



House of Commons
Science and Technology
Committee

Inquiry into Human Reproductive Technologies and the Law

Eighth Special Report of Session 2004–05

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The Science and Technology Committee

The Science and Technology Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Office of Science and Technology and its associated public bodies.

Current membership

Dr Ian Gibson MP (*Labour, Norwich North*) (Chairman)
Paul Farrelly MP (*Labour, Newcastle-under-Lyme*)
Dr Evan Harris MP (*Liberal Democrat, Oxford West & Abingdon*)
Kate Hoey MP (*Labour, Vauxhall*)
Dr Brian Iddon MP (*Labour, Bolton South East*)
Mr Robert Key MP (*Conservative, Salisbury*)
Mr Tony McWalter MP (*Labour, Hemel Hempstead*)
Dr Andrew Murrison MP (*Conservative, Westbury*)
Geraldine Smith MP (*Labour, Morecambe and Lunesdale*)
Bob Spink MP (*Conservative, Castle Point*)
Dr Desmond Turner MP (*Labour, Brighton Kemptown*)

Powers

The Committee is one of the departmental Select Committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No.152. 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/s&tcom

A list of Reports from the Committee in the present Parliament is included at the back of this volume.

Committee staff

The current staff of the Committee are: Chris Shaw (Clerk); Emily Commander (Second Clerk); Alun Roberts (Committee Specialist); Hayaatun Sillem (Committee Specialist); Ana Ferreira (Committee Assistant); Robert Long (Senior Office Clerk); and Christine McGrane (Committee Secretary).

Contacts

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1 Eighth Special Report

Special Reports provide a vehicle for select committees to report to the House on issues relating to the powers, functions or proceedings of the Committee. The following Members disagree with the Report, Human Reproductive Technologies and the Law, HC 7 of Session 2004-05: Paul Farrelly; Kate Hoey; Mr Tony McWalter; Geraldine Smith and Bob Spink.¹

¹ Dr Andrew Murrison, while formally part of the Science and Technology Committee, took no part in the inquiry or the consideration of the Report because of his frontbench duties.

Formal Minutes

Wednesday 23 March 2005

Members present:

Dr Ian Gibson, in the Chair

Paul Farrelly

Dr Evan Harris

Kate Hoey

Dr Brian Iddon

Mr Robert Key

Mr Tony McWalter

Bob Spink

Dr Desmond Turner

The Committee deliberated.

Draft Special Report (*Inquiry into Human Reproductive Technologies and the Law*), proposed by the Chairman, brought up and read.

Ordered, That the draft Report be read a second time.

Draft Report read as follows:

Special Reports provide a vehicle for select committees to report to the House on issues relating to the powers, functions or proceedings of the Committee. In this Special Report the Science and Technology Committee wishes to record the disquiet by half the Members who took part in the inquiry about the consideration and agreement of its Report on Human Reproductive Technologies and the Law, published as the Committee's Fifth Report of the 2004-05 Session on 24 March 2005, HC 7.

On 24 October 2003, the Science and Technology Committee announced its decision to hold an inquiry into human reproductive technologies and the law. Following a public online consultation, held between 22 January and 15 March 2004, it announced its terms of reference of the inquiry on 30 March 2004. The inquiry consisted of 12 oral evidence sessions, starting on 14 June 2004 and ending on 19 January 2005. It included two domestic visits and a visit to Sweden, Italy and the Vatican.

The Committee began to prepare a Report after the final evidence session on 19 January. On 26 January 2005, the Committee considered a discussion paper

setting out four possible options for a new regulatory and legislative structure.² A working draft report, based on the views expressed at that meeting, was circulated to the Committee on 11 February for consideration on 23 February. Six members of the Committee attended that meeting, at which it was agreed that chapters relating to the status of the embryo and the role of the state would be redrafted. A revised working draft report was circulated the following day on 24 February. This draft was considered at a meeting of the Committee on 28 February, which nine Members of the Committee attended. Consideration was given to an informal amendment by Mr Paul Farrelly MP to a key conclusion, setting out the ethical position being adopted by the Committee, which represented a shift from an extreme libertarian position to one that was more precautionary and saw more of a continuing role for the state and regulation. The original and amended text is published with this Report as Annex A.

On 28 February, the Committee spent an hour discussing the revised working draft and continued these discussions for twenty minutes on 2 March. It decided that, in addition to the planned meeting on 7 March, an extra meeting on 14 March would be necessary to consider the Report formally, in order to publish the Report before the Easter recess. On 7 March, the Committee further considered, amended and agreed, on an informal basis, all the conclusions and recommendations of the revised working draft of the Human Reproductive Technologies and the Law Report.³ This meeting lasted six hours and, owing to the length of the meeting and other commitments, not all Members initially present could be there until the end. A Chairman's draft Report was then circulated on the evening of 9 March, with a request that amendments be submitted no later than 12 noon on Monday 14 March. A total of 130 amendments were received before the start of the meeting, from the Chairman, Dr Evan Harris MP and Mr Paul Farrelly MP.

On 14 March the Committee met at 3.00pm.⁴ Following 2.5 hours of informal consideration the Committee agreed to take a 30 minute break. On reconvening, the Committee agreed a proposal from Dr Brian Iddon MP that it should introduce a “guillotine” and conclude its informal consideration of the Report at 7.30pm, with formal consideration to conclude by 8.30pm. As a result of this decision, Tony McWalter MP felt that his points could not be adequately discussed and felt that therefore he had no choice but to leave the meeting. Fourteen amendments were considered formally, from 7.30pm. At 7.30 pm, when the formal discussion began, Paul Farrelly MP moved that the “guillotine” be

² Members participating: Dr Ian Gibson in the Chair; Dr Evan Harris; Dr Brian Iddon; Mr Robert Key; Dr Desmond Turner. Dr Andrew Murrison, while formally part of the Science and Technology Committee, took no part in the inquiry or the consideration of the report because of his frontbench duties.

³ Dr Ian Gibson, in the Chair; Paul Farrelly; Dr Evan Harris; Dr Brian Iddon; Mr Robert Key; Bob Spink and Dr Desmond Turner

⁴ Dr Ian Gibson, in the Chair; Paul Farrelly; Dr Evan Harris; Dr Brian Iddon; Mr Robert Key; Mr Tony McWalter; Bob Spink and Dr Desmond Turner

removed. This was defeated by four votes to one. The Committee completed informal and formal consideration of the Report at 8.15pm. One Member of the Committee, Mr Paul Farrelly MP, voted against the Report as a whole. The Report was reported to the House that evening. The Minutes of Proceedings relating to the consideration of the Report are published with the Report.⁵

The Committee met on 16 March to agree, informally, the text of the summary to the Report and the press release to accompany the publication of the report. This meeting was attended by 10 members of the Committee. Five Members expressed strong reservations about the process by which the Report had been considered and agreed.⁶ Their concerns were:

- a) The amendment adopted on 28 February was of sufficient significance to warrant a thorough redrafting of the Report. This did not happen and instead the Committee, with much depleted numbers, proceeded to debate each conclusion as originally drafted. This reflected a desire to publish a Report quickly ahead of the anticipated Dissolution of Parliament, and invalidated the Report;
- b) The “guillotine” agreed to unreasonably restricted the time for formal consideration of amendments to one hour, which served to further invalidate the Report. Some dissenting amendments were only moved formally, some were not pursued and others not voted on in order to remain within the time set by the ‘guillotine’. Many amendments were withdrawn before any discussion of them;
- c) On a controversial subject on which consensus would be difficult to achieve, it was wrong to adopt an extreme libertarian approach right at the outset, simply on the basis that there was no chance of achieving unanimity;
- d) The Report as agreed did not reflect the precautionary approach and the legitimate role for the state and regulation adopted early in its consideration;
- e) Insufficient regard was given in the Report to public opinion and the evidence submitted to the inquiry; and
- f) Insufficient weight, too, was given to ethical arguments against an extreme libertarian approach; and the Report also lacked balance in adopting libertarian interpretations of principles or propositions, which are

⁵ Fifth Report of Session 2004-05, *Human Reproductive Technologies and the Law*, HC 7

⁶ Paul Farrelly; Kate Hoey; Mr Tony McWalter; Geraldine Smith; Bob Spink

subject to debate (for example, of Article 8 of the European Convention on Human Rights).

At its meeting on 16 March the Committee considered a proposal to issue a press release which reflected the fact that there was a balance of views on the Committee. After discussion, it was agreed that there should be no press release or press conference; instead, a Special Report would be published simultaneously with the Committee's substantive Report on Human Reproductive Technologies and the Law.

Annex A

Original text of draft report setting out the Committee's ethical stance

We have listened with interest to a wide range of views. However, it was necessary to adopt a position on them, based in principle. While we recognise the significance of each ethical position articulated, we are persuaded that the State's role in regulating assisted reproduction should primarily be guided by the human rights or libertarian approach. The justification for the extent of the regulatory intervention which currently exists was appropriate to a time when the outcome of reproductive decisions in assisted reproduction was unknown and the state arguably had a legitimate interest in policing this area of medical practice. However, the evidence now suggests that the scale of the intrusion into the private choices of individuals seeking to have a family can no longer be justified. We do, however, accept that the research use of the embryo of the human species remain a legitimate interest of the state. The difference between these two approaches is justified by the fact that the first is a private matter between individuals seeking to attain an accepted social goal, whereas the latter satisfies a social or public aim. We conclude that the most appropriate principle that should be used to provide a framework for our conclusions and recommendations is that as far as possible the state should withdraw from people's reproductive decision-making. Parents rather than the State must be assumed to be the right decision-makers for their families. While this reproductive freedom must be balanced against the impacts against other individuals and society, any such claims must be clearly demonstrable.⁷

Amended text

We accept that a society that is both multi-faith and largely secular, there is never going to be consensus on the level of protection accorded to the embryo or the role of the state in reproductive decision-making. There are no demonstrably "right" answers to the complex ethical, moral and political equations involved. We respect the views of all sides on these issues. We recognise the difficulty of achieving

⁷ In a later paragraph, the draft report concluded: "While the gradualist approach to the status of the embryo presents problems for legislation, we believe that it represents the most ethically sound and pragmatic solution and one which permits in vitro fertilisation and embryo research within certain constraints set out in legislation."

consensus between protagonists in opposing camps in this debate, for example the pro-life groups and those advocating an entirely libertarian approach to either assisted reproduction or research use of the embryo. We believe, however, that to be effective this Committee's conclusions should seek consensus, as far as it is possible to achieve. Given the rate of scientific change and the ethical dilemmas involved, we conclude, therefore, that we should adopt an approach consistent with the gradualist approach, of which the Warnock Committee is one important example. This does not mean that we will shy from criticism of regulation to date, where we believe it warranted. But it does mean that we accept that assisted reproduction and research involving the embryo of the human species both remain legitimate interests of the state. Reproductive and research freedoms must be balanced against the interests of society but alleged harms to society, too, should be based on evidence.

Amendment proposed, in line 2, leave out from the word "Committee." to the end of the Report and add the words "The following Members disagree with the Report, Human Reproductive Technologies and the Law, HC 7 of Session 2004-05: Paul Farrelly, Kate Hoey, Mr Tony McWalter, Geraldine Smith and Bob Spink. ".—(*Dr Evan Harris.*)

Question put, That the amendment be made.

The Committee divided.

Ayes, 4

Dr Evan Harris
Dr Brian Iddon
Mr Robert Key
Dr Desmond Turner

Noes, 2

Mr Tony McWalter
Bob Spink

Amendment agreed to.

Paragraph as amended, read and agreed to.

Motion made, and Question put, That the Special Report, as amended, be the Eighth Special Report of the Committee to the House.

Resolved, That the Report be the Eighth Special Report of the Committee to the House.

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

[Adjourned till Wednesday 4 April at 3 o'clock .

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