply at once (and they receive embargoed advance copies of reports in the same way as journalists in order to prepare themselves) they should do it in the context that they will be giving a full and considered response in due course.

106. If committees receive formal responses which they consider to be unsatisfactory, they are able to do something about it. For example, the Education and Skills Committee’s Annual Report notes:

“twice we considered the Government response to be unsatisfactory. The responses of the DfES and the Department for Culture, Media and Sport to the Committee’s report on the British Library were insufficiently detailed. We therefore wrote to the Secretaries of State requesting further assurances, which were subsequently supplied. 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.”¹⁸⁰

107. Even where responses deal with the substance of a report, the Government does not necessarily have to have the last word. The Public Administration Select Committee regularly publishes its own comments on a Government response alongside the response itself. For example, when publishing the Government’s response to their *On Target? Government by Measurement* Report, the Committee commented that “the Government is clearly moving in the right direction, but needs to increase the momentum”.¹⁸¹

Northern Ireland legislation

108. The Northern Ireland Affairs Committee has drawn attention to a worrying practice in the Government’s approach to Northern Ireland legislation. During a suspension of the Northern Ireland Assembly, the Government uses the provisions of the Northern Ireland Act 2000 (‘the 2000 Act’) to put legislation on devolved matters through Parliament as Orders in Council, which are not amendable and which must be accepted or rejected in their entirety. However, in 2003, the Northern Ireland Office also used the provisions of the 2000 Act to process Orders in Council on ‘reserved matters’ (policy areas retained by the Government, for the present, for handling at Westminster), rather than using the procedure under s85 of the Northern Ireland Act 1998 (‘the 1998 Act’), which is ordinarily used in such cases.

179 HC (2003–04) 169, para 32

180 HC (2003–04) 348, para 6

181 Sixth Report of Session 2002–03, *On Target? Government by Measurement: The Government’s Response to the Committee’s Fifth Report*, HC 1264, para 2

109. The difference between the procedures laid down in the two Acts is that the 1998 Act requires, other than in emergency cases, for a proposal for a draft Order to be presented both to Parliament and to the Assembly for a two-month consultation period before being formally laid. The 2000 Act has no such requirement; therefore Parliament can be asked to agree to non-urgent Northern Ireland legislation without any consultation, and without Parliament having the opportunity to amend it. The Northern Ireland Office has adopted the 2000 Act procedure for reserved matters because of a technical flaw in that Act's provisions for the suspension of devolved Government. While the majority of the provisions in the 1998 Act, which provides for the workings of the Assembly, are cancelled by the 2000 Act, the latter fails to address explicitly the Assembly's right of reply on consultations on reserved matters. The Northern Ireland Office considers that the continuance of this provision in the 1998 Act makes that procedure for handling reserved matters unusable while a suspension lasts.

110. However, the Northern Ireland Affairs Committee is concerned that the 2000 Act deals only with matters within the Assembly's legislative competence. Therefore, for the Act to apply to an Order relating to a reserved matter, the Secretary of State has to consent to the Assembly assuming powers to determine the provision in question. This is unsatisfactory because, as the Committee suggests "the question of when, and if, certain areas of policy should be devolved continues to be a cause for argument both in Northern Ireland and at Westminster" and should not be determined for reasons of administrative convenience. The Committee concludes that "it is wrong in principle that Parliament should lose its statutory rights of consultation over matters it has for the time being reserved to itself, simply because of a minor technical flaw in the Northern Ireland Act 2000... If the flaw in the 2000 Act indeed makes the procedure under s85 of the 1998 Act inoperable during a suspension of devolved government, the error must be corrected without delay".¹⁸² **We support the Northern Ireland Affairs Committee in its recommendation that the Northern Ireland Act 2000 be amended, if necessary, in order to ensure that the duty to consult on Orders in Council relating to reserved matters is adhered to.**

182 HC (2003–04) 146, para 20

6 Highlights of 2003

111. We end this review of the year with some examples of work from individual select committees. Inevitably these are selective, but they demonstrate the range of work and the impact made by a comprehensive structure which, in 2004, will celebrate 25 years of achieving accountability of Ministers and their departments to Parliament:

- the **Constitutional Affairs Committee** examined the role of CAFCASS and issued a highly critical report, a central recommendation of which was that there should be a fundamental review of board membership. Ministers accepted this recommendation, and subsequently invited each member of the Board to resign. On the broader constitutional front, the Committee has taken the lead in criticising the Government's highly controversial plans for a new Supreme Court and for limiting or removing appeals to the courts in asylum and immigration cases. It has taken evidence from senior members of the judiciary, including the Lord Chief Justice and members of the Appellate Committee of the House of Lords, and will develop its relationship with the judiciary further in order to allow Parliament to be better informed of the views of senior judges on legislative proposals;
- the **Culture, Media and Sport Committee's** review of progress with the Government's cultural property agenda revealed shortcomings in performance. The key practical measure, a national database for tainted cultural objects, was stalled by a disagreement between DCMS, the Home Office and the police. Despite progress with enabling national museums to return human remains, the Government had gone back on an undertaking to change the law to allow the return of art looted by the Nazis between 1939–45.¹⁸³ Doubts were raised over the capacity of UK authorities to tackle the import of tainted objects, and the ability of the DCMS to refuse an export licence for such material;
- the **Education and Skills Committee** rigorously examined the Government's stated intention of pursuing evidence-based policy, notably in its Report on *Secondary Education: Diversity of Provision*,¹⁸⁴ in which it concluded that there was inadequate evidence to say whether allowing all secondary schools to seek specialist school status would improve levels of attainment across the secondary sector;
- the **Environmental Audit Committee** published in its *Greening Government 2003* Report¹⁸⁵ an unusually detailed analysis of the returns to Defra from Government departments to an annual questionnaire. As in past years it has been able to influence both the nature and content of future surveys, and to draw attention to manifest failings in Government based on departmental returns;
- the **EFRA Committee's** Report on *Gangmasters*¹⁸⁶ published in September 2003 was one of a series of such reports from the Committee last year which explored a specific

183 First Report of Session 2003–04, *Cultural objects: developments since 2000*, HC 59, para 62

184 HC (2002–03) 94

185 Thirteenth Report of Session 2002–03, *Greening Government 2003*, HC 961

186 Fourteenth Report of Session 2002–03, *Gangmasters*, HC 691

issue of public policy in depth and reached conclusions: such as earlier Reports on *Poultry Farming in the United Kingdom*,¹⁸⁷ *The Delivery of Education in Rural Areas*¹⁸⁸ and *Rural Broadband*.¹⁸⁹ Subsequently a backbench member, Jim Sheridan MP, who had come third in the ballot for private Members' Bills, chose to present a bill to license gangmasters: and then followed the tragedy of the Morecambe Bay cocklers. The Second Reading debate on Mr Sheridan's Bill on 27 February 2004 drew extensively on the Committee's work;

- the **European Scrutiny Committee's** engagement with the Convention on the Future of Europe and the subsequent Inter-Governmental Conference on the draft EU Constitutional Treaty, both through its own evidence sessions and Reports and its Members' participation in the innovative Standing Committees on the Convention on the Future of Europe and on the IGC, was effective in making the House's representatives on the Convention and Ministers accountable to Parliament;¹⁹⁰
- the **Foreign Affairs Committee** completed its inquiry into *The Decision to go to War in Iraq*¹⁹¹ in just one month, hearing oral evidence from 12 groups of witnesses and producing an 18,000-word Report on whether Ministers presented complete and accurate information to Parliament in the period leading up to war in Iraq;
- the **Health Committee's** Report on *Sexual Health*¹⁹² prompted widespread debate on the extent of the deterioration of the nation's sexual health. The Government has now accepted its recommendation that a target access time of 48 hours for genitor-urinary medicine should be set. It has also agreed to remove a flawed chlamydia test in favour of a much more reliable one: this will prevent some women from becoming infertile as a consequence of the disease remaining undetected;
- the **Home Affairs Committee's** Reports on asylum applications, asylum removals and the Government's latest asylum bill were a major contribution to debate on one of the most sensitive issues in present-day British politics. In the most recent of those Reports, the Committee drew particular attention to the fact that on the issue of asylum "there is more in common between the overall strategy of the main political parties than is apparent at first sight", and added that "a greater public understanding of these constructive common elements in the main parties' approach, as well as of the undoubted differences of principle on some issues, would help to make asylum a less divisive issue in the wider community";¹⁹³

187 Thirteenth Report of Session 2002–03, *Poultry Farming in the United Kingdom*, HC 779

188 HC (2002–03) 467

189 Eleventh Report of Session 2002–03, *Rural Broadband*, HC 587

190 Minutes of Evidence, *The Inter-Governmental Conference on the Draft Treaty on a Constitution for Europe*, 10 September and 5 November 2003, HC 1078-i and -ii; Minutes of Evidence, *The Convention, the draft Treaty and the IGC*, 16 July 2003, HC 1030-I; Minutes of Evidence, *The Energy Provisions of the EU's Draft Constitutional Treaty*, 2 December 2003, HC 70-I; Minutes of Evidence, *Fisheries and other aspects of the EU Draft Constitutional Treaty*, 4 December 2003, HC 91-I; Twenty-sixth Report of Session 2002–03, *The Convention's proposals on criminal justice*, HC 63-xxvi; Twenty-fourth Report of Session 2002–03, *The Convention on the Future of Europe and the role of national parliaments*, HC 63-xxiv

191 HC (2002–03) 813

192 HC (2002–03) 69

193 HC (2003–04) 218; HC (2002–03) 654 and HC (2003–04) 109

- in addition to its scrutiny of bills and draft bills, the **Joint Committee on Human Rights** produced highly influential Reports on *The Case for a Human Rights Commission*¹⁹⁴ and *The Case for a Children's Commissioner for England*,¹⁹⁵ both of which will be very substantially implemented in forthcoming Government primary legislation;¹⁹⁶
- the **International Development Committee's** two Reports on *trade and development at the WTO*,¹⁹⁷ published before and after the collapse of the Cancún Ministerial meeting, enhanced parliamentary scrutiny of the UK's contribution to European Union trade policy, and of the extent to which UK and EU policies on trade and development are coherent. These informed the negotiating positions of delegates to the WTO, and helped to ensure that the developmental objectives of the current round of WTO negotiations were not marginalised in the ultimately unsuccessful rush to reach agreement at Cancún;
- the **Northern Ireland Affairs Committee's** detailed inquiry into the EU-funded *PEACE II* programme,¹⁹⁸ completed in June 2003, established that over £50 million of European funding for grassroots peace and reconciliation projects could be forfeited unless urgent action was taken. As a direct result of the Committee's intervention, a far stronger direction came from Ministers, the bureaucracy was radically simplified and the money was eventually committed in time. The Committee has recently been to Belfast to check on progress;
- the **ODPM Committee's** Report on *the draft Housing Bill*¹⁹⁹ led to a number of significant changes to the draft legislation, as well as pointing the way to other areas for further debate. For example, the Government accepted the Committee's recommendation against the proposed repeal of section 606 of the 1985 Housing Act which requires an officer to report unfit housing: accepted the Committee's proposal that local authorities be able to suspend the Right to Buy for properties scheduled for demolition, and that they have first refusal to buy back, at market prices, Right to Buy properties within ten years of sale: and agreed to fund any extra burden placed on local authorities as a result of their duties to enforce the proposed Home Information Pack;
- the **Committee of Public Accounts** published over 50 reports, covering the work of almost every Government department and ranging from the examination of major defence spending programmes and high-profile health and private finance initiative topics to tobacco smuggling and benefit fraud. The Committee examined the management and transfer of risk in government projects, with particular reference to IT projects. It also looked at government project cost overruns, the procurement

194 Sixth Report of Session 2002–03, *The Case for a Human Rights Commission*, HC 489-I

195 Ninth Report of Session 2002–03, *The Case for a Children's Commissioner for England*, HC 666

196 HC (2002–03) 489-I and HC (2002–03) 666

197 Seventh Report of Session 2002–03, *Trade and Development at the WTO: Issues for Cancún*, HC 400-I and First Report of Session 2003–04, *Trade and Development at the WTO: Learning the lessons of Cancún to revive a genuine development round*, HC 92-I

198 Seventh Report of Session 2002–03, *PEACE II*, HC 653

199 HC (2002–03) 751

practices of departments and agencies, and their effect on the delivery of public services;

- the highlight of the year for the **Public Administration Select Committee** was the publication of its draft Civil Service Bill. The idea of a Bill has a very long history; it was one of the central recommendations of the seminal Northcote-Trevelyan Report of 1854, which laid the foundations of the independent and impartial Civil Service, based on merit not patronage. The Head of the Home Civil Service, Sir Andrew Turnbull, said the Bill would “lock in” the Service’s core values;²⁰⁰
- the **Regulatory Reform Committee** has continued to cast a critical eye over the Government’s programme of regulatory reform orders (RROs). Its Annual Report on *The Operation of the Regulatory Reform Act 2001* drew attention to the slow progress the Government has made in removing burdens from primary legislation by RRO, and encouraged the Government to do more to identify regulatory burdens which the RRO procedure could remove. The Committee’s detailed scrutiny of RRO proposals and orders continues to underpin the integrity of the regulatory reform process;²⁰¹
- the **Science and Technology Committee’s** Report on *the Work of the Medical Research Council* made some stinging criticisms of the way the Council operated, and has led to a perceptible change in the culture there, as recognised by the new Chairman. It also put the other Research Councils on notice that their performance would be subject to thorough public analysis;
- the speed with which the **Joint Committee on Statutory Instruments** now reports on instruments can have a significant impact on delegated legislation. Its Report on the *Horse Passports (England) Regulations 2003*, which identified no fewer than seven separate defects in the regulations, was published in advance of a Standing Committee debate on this controversial instrument.²⁰² The Minister responding to the debate was obliged to address the Joint Committee’s concerns and to give an undertaking to revoke and re-issue the instrument;²⁰³
- the **Trade and Industry Committee** Report which created most public interest in 2003 was that on *People, Pensions and Post Offices: The impact of ‘Direct Payment’ on post offices and their customers*,²⁰⁴ which took the Government to task for forcing on claimants a method of benefit payment that was unwelcome to many people, especially pensioners, and was bound, in the Committee’s view, to cause major financial difficulties for sub post offices;
- the **Transport Committee’s** major Report on *Aviation*²⁰⁵ fed into the Government’s decisions on aviation as announced in its eventual White Paper; the proposed

200 *Civil Service Reform: Delivery and Values*, Cabinet Office, February 2004, p 15

201 HC (2002–03) 908

202 First Report of Session 2003–04, HC 82-i

203 Stg Co Deb, Fourth Standing Committee on Delegated Legislation, *Horse Passports (England) Regulations 2003*, 11 December 2003, col 15

204 Eleventh Report of Session 2002–03, *People, Pensions and Post Offices: The impact of ‘Direct Payment’ on post offices and their customers*, HC 718

205 HC (2002–03) 454

imposition of a public service obligation on flights to and from peripheral airports, sought by the Committee and its predecessors, offers one small example. The Committee was also instrumental in exposing, in the course of its inquiry into the *Future of the Railways*, the impossibility of continuing without major structural change: having rejected that view in evidence to the Committee in September 2003, the Secretary of State explicitly accepted it in establishing a full internal review in January 2004;

- the **Treasury Committee's** inquiry into the *Transparency of Credit Card Charges*²⁰⁶ examined whether card-holders were being given enough information about the terms and conditions applying to cards, and the effect of marketing practices on consumer debt. Concrete results have flowed from this work. The industry has committed itself to providing more consumer-friendly information about charges, involving in particular the introduction of a 'Summary Box' of easily visible key information, on a much faster timetable than would otherwise have been the case;
- the **Welsh Affairs Committee** pressed in its Report on *The Primary Legislative Process as it affects Wales*²⁰⁷ for the opportunity for joint select committee meetings between House of Commons and National Assembly for Wales committees, and for joint Welsh Grand/NAW debates on the legislative priorities for Wales. As a result of its persistence, both are now in prospect, subject to the agreement of authorities in both institutions;
- the **Work and Pensions Committee** agreed a major Report on *the Future of UK Pensions*²⁰⁸ that analysed the weaknesses in the current level of pension provision and identified the issues necessary for building a sustainable future. On childcare, the Committee's recommendation that children's centres be rolled out beyond the 20% most deprived wards to the 30% most deprived, and that the Government should commit itself to universal provision, was effectively what the Government announced in the 2003 Pre-Budget Report.

206 First Report of Session 2003–04, *Transparency of Credit Card Charges*, HC 125

207 Fourth Report of Session 2002–03, *The Primary Legislative Process as it affects Wales*, HC 79

208 HC (2002–03) 92

Conclusions and recommendations

1. We welcome the inclusion in a number of committees' annual reports of a table showing the range of core tasks covered by each inquiry, and encourage other committees to adopt this practice. (Paragraph 8)
2. While expressing pleasure in the step change towards greater pre-legislative scrutiny, we call on the Government to continue to produce an increasing number of bills in draft form; to have a working assumption that existing departmental select committees are usually the most appropriate means by which draft bills can be scrutinised, unless there are compelling reasons for an alternative approach, such as reluctance by the committee because of its existing programme, or the wish to include a wider range of Members from both Houses; to provide realistic timescales for the scrutiny of draft bills; and to co-operate fully with chairmen and committee secretariats. (Paragraph 29)
3. For scrutiny of Estimates to be worthwhile, committees need to have sight of them in good time before debates. We welcome the proposal made by the Chief Secretary that the minimum number of days required between presentation of Estimates and them being put formally to the House should be increased to fourteen. However, we remain concerned that the Chief Secretary's undertaking that committees should have earlier sight of proof copies is not, in practice, being fulfilled. We expect him to take steps to rectify this. (Paragraph 42)
4. We expect departments to engage with the constructive criticism of specific PSAs made by committees. (Paragraph 49)
5. We understand that Defra Ministers have now accepted that arrangements to notify the EFRA Committee of major appointments should be made. We would also see value in other committees requesting such information from their Departments on a routine basis. (Paragraph 54)
6. We invite committees to consider whether asking for 'valedictory' memoranda from outgoing senior appointees would assist them in their scrutiny function. (Paragraph 55)
7. We recommend that Ministers should commit themselves to greater willingness to accept amendments to bills requiring some form of regular report to Parliament—or better still to provide for such reports in bills presented to Parliament. Ministers could also display greater willingness to report on the outcome of comparably significant non-legislative initiatives. (Paragraph 59)
8. We welcome the expanded use of on-line consultation. (Paragraph 67)
9. Webcasting of committee evidence sessions provides an exciting new way to engage the public and the media in our work. We are grateful to the House of Commons Commission and the Director of Parliamentary Broadcasting for achieving this expansion of the service and we look forward to further enhancements. (Paragraph 69)

10. We welcome the appointment of the first Select Committee Media Officer and look forward to the provision of the additional support envisaged. (Paragraph 71)
11. It is evident that the Scrutiny Unit has already had a significant beneficial impact on the work of committees, contributing substantially to better examination of expenditure and draft legislation by committees. (Paragraph 81)
12. We very much welcome the provision of additional staff for committee secretariats resulting from the Review of Select Committee Resources. Expectations of what committees should do are—rightly—being raised by the existence of the core tasks, and the increasing numbers of draft bills being subjected to pre-legislative scrutiny. It is right that committees should have the resources to meet those expectations. (Paragraph 83)
13. Taken together, the introduction of the Scrutiny Unit and the implementation of the Review of Select Committee Resources means that select committees are receiving their most significant increase in resources for over twenty years, which we welcome. We shall continue to take a close interest to ensure that adequate support is available to committees to enable them to carry out their work effectively. When the current Review has been fully implemented, there should be a system of regular review updates, to ensure that select committees are never again expected to carry out evolving duties with out-of-date resource allocations. The time gap between reports of reviews should never exceed five years. (Paragraph 84)
14. 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. (Paragraph 89)
15. During evidence to us on 3 February, the Prime Minister agreed to undertake a review within Government of its guidance to officials relating to the availability of witnesses and evidence (usually known as ‘the Osmotherly Rules’). The Leader of the House gave a similar undertaking on 5 February, and we look forward to discussing the results of the review with him. We have drawn the Government’s attention to particular aspects of the problem, about which we have been concerned for some time:
 - access to No. 10 policy advisers;
 - availability of current policy reviews and reports;
 - evidence on ‘joined-up’ policies from Government departments involved, including HM Treasury. (Paragraph 90)
16. Witnesses’ evidence is vital to successful scrutiny. Anything which prevents witnesses being able to speak freely to committees is a matter of serious concern. (Paragraph 95)
17. We note the concerns of the Foreign Affairs, Defence, and Science and Technology Committees regarding access to confidential information and openness generally.

We will take these into consideration in our dialogue with the Government on access to information and people. (Paragraph 100)

18. Generally departments have raised their game in producing replies to reports within reasonable timescales, for which we are grateful. It is entirely unacceptable, however, that one committee has waited for more than six months and others for nearly a year for substantive replies. (Paragraph 103)
19. We support the Northern Ireland Affairs Committee in its recommendation that the Northern Ireland Act 2000 be amended, if necessary, in order to ensure that the duty to consult on Orders in Council relating to reserved matters is adhered to. (Paragraph 110)

Appendix 1: List of Select Committee Annual Reports for 2003

Committee	Report Reference
Constitutional Affairs	Third Report, HC 410: <i>Work of the Committee 2003</i>
Culture, Media and Sport	Fourth Report, HC 404: <i>Annual Report of the Committee</i>
Defence	Second Report, HC 293: <i>Annual Report for 2003</i>
Education and Skills	Second Report, HC 348: <i>The Work of the Committee in 2003</i>
Environmental Audit	First Report, HC 215: <i>Annual Report 2003</i>
Environment, Food and Rural Affairs [EFRA]	Second Report, HC 225: <i>The Annual Report of the Committee 2003</i>
European Scrutiny	Eighth Report, HC 42-viii: <i>The Committee's work in 2003</i>
Foreign Affairs	First Report, HC 220: <i>Foreign Affairs Committee Annual Report 2003</i>
Health	First Report, HC 239: <i>The Work of the Health Committee, 2003</i>
Home Affairs	Third Report, HC 345: <i>The Work of the Home Affairs Committee in 2003</i>
Human Rights (Joint Committee)	Memorandum from the Chairman (see Appendix 2)
International Development	Third Report, HC 312: <i>Annual Report 2003</i>
Northern Ireland Affairs	First Report, HC 146: <i>The Committee's work in 2003</i>
ODPM	Second Report, HC 221: <i>Annual Report to the Liaison Committee 2003</i>
Public Administration	Second Report, HC 229: <i>The Work of the Committee in 2003</i>
Regulatory Reform	First Special Report, HC (2002–03) 908: <i>The Operation of the Regulatory Reform Act 2001: a progress report</i>
Science and Technology	First Report, HC 169: <i>Annual Report 2003</i>
Scottish Affairs	Second Report, HC 344: <i>Work of the Committee in 2003</i>
Statutory Instruments (Joint Committee)	First Special Report, HC (2002–03) 1329: <i>Departmental Returns, 2000–2002</i>

Trade and Industry	First Report, HC 260: <i>The Work of the Committee in 2003</i>
Transport	Fourth Report, HC 317: <i>Transport Committee Annual Report 2002–03</i>
Treasury	Fourth Report, HC 386: <i>Annual Report for 2003</i>
Welsh Affairs	Second Report, HC 178: <i>Work of the Committee in 2003</i>
Work and Pensions	First Report, HC 227: <i>The Committee's Work in 2003</i>

All HC numbers are of Session 2003–04 unless stated otherwise.

Appendix 2: Memorandum from the Chairman of the Joint Committee on Human Rights

Letter from the Chairman of the Joint Committee on Human Rights (JCHR) to the Chairman of the Liaison Committee

Work of the JCHR in 2003

The Liaison Committee has asked each of the departmental select committees to produce reports on their activities in 2003, with particular reference to the “core tasks”. As I said in my letter to you of last year, the JCHR is of a rather different nature than the departmental committees. The most obvious distinction is, of course, that it is a joint committee of the two Houses. Additionally, our terms of reference are “to consider matters relating to human rights in the UK”. We do not therefore have a specific government department to hold to account in terms of the details of its service delivery performance or financial accountability. So far as general policy development is concerned, we would normally be engaged with cross-cutting issues which engage human rights, rather than the details of specific policy initiatives.

The core tasks are therefore of limited relevance to our work. Although we would not wish to disengage from the Liaison Committee’s valuable exercise altogether, I again do not envisage that the JCHR will publish an annual report this year. Below, I set out what we have done in 2003, and attempt to relate that work to the core tasks. I would be happy for this letter to be published with a Liaison Committee report.

Core Tasks

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.

To a large extent this is not relevant to our remit. We confine our scrutiny work mainly to legislation or proposals for legislation. However, we examine the Government’s responses to the Concluding Observations of various UN Committees on the UK’s periodic reports under the major international human rights instruments. In 2003, we published a report on the UN Convention on the Rights of the Child.²⁰⁹ The next treaty we will be considering is the International Covenant on Economic, Social and Cultural Rights. We have taken evidence from NGOs and the responsible FCO Minister. We will be reporting our conclusions and recommendations later in 2004.

We have also been monitoring, in co-operation with the FCO, proposals to reform the European Court of Human Rights. We will be visiting the Council of Europe institutions in Strasbourg in March 2004 to pursue this topic.

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

In March we published a major report on *The Case for a Human Rights Commission*.²¹⁰ This also formed our formal contribution to the consultation exercise on the future of the anti-discrimination commissions. I am delighted to report that on 30 October the Government announced that it had accepted our central recommendation, and would proceed with the establishment of a Commission for Equality and Human Rights. The Committee will be continuing to contribute to the process of refining the design of this new body,

209 Tenth Report, HC 81, and Eighteenth Report (Government Response), HC 1279

210 Sixth Report, Session 2002–03, *The Case for a Human Rights Commission*, HC 489-1

and monitoring the implementation of the necessary legislation. We intend to report further before the White Paper, anticipated for May/June.

We also published a report on The Case for a Children's Commissioner for England in May.²¹¹ I am also delighted to report that in September the Government announced its intention to establish such an office. We will monitor its implementation.

We began an inquiry into deaths in state custody, which engages the responsibilities of the Home Office, Department of Health and Attorney General, amongst others.²¹² We hope to report in the Autumn of 2004.

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

All draft Bills fall within our area of responsibility in relation to their human rights implications, and so far we have considered all of them. In 2003, we reported substantively on the Draft Civil Contingencies Bill, the Draft Corruption Bill and the Draft Mental Incapacity Bill.²¹³ Our inquiries have overlapped with those of other committees into the wider questions raised by draft Bills, but this has not caused any major difficulties—these other committees seem happy that we should concentrate on looking at these draft Bills through a human rights prism, as a complement to their work.

We conducted, at the request of the Government, the principal pre-legislative scrutiny of the Draft Gender Recognition Bill, as the main purpose of this Bill was to remedy incompatibilities between UK law and the Convention rights identified in judgements of the European Court of Human Rights. As other pre-legislative committees have found, the timescale was not especially generous. The Draft Bill was introduced only in July. We reported in November,²¹⁴ but the Bill itself was introduced into the Lords less than a week after we had reported. Clearly, this meant it had been finalised before our recommendations were published.

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

This task is not generally applicable as we have no single Department to monitor. Overall human rights policy responsibility lies with the Department for Constitutional Affairs, and we have taken evidence from the Secretary of State on general policy matters relating to human rights.²¹⁵

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

This task is largely inapplicable to us, but see Task 7 below.

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

This task is not relevant to the JCHR.

Task 7: To monitor the work of the department's Executive Agencies, NDPBs, regulators and other associated public bodies.

In general terms, this task is not relevant to the JCHR. There is only one NDPB which at present could be considered to fall directly within our remit. That is the Northern Ireland Human Rights Commission. With the agreement of the Northern Ireland Affairs Committee, we took evidence on the work of the Commission from the Commission itself, and the NIO, in November 2002, and reported on the work of the Commission in July 2003.

211 Ninth Report, Session 2002–03, *The Case for a Children's Commissioner for England*, HC 666

212 See First Report, Session 2003–04, *Deaths in Custody: Interim Report*, HC 134

213 Eighth Report, Session 2002–03, *Scrutiny of Bills: Further Progress Report*, HL Paper 90/HC 634, Fifteenth Report, Session 2002–03, *Scrutiny of Bills: Further Progress Report*, HL Paper 149/HC 1005

214 Nineteenth Report, Session 2002–03, *Draft Gender Recognition Bill*, HC 1276-I

215 See Minutes of Evidence taken before the Committee on 8 December 2003, HC (2003–04) 106-i

In the context of our inquiry into the case for a human rights commission, we have taken evidence from the three anti-discrimination commissions (the Disability Rights Commission, Commission for Racial Equality and Equal Opportunities Commission). When the proposed Commission for Equality and Human Rights is established, we could see strong grounds for its being accountable to Parliament principally through the JCHR.

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

Not relevant to the JCHR. It may become so in the context of the proposed Commission for Equality and Human Rights.

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

We do not generally examine the implementation of legislation, as by and large this would fall outside our remit. We have, however, followed up on human rights points we have raised in relation to Bills as they were passing through Parliament, particularly in relation to the Anti-terrorism, Crime and Security Act 2001.

However, we did conduct a major inquiry into the implications for human rights protection of the meaning of “public authority” under the Human Rights Act 1998, which appears to be emerging in case law arising from early decisions of the courts. We reported in February 2004.

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

A number of our reports have been tagged to debates in the House of Commons on various stages of legislation. We have also reported on delegated legislation, and our reports have been tagged to these debates or referred to in standing committee. Our reports have also been widely used in debates on Bills in the House of Lords (perhaps to a greater extent than in this House). Our report on The Case for a Human Rights Commission was debated in Westminster Hall (and in the House of Lords).

The standing orders require us to report on remedial orders made under the Human Rights Act. None were made in 2003.

Legislative Scrutiny

Having dealt with the core tasks, I now turn to the core work of the JCHR, which falls outside these tasks. This is our legislative scrutiny work.

Government Bills

Under section 19 of the Human Rights Act, every Government Bill is required, on publication, to be prefaced by a statement from the responsible Minister as to whether, in his or her opinion, the provisions of the Bill are compatible with Convention rights, as defined in the Act.

In Session 2002–03 we reported on all Bills presented to Parliament in respect to their compatibility with Convention Rights as defined by the Human Rights Act 1998 and other human rights instruments. In this 2002–03 Session, the Committee published eleven reports on Bills before both Houses.²¹⁶ It considered a total of 110 Public Bills, including 36 Government Bills. Our general approach to this work remains—

That every Government Bill will be examined at as early a stage as possible to establish whether significant questions of human rights appear to be raised by any of its provisions.

²¹⁶ First Report, Session 2002–03, *Scrutiny of Bills: Progress Report*, HL Paper 24/HC 191; Second Report, Session 2002–03, *Criminal Justice Bill*, HL Paper 40/HC 374; Third Report, Session 2002–03, *Scrutiny of Bills: Further Progress Report*, HL Paper 41/HC 375; Fourth Report, Session 2002–03, *Scrutiny of Bills: Further Progress Report*, HL Paper 50/HC 397; Seventh Report, Session 2002–03, *Scrutiny of Bills: Further Progress Report*, HL Paper 74/HC 547; Eighth Report, Session 2002–03, *Scrutiny of Bills: Further Progress Report*, HL Paper 90/HC 634; Eleventh Report, Session 2002–03, *Criminal Justice Bill: Further Report*, HL Paper 118/HC 724; Twelfth Report, Session 2002–03, *Scrutiny of Bills: Further Progress Report*, HL Paper 119/HC 765; Thirteenth Report, Session 2002–03, *Anti-social Behaviour Bill*, HL Paper 120/HC 766; Fifteenth Report, Session 2002–03, *Scrutiny of Bills: Further Progress Report*, HL Paper 149/HC 1005

Where such questions appear to arise, written ministerial responses to specific enquiries from the Committee will be sought.

Where it seems appropriate, written commentary from non-governmental sources on these questions will be sought at the same time.

Ministerial and other responses will be considered, pursued and published alongside any report of the Committee's opinion.

Oral evidence will only be taken in exceptional cases.

Where a Bill has been substantially amended in either House in such a way as to appear to raise significant new questions relating to the human rights compatibility of its provisions, we have been prepared to consider it afresh in its altered form.

Drawing lessons from our experience of the first Session of conducting this systematic scrutiny, we moved in Session 2002–03 towards a principle of 'exception reporting', that is generally reporting our considered views to each House only when a Bill appears to give rise to a significant risk of a violation of a human right. We make that assessment on the basis of a number of criteria including—

- the seriousness of the interference with, and the nature of, the right(s) affected,
- the severity of the impact of any infringement on victims,
- the vulnerability of potential victims, and
- the extent to which the Bill in question appears to have taken account of any earlier recommendations of the Committee in respect of similar matters (including reports we have made on draft Bills).

Detailed reports on particular Bills have been confined to those which seem to us to raise substantial human rights issues requiring extended discussion.²¹⁷

Private Members' Bills

Each Private Member's Bill is examined by the Committee for compatibility questions but, in allocating time and resources to this scrutiny, we have due regard to the priority that needs to be accorded to consideration of government legislation. However, we do consider that ballot Bills in the Commons should reasonably have a higher priority than other Private Members' Bills in that House. Where questions of compatibility arise in relation to a Private Member's Bill, we have given an opportunity for the Bill's sponsor to respond to our concerns. We recognise that this may not always be possible, and we have, in general, simply reported such matters for the attention of each House, rather than expecting the Member in charge necessarily to provide written responses, or drawing adverse inferences from a failure to do so. Again, we make substantive reports only on those Private Members' Bills which raise significant human rights issues measured against the criteria outlined above.

Private Bills

We also consider each Private Bill deposited, and the Promoter's opinion on its compatibility with the Human Rights Act. In Session 2002–03, we reported substantively on a number of Private Bills.²¹⁸

Delegated Legislation

In general terms, we do not examine delegated legislation systematically. We rely on the JCSI to consider Convention rights issues as a question of *vires*. However, we have on occasion pursued especially significant

217 Criminal Justice Bill and Anti-social Behaviour Bill

218 First Report, Session 2002–03, *Scrutiny of Bills: Progress Report*, HL Paper 24/HC 191, Third Report, Session 2002–03, *Scrutiny of Bills: Further Progress Report*, HL Paper 41/HC 375; Fourth Report, Session 2002–03, *Scrutiny of Bills: Further Progress Report*, HL Paper 50/HC 397

instruments in human rights terms, especially where these arise from powers we commented on substantively in the course of our legislative scrutiny.²¹⁹

Co-operation of Government Departments

With a remit extending to matters relating to human rights in the UK, our reports have regularly gone beyond the Ministers' section 19 statements of compatibility, which relate only to Convention rights. Departments and Ministers have generally been prepared to respond, in a full and reasoned way, to these questions. As a result, we believe we have been helping to extend awareness, in Parliament and within Government Departments, of a range of human rights as they apply in the UK.

Quorum

Last year I sought the support of the Liaison Committee in reducing the quorum of the Committee to two from each House, setting out my reasons. The Committee noted this in its annual report. I am pleased to report that thanks to the co-operation of the business managers and relevant committees in both Houses this change was effected in October.

Rt Hon Jean Corston MP

March 2004

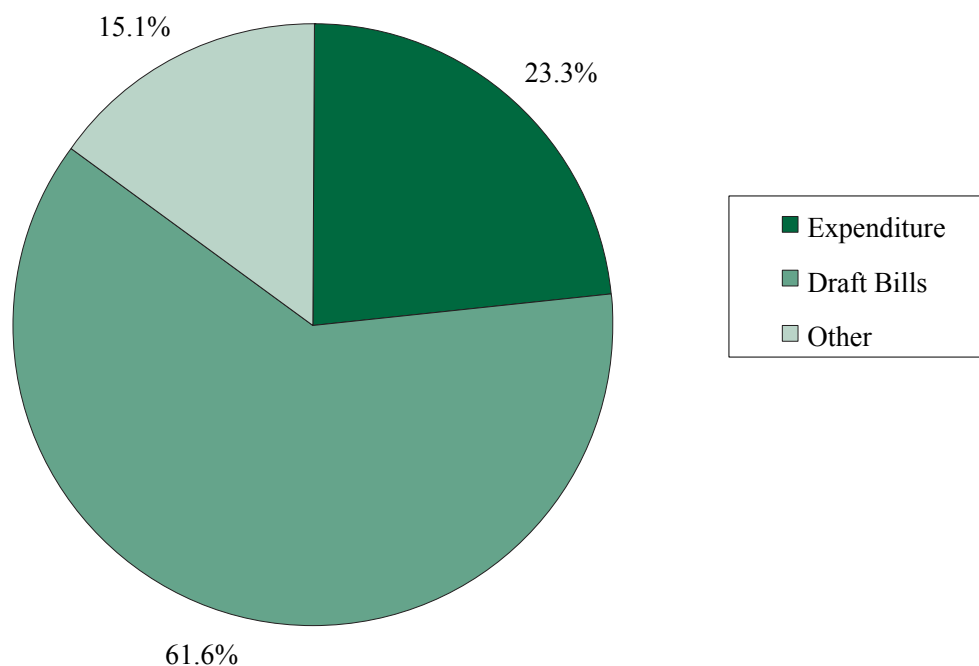
219 Eg Fifth Report, Session 2002–03, *Continuance in force of sections 21 to 23 of the Anti-terrorism, Crime and Security Act 2001*, HC 452; Sixteenth Report, Session 2002–03, *Draft Voluntary Code of Practice on Retention of Communications Data under Part 11 of the Anti-terrorism, Crime and Security Act 2001*, HC 1272

Appendix 3: Memorandum on the Work of the Scrutiny Unit

1. The Scrutiny Unit has carried out over 100 tasks for select committees since it was set up in November 2002 to assist in the scrutiny of expenditure and draft Bills—following recommendations from the Liaison, Modernisation and Procedure Committees. Some of these tasks were short—like one day for the Transport Committee on the Highways Agency’s excess vote—and some longer—like the 300 days work (to date) by five staff on the draft Gambling Bill.

2. To begin with, the Unit concentrated on the expenditure side of the role. By the middle of the year, the publication of draft Bills brought a shift in emphasis to pre-legislative scrutiny. Staff provided direct support to four joint committees and additional assistance to the four departmental committees which considered draft bills. At the same time, new expenditure tasks were carried out. Overall, as the chart below shows, a quarter of total time was spent on expenditure work and well over half on draft Bills. Other tasks included some work on agencies and on legislation other than draft Bills.

Scrutiny Unit: Allocation of time by broad type of task



A snapshot

3. In July 2003 the Scrutiny Unit was working for committees on five draft Bills and nine departmental annual reports. In one week that month, ten select committee meetings were based mainly on briefing material provided by the Unit: three were single evidence sessions on departmental reports (Work and Pensions, Home Affairs and Constitutional Affairs) and seven on draft Bills (ODPM Committee on the draft Housing Bill and six meetings of Joint Committees on the draft Corruption, Civil Contingencies and Mental Incapacity Bills).

Staff

4. In January 2004 the Unit reached the complement authorised by the House of Commons Commission with 10 specialists and seven core staff. Six specialists are on secondment: three accountants from the National Audit Office, one Estimates expert from a government department, a statistician from the Library and a performance audit adviser from the Audit Commission. Four others—two lawyers and two economic/social policy experts—are employed on short-term contracts (as committee specialists). Their previous employers

include McKinseys, Slaughter & May, the Financial Services Authority and Butterworths. The seven core staff, who deal mainly with joint committees on draft Bills, comprise two Clerks, three committee assistants, a team manager and an office support assistant.

Work for Committees

5. The Scrutiny Unit has assisted most departmental committees and some other committees. It has also provided full-time staff support for four ad hoc joint committees on draft bills. We do not do separate research projects—the aim is only to produce material for which there is a customer. The chart below²²⁰ shows the total amount of time spent on work for each committee. While the largest number of separate tasks was carried out for the Transport Committee, the ODPM Committee accounted for the most time because one member of staff worked nearly full time on one draft Bill and one other major inquiry. The chart does not show the amount of time spent on draft Bills for joint committees.

6. Work is commissioned from the Unit by committee clerks specifying a task and a time by which it needs to be done. The Head of the Unit is responsible for trying to match the available skills and time to that task. No committee has been refused help, though some requests have been adjusted or redirected (to the Library, for instance). The committees for which the Unit has done most work have generally experienced some staff shortage during the year. Nonetheless it is hoped that the actual work done for them was more focused towards the expenditure core task than if it had been done by the committee's own staff. A wide variety of tasks has been undertaken—some, like the work for the Health Committee on deregulation of pharmacies, have needed relatively little analysis of expenditure but a good understanding of economics. Another example of a successful task was the combined effort of an accountant and a lawyer in the Unit advising the Treasury Committee on the Mapely Steps PFI contract involving Inland Revenue and Customs & Excise buildings being transferred to a company based in a tax haven.²²¹

Scrutiny of expenditure

7. In this first year, we have focused on supplementary estimates as the most likely way of identifying for committees matters of financial interest. Three exercises have been conducted on publication of the winter supplementaries in 2002 and 2003 and the spring supplementaries in 2003. In each case some committees have asked the Unit to examine the supplementary estimate and draw their attention to anything significant. This has led to a short paper for the committee concerned. In doing this, we have been mindful of the Liaison Committee's observation in the report, *Shifting the Balance*, that "It would be up to individual committees to decide how to take things forward—the unit would provide them with ammunition, not write their script". The number of committees asking for this service has grown from nine a year ago to 13 for the 2003 winter supplementaries. In several cases this has led to a further exchange of letters or questions at evidence sessions with the department. For instance:

- the Scrutiny Unit's review of the Lord Chancellor's Department's spring supplementary estimate revealed that the department had run out of money and was facing severe financial pressures, particularly on legal aid. The Unit's work provided the focus for a series of questions on expenditure to the Permanent Secretary when the Constitutional Affairs Select Committee examined the departmental annual report on 15 July 2003.
- We also highlighted an ambiguous provision in the Department for Transport's spring supplementary estimate for "CRTL de-risking grants", which amounted to £940 million. The Transport Select Committee followed the matter up in detail with the Secretary of State and Permanent Secretary when it examined the Transport departmental annual report on 28 October 2003.

8. In doing this work, we have also drawn on the resource accounts and annual performance reports without conducting a separate exercise on them. The only major work undertaken on the new resource accounts was for the Northern Ireland Affairs Committee whose responsibilities in that area have increased while the Assembly is suspended.

220 The table is reproduced in the main Report at page 37.

221 Fourth Report from the Treasury Committee 2002–03 HC 184

9. Tasks have included advice on the way committees seek or obtain information from the Departments, such as the content and layout of the annual report from the Department of Work and Pensions or the annual public expenditure questionnaire from the Health Committee. Much of the scrutiny of estimates has focused on mistakes and poorly drafted requests for resources by departments. We have provided committees with the means to challenge mistakes and press for improved presentation. For instance:

- The EFRA Committee's attention was drawn to the poor layout of the Defra estimate and we advised on possible improvements.
- In response to the Transport Committee's criticisms of the Highways Agency's accounts for 2001–02, the department acknowledged that lessons had been learned, and the department strengthened and improved its central finance function in respect of its agencies.

10. The other major area of work in scrutiny of expenditure has been advising committees on their departmental annual reports. Ten committees sought such assistance in 2003, of which two had not examined their departmental reports the previous year. In most cases we were able to suggest questions which should be asked of the department, either in writing or in oral evidence sessions. In several cases this led to the committees publishing reports, sections of which were drafted by Scrutiny Unit staff. Five other committees have examined the departmental reports using their own resources.

11. Since there was no spending review in 2003, the Unit has done no work on spending plans, although briefing was produced for the Science & Technology Committee on understanding the 2003 science budget allocations. We stand ready to meet committees' requests for assistance in interpreting the spending decisions to be announced next summer in the Spending Review 2004.

Scrutiny of draft Bills

12. As the Liaison Committee envisaged in its report, *Shifting the Balance*, the Scrutiny Unit's work on draft Bills is twofold: "taking some of the weight off the staff of a departmental select committee which found itself landed with a draft Bill in addition to its other commitments; and staffing ad hoc pre-legislative committees (or providing the Commons contribution in the case of joint committees)." The Unit provided staff for four joint committees on draft Bills in 2003 working with colleagues from the House of Lords, the Commons Library and the Legal Services Office in joint teams. In one case the Library provided extra funding to enable a member of staff to work on the draft Corruption Bill. We also assisted four departmental committees in their examination of five draft Bills. The whole of the report for the Welsh Affairs Committee on the draft Public Audit (Wales) Bill was written by an accountant in the Unit and half the ODPM Committee's report on the draft Housing Bill was produced by the Unit's social economic policy expert. Staff of the Unit also helped the then Lord Chancellor's Department Committee with the inquiry into the Courts Bill [Lords] and the Quadripartite Committee in its examination of secondary legislation on export controls.

13. Work for Joint Committees on draft Bills proved to be a significant time commitment for Unit staff in the second half of the year. Unit staff prepared briefing material for 30 evidence sessions of four joint committees and drafted sections of three reports to very tight timetables. To do this at the same time as maintaining support for select committees on expenditure was a challenge.

14. One issue which has arisen is how much effort should be devoted to following developments on a draft Bill after the committee has reported. In the case of draft Bills considered by departmental committees, that is a matter for them. Temporary joint committees cease to exist when they report on a draft Bill, but there is a case for staff to brief former committee members on how the real Bill eventually introduced differs from the draft and the extent to which the joint committee's recommendations have been accepted. It is planned to devote some time to this task in future.

Scrutiny of agencies

15. Fifteen of the tasks carried out for committees involved work on the annual reports of agencies or non-departmental public bodies. A typical example was the oral questions prepared for the Constitutional Affairs Committee for a single evidence session with the chief executive of the Legal Services Commission. A similar task for the Education & Skills Committee on Ofsted required a comparison to be made of measures of

effectiveness of different inspectorates in other departments. Another task was assessing the Network Rail business plan for the Transport Committee.

Spreading good practice

16. Drawing both on what we have learnt in the first year and on the expertise of people who have come from outside the House to work in the Unit, we have given five talks to other Committee Office staff on the public expenditure process (twice), performance targets, scrutiny of annual reports and examination of draft Bills. These have been well received and, as more new people join the Committee Office over the coming year, they will be repeated. Briefings on pre-legislative scrutiny are also being given to civil servants on draft Bill teams in the current session. If any Member wanted a similar briefing, this could easily be arranged.

17. There is scope in the Unit's work to learn, from a task for one committee, principles which might be applied for other committees. Thus the work on performance measurement done for the Public Administration Select Committee has helped inform the examination of other departmental reports and the targets contained in them. We attempt to keep abreast of other developments across Whitehall on such matters as public-private finance, risk management and policy evaluation but have not devoted much time to specific research in these areas.

Accessibility

18. The staff of the joint committees on draft Bills have made full use of available technology, creating websites for each draft Bill, publishing evidence on them as it is received and accepting as much evidence as possible by e-mail. In the case of the draft Mental Incapacity Bill, an "easy read" version of the report was produced at additional cost to make it more accessible to people with learning difficulties. A similar approach will be taken with the draft Disability Discrimination Bill. One committee assistant has been trained on e-consultation, should a committee on a draft Bill decide to conduct such an exercise.

19. We have also looked at ways of presenting information more effectively to committees. The changes to funding flows for foundation hospitals were set out in diagrammatic form for the Health Committee. Our statistician (on secondment from the Library) has been showing how information can be presented in ways which are both valid and accessible --- including some work on the way committee statistics are presented in the sessional return. Several staff have developed their skills in PowerPoint presentations.

Staff management

20. Preparations are already being made for the replacement of some of the seconded staff whose time with the Unit will come to an end in 2004. The Unit has conducted joint recruitment exercises with select committees, thus ensuring that we are recruiting people of comparable ability to those working directly with committees and reducing the costs of recruitment. In addition, the Unit has benefited from an arrangement with the Economic and Social Research Council under which a post graduate student has been working for six months on various tasks for the International Development Committee and the Joint Committee on the draft Mental Incapacity Bill.

21. On the basis of experience working in outside organisations and in view of the change of sitting patterns of the House, staff of the Unit are encouraged to work flexible hours and/or from home. Arrangements have also been developed to ensure that the needs of committees are met, while ensuring staff receive adequate leave. To ensure the quality of work is maintained, practices have been copied from other organisations on peer review and constructive criticism.

The future

22. There are three apparent risks for the future: that the number of draft Bills published will vary widely between sessions, that select committees will take less interest in the core task on scrutiny of expenditure and that the expansion of committee staffs will reduce demand for the services of the Unit. While the number of draft Bills for the coming year matches that for the past year, it is clearly a possibility, as the general election approaches, that less work will be needed in this area in the following year. The signs are that select committees are taking more and more interest in the expenditure core task and there is no reason to suppose this will change. The effect of the expansion of committee staffs will not be apparent until later in 2004 and it

would be possible to reduce the number of staff in the Unit if necessary by not replacing those who have completed the period of their secondment or appointment.

23. An informal review of the work of the Scrutiny Unit has been carried out by the new Deputy Head who joined in July. She has consulted committee clerks who use our services to ensure that we build on what has gone well and identify areas where we can improve. We are particularly interested in ways of measuring effectiveness—not so much of the Scrutiny Unit alone but of its contribution to the impact of select committees on scrutiny of government.

Andrew Kennon
Head of the Scrutiny Unit

January 2004

Formal minutes

Thursday 11 March 2004

Members present:
Sir George Young, in the Chair

Mrs Irene Adams	Mr Robert Key
Mr Alan Beith	Mr Edward Leigh
Derek Conway	Mr John McFall
Mrs Gwyneth Dunwoody	Mr Martin O'Neill
Dr Ian Gibson	Mr Peter Pike
Mr Jimmy Hood	Mrs Marion Roe
Mr Michael Jack	Mr Barry Sheerman
Mr Gerald Kaufman	Sir Nicholas Winteron

In the absence of the Chairman, Sir George Young was called to the Chair.

The Committee deliberated.

Draft Report (Annual Report for 2003), proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 112 read and agreed to.

Summary agreed to.

Resolved, That the Report be the First Report of the Committee to the House.

Several papers were ordered to be appended to the Report.

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

* * *

[Adjourned till Thursday 25 March at quarter past Nine o'clock.]

Reports from the Liaison Committee since 1996

The following reports have been produced by the Committee since Session 1996–1997.

Session 2002–03

First Report	Annual Report for 2002	HC 558
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Session 2001–02

First Special Report	Evidence from the Prime Minister	HC 984
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First Report	The Work of Select Committees 2001	HC 590
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Second Report	Select Committees: Modernisation Proposals	HC 692
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Session 2000–01

First Report	Shifting the Balance: Unfinished Business	HC 321
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Session 1999–2000

First Report	Shifting the Balance: Select Committees and the Executive	HC 300
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Second Report	Independence or Control?	HC 748
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Third Report	Resource Accounting and Budgeting	HC 841
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Session 1996–97

First Report	The Work of Select Committees	HC 323
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