



House of Commons
Liaison Committee

Government Reply to the Annual Report for 2004

First Report of Session 2005–06



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Government Reply to the Annual Report for 2004

First Report of Session 2005–06

*Report together with appendices and formal
minutes*

*Ordered by The House of Commons
to be printed 24 January 2006*

HC 855

Published on 30 January 2006
by authority of the House of Commons
London: The Stationery Office Limited
£0.00

The 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; to choose select committee reports for debate in the House and to hear evidence from the Prime Minister on matters of public policy.

Current membership

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

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

Administration – Mr Frank Doran MP (*Labour, Aberdeen North*)
 Constitutional Affairs – Mr Alan Beith MP (*Liberal Democrat, Berwick-upon-Tweed*)
 Culture, Media and Sport – Mr John Whittingdale MP (*Conservative, Maldon and Chelmsford East*)
 Defence – Mr James Arbuthnot MP (*Conservative, North East Hampshire*)
 Education and Skills – Mr Barry Sheerman MP (*Labour/Co-op, Huddersfield*)
 Environmental Audit – Mr Tim Yeo MP (*Conservative, South Suffolk*)
 Environment, Food and Rural Affairs – Mr Michael Jack MP (*Conservative, Fylde*)
 European Scrutiny – Mr Jimmy Hood MP (*Labour, Lanark and Hamilton East*)
 Finance and Services – Sir Stuart Bell MP (*Labour, Middlesbrough*)
 Foreign Affairs – Mike Gapes MP (*Labour/Co-op, Ilford South*)
 Health – Mr Kevin Barron MP (*Labour, Rother Valley*)
 Home Affairs – Mr John Denham MP (*Labour, Southampton Itchen*)
 Human Rights (Joint Committee) – Mr Andrew Dismore MP (*Labour, Hendon*)
 International Development – Malcolm Bruce MP (*Liberal Democrat, Gordon*)
 Northern Ireland Affairs – Sir Patrick Cormack MP (*Conservative, South Staffordshire*)
 Office of the Deputy Prime Minister: Housing, Planning, Local Government and the Regions – Dr Phyllis Starkey MP (*Labour, Milton Keynes South West*)
 Procedure – Mr Greg Knight MP (*Conservative, Yorkshire East*)
 Public Accounts – Mr Edward Leigh MP (*Conservative, Gainsborough*)
 Public Administration – Dr Tony Wright MP (*Labour, Cannock Chase*)
 Regulatory Reform – Andrew Miller MP (*Labour, Ellesmere Port and Neston*)
 Science and Technology – Mr Phil Willis MP (*Liberal Democrat, Harrogate and Knaresborough*)
 Scottish Affairs – Mr Mohammad Sarwar MP (*Labour, Glasgow Central*)
 Selection – Rosemary McKenna MP (*Labour, Cumbernauld, Kilsyth and Kirkintilloch East*)
 Standards and Privileges – Sir George Young MP (*Conservative, North West Hampshire*)
 Statutory Instruments – Mr Eric Forth MP (*Conservative, Bromley and Chislehurst*)
 Trade and Industry – Peter Luff MP (*Conservative, Mid Worcestershire*)
 Transport – Mrs Gwyneth Dunwoody MP (*Labour, Crewe and Nantwich*)
 Treasury – Mr John McFall MP (*Labour/Co-op, West Dunbartonshire*)
 Welsh Affairs – Dr Hywel Francis MP (*Labour, Aberavon*)
 Work and Pensions – Mr Terry Rooney MP (*Labour, Bradford North*)

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.

Publication

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 Helen Irwin (Clerk), Robert Wilson (Second Clerk), Fiona Channon (Committee Assistant) and Catherine Close (Secretary).

Contacts

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1 Introduction

Response to the Annual Report for 2004

1. On 15 March 2005, our predecessor Committee published its First Report of Session 2004-05, *Annual Report for 2004*, as House of Commons paper No. 419. The Leader of the House has now written to our Chairman responding to that Report, and we append the text of his letter below.

Regular Responses from the Leader of the House

2. We welcome Mr Hoon's comment that he "would now expect to respond to each Liaison Committee Annual Report". We value the dialogue established with his predecessors on the effectiveness of committee scrutiny and on the cooperation of Ministers and their Departments. Regular formal responses will help to enhance accountability.

Draft Bills

3. Mr Hoon's list of intended draft bills for the current Session (at Annex B) is disappointingly short, given the Government's announced commitment to this process and the benefits of such earlier scrutiny recognised throughout the House.¹ This issue will need to be included in any future exchanges which the Committee has with the Leader.

¹ A note on Draft Bills and Pre-legislative Scrutiny by the Head of the Scrutiny Unit providing a perspective of past use of pre-legislative scrutiny is attached at Appendix 1.

Government Response

Annual Report of the Liaison Committee for 2004 and list of Draft Bills for the 2005–06 Session

I am writing in response to the Annual Report from the Liaison Committee covering the year 2004 (HC, 2004–05, 419).

As Leader of the House, I would now expect to respond to each Liaison Committee annual report. The reports help to focus attention on the strengths and weaknesses of the Government's relationship with the select committees of the House. I see this as a welcome innovation.

As indicated in my letter to you of 21 July, I have delayed the response until I was in a position to let your Committee have the regular list of intended draft bills for the remainder of the session. At Annex A, I address those conclusions in the Report which relate specifically to the role of the Government. At Annex B, I attach the list of expected draft bills.

The Rt Hon Geoff Hoon MP
Leader of the House of Commons

19 December 2005

Annex A

Draft bills

Recommendation 2: We welcome the recent growth in the number of bills published in draft form and encourage the Government to raise the proportion further. (Paragraph 29)

The Government remains committed to seeking to publish as many bills as possible in draft form to allow them to receive pre-legislative scrutiny. The numbers will inevitably fluctuate according to circumstances, with such events as General Elections affecting the pattern.

Recommendations 4 and 7: We are grateful to the Leader of the House for establishing the practice of providing us with advance notice of the possible scope and timing of the publication of draft bills. (Paragraph 34) There should be “a presumption in favour of draft bills going to departmental select committees for pre-legislative scrutiny, where they are ready and willing to undertake this.” (Paragraph 38)

It remains our policy to provide such information as soon as it can be made available. Where a general election takes place in the spring/summer, as in this year, it will be difficult to produce the list at the beginning of the session. The list for the remainder of the present session is attached. I hope that, as in previous years, you will find the list helpful in enabling committees to plan their work, though I know you will be aware of the extent to which the list is provisional. The Government acknowledges that departmental select committees are usually likely to be the most appropriate means of scrutinising a draft bill. There will continue to be, however, a minority of draft bills which are best scrutinised by a joint committee of both Houses.

Recommendation 5 and 6: The Government must ensure that appropriate consultation has taken place on the policy behind a draft bill prior to its publication. The full benefit of the pre-legislative scrutiny process can be realised only if draft legislation is published in a sufficiently developed state. (Paragraph 36) Committees are eager to examine draft bills thoroughly and thoughtfully, in order to make it more likely that well-considered legislation is presented to Parliament, and to enable Parliament to carry out better-informed scrutiny of the Government's legislation. The Government must ensure that it sends clear signals to committees in order to enable them to organise their programmes appropriately. (Paragraph 37)

The Committee draw attention to difficulties for committees if draft bills are published later than envisaged, or in an incomplete state or where policy has not been widely consulted on beforehand. The Government recognises the value of enabling the pre-legislative exercise to take place as smoothly as possible. The situation in respect of each bill will be different and cannot always be foreseen. In some cases, it may be better to issue the draft bill in an unfinished state earlier on rather than to delay it, which might risk allowing insufficient time for scrutiny; there is always a balance to be drawn. We remain committed to publishing draft bills as early and in as complete a state as possible.

Recommendation 8: We note that, twice in 2004, the Government appears to have sought to have a departmental committee scrutinise a memorandum containing proposals for a bill, rather than publishing a draft bill for scrutiny. However, given the support the Government

has expressed for the pre-legislative scrutiny process, we would be extremely concerned if this process came to be regarded as a substitute for, or an alternative to, pre-legislative scrutiny of a draft bill. We consider that such a process is more appropriate for use in the case of minor or uncontroversial legislation, and we urge the Government to ensure that its use is considered only in such cases. (Paragraph 41)

There will be circumstances in which the making available of such a memorandum to a select committee will allow the committee concerned to begin to address the issues likely to arise in a proposed bill. But the Government agrees that such a process is not a full substitute or alternative to pre-legislative scrutiny of a draft bill, which allows the committee concerned an opportunity to judge the proposals in a much more informed way.

Estimates and PSA targets

Recommendation 11: We repeat our recommendation that the Treasury should take steps to ensure that committees receive draft Estimates at the earliest practicable date. (Paragraph 51)

Following discussions about aspects of the Supply process between the Treasury and several committees, including the Liaison Committee, during 2003-04, agreement was reached to amend House of Commons Standing Order No. 55 to extend the time that must elapse between presentation of the Estimates and the ensuing parliamentary consideration from 7 clear days to 14 days. This change ensures that committees now have at least two weeks to consider the final versions of relevant Estimates. The Treasury will always seek to publish the Estimates as soon as it is able to do so. For example, the winter Supplementary Estimates 2005-06 were published on 17 November 2005, which was 21 days before the parliamentary consideration (8 December).

In addition, departments are now required to provide an explanatory 'Estimates Memorandum' to the select committee explaining the changes sought through the Estimate. The Treasury has asked departments, and will remind them to do so during each Estimate round, to provide a final draft of the departmental resource Estimate to the committee alongside the Estimate Memorandum and to do so as soon as the Estimate is signed off as final. In practice, for many departments the tight timetable for producing Supplementary Estimates means that they are completed only very shortly before they are printed and published versions presented to Parliament.

Recommendation 12: Committees have raised important and constructive concerns about both the substance and functioning of PSA targets. Committees have also demonstrated their flexibility in considering PSA targets in the context both of examining departmental annual reports and of wider policy-based inquiry work. Given each committee's extensive experience in overseeing the activities of a particular government department, we expect the Government to give careful consideration to concerns raised about such targets. (Paragraph 63)

The Government welcomes the interest of select committees in PSA targets and notes the Liaison Committee's recommendation. The Government has worked to improve the target setting process over successive spending reviews, reflecting the views of Parliament,

delivery agents and stakeholders and will consider concerns raised as that process is taken forward.

Joint working with NAW

Recommendation 14: We conclude that the success of formal joint working between the Welsh Affairs Committee and Committees of the National Assembly presents a strong argument for making permanent formal joint working in the next Parliament. (Paragraph 81)

The provision allowing for members of specified committees of the National Assembly for Wales to participate in the proceedings of the Welsh Affairs Committee was made part of the permanent standing orders as part of the changes agreed in July this year (Standing Order No 137A(3)).

Cooperation between departments and committees

Recommendation 15: We note the concerns of some committees about the quality of service provided by certain government departments. Good working relationships between departments and select committees are crucial to effective parliamentary scrutiny. We expect the departments concerned to consult the relevant committee/s in order to address committees' concerns. In particular, it is crucial that departments:

- *keep committees properly informed of important announcements and decisions and of publication of key documents;*
- *respond to committees' requests for information in a timely fashion, with information of a high quality which engages with the issues identified by committees; and*
- *keep committees informed of anticipated delays to departmental responses to such requests. (Paragraph 96)*

The Liaison Committee describe a number of problems which individual committees have drawn to their attention in respect of cooperation between committees and departments. The Government agrees that any such difficulties should be discussed between the department and committee concerned in the first instance. The recently re-issued Guidance on *Departmental Evidence and Response to Select Committees* (July 2005) emphasises at various points obligations on departments to cooperate with committees—for example in terms of providing information (paras 9, 53, 68) and to keeping them informed so far as possible of forthcoming announcements (para 66).

Recommendations 16 and 17: We expect departments to ensure that Government responses to committee reports are delivered within the standard two-month deadline. Committees should be kept informed of any anticipated delay, and the reasons for it. In its responses, the Government should ensure that it engages meaningfully with the substance of committees' conclusions and recommendations. (Paragraph 97) In the case of reports agreed ahead of a Dissolution, we would expect Government responses to be published within two months of the date of the General Election. This would ensure that they are published without undue delay, and available to any successor committee. (Paragraph 98)

The Guidance on *Departmental Evidence and Response to Select Committees* (July 2005) reasserts the commitment for departments to aim to provide a considered response to select committee reports within two months of publication (para 108), and departments are of course expected to address meaningfully those conclusions and recommendations which are addressed to the Government. The Guidance also makes clear that there are circumstances in which it may not be possible or appropriate to reply within two months, but that in such cases the committee should be kept informed. Clearly, there will be some occasions in which the occurrence of an election after the publication of a report could be a relevant factor in creating a delay, but in such a case the reasons concerned should be explained to the committee in accordance with the Guidance.

Scrutiny of super-affirmative statutory instruments

Recommendation 18: While departmental select committees value their autonomy in deciding their own programmes of work, there is a case for more systematic scrutiny of such significant statutory instruments which amend Acts of Parliament. Otherwise the detailed scrutiny of super-affirmative legislation might be an appropriate task for the Committee on the Merits of Statutory Instruments if it is converted into a Joint Committee. This issue should be addressed early in the new Parliament. (Paragraph 104)

The Government agrees that scrutiny of any “super-affirmative” orders, where Parliament is able to influence the content of secondary legislation, is important. In most cases, there is a specific procedure laid down for parliamentary consideration, as with Regulatory Reform Orders. There are no plans to establish a Joint Committee on the merits of statutory instruments.

‘Departmental Evidence and Response to Select Committees’

Recommendation 23: ‘The Guidance ‘Departmental Evidence and Response to Select Committees’ is a text produced by Government for its own officials. It is not a parliamentary text nor has it ever been endorsed by us or our predecessors. Its approach offers a signal of how fully Whitehall is prepared to make itself accountable to select committees. (Paragraph 127) In parliamentary terms, the evidence given to us by the Leader of the House on 19 October contained an encouragingly positive statement. The test will be in delivery, as always. Such warm words from the Leader of the House will need to be translated into action by his colleagues and their departments. We will put these and the other assurances to the test in individual committees. On the basis of our experience, and that of our successors in a new Parliament, in which we hope select committees will be nominated promptly, the Liaison Committee will judge ministers and departments on their performance in practice. (Paragraph 132)

As the Committee has noted, the Government has revised its guidance for the provision of evidence to select committees in a new (July 2005) version of the document ‘Departmental Evidence and Response to Select Committees’. The revised guidance indicates that there is a presumption that Ministers will agree to requests for particular officials to give oral evidence. However, the final decision on who is best able to represent the Minister rests with the Minister concerned and it remains the right of a Minister to suggest an alternative civil servant to that named by the Committee if he or she feels that the former is better

placed to represent them. The Government notes the interest of the Liaison Committee in monitoring how the new guidance is working and would of course be happy to consider any comments the Committee wishes to make in relation to the operation of the guidance.

Annex B

Draft Bills for the remainder of the 2005–06 Session

Provisional List: further bills may be added

Name of Bill (Department)	Estimated period for publication
Coroner Reform (DCA)	March – May 2006
Legal Services (DCA)	March – May 2006
Marine (Defra)	Autumn 2006

Appendix 1: Draft Bills and Pre-legislative Scrutiny

Note by the Head of the Scrutiny Unit

1. Draft bills are usually scrutinised either by a joint committee or by the relevant Commons select committee. The Scrutiny Unit (together with Lords staff) clerks any joint committees and usually assists select committees conducting pre-legislative scrutiny.

2. The number of draft bills has varied greatly from one session to another:

Draft and government bills presented: 1997–98 - 2004–05

	Number of draft bills presented	Number of government bills published
1997–98	3	53
1998–99	6	31
1999–00	6	40
2000–01	2	26
2001–02	7	39
2002–03	10 ¹	36
2003–04	12	36
2004–05	5 ²	32

Notes: ¹ Includes draft clauses of the Police (Northern Ireland) Bill and the Gambling Bill

² Includes draft clauses of the Company Law Reform Bill

Source: House of Commons Library

3. Draft bills published from Session 2002–03 to date and the committees which considered them are listed in the annex. The number of committee inquiries was as follows:

Session	Joint committee inquiries	Select committee inquiries
2002–03	4	7
2003–04	4	7
2004–05	1	3
2005–06 (to date)	0	1

Note: The sessions are those in which the draft bill was published rather than necessarily when the inquiry took place. The Joint Committee on Human Rights has been counted as a select committee for this purpose. One draft bill in 2002–03 was considered both by a select committee and a joint committee.

4. The Draft Corporate Manslaughter Bill is so far the only draft bill scrutinised by a committee during the present Parliament. The two select committees which jointly examined it reported on 20 December.

Prospects for 2006

5. The Government has listed three bills for publication in draft in 2006: Coroner Reform (March-May), Legal Services (March-May) and Marine (autumn). As the Government states, further draft bills may be added. To what extent the current scarcity of draft bills results simply from this being the first session in a new Parliament remains to be seen.

6. Scrutiny Unit staff who would otherwise have been employed on pre-legislative scrutiny have been given other tasks, especially the inquiry into the Electoral Commission requested by the Speaker's Committee on the Electoral Commission. They are also assisting the Select Committee on the Armed Forces Bill, which, although not a draft bill, will give rise to similar work, and the Committee on the Crossrail Bill.

Annex: Draft Bills from Session 2002–03

The arrangement is by the session in which the draft bill was published rather than necessarily when the committee inquiry took place.

Title of draft bill	Considered by:	Publication date of draft bill	Date of first evidence session	Date of publication of report	No. of evidence sessions	No. of paras in report
Session 2002–03						
Draft Civil Contingencies Bill	Defence and Joint Committee	19.06.03	20.03.03 09.09.03	23.07.03 ² 11.11.03	3 6	77 320
Draft Corruption Bill	Joint Committee	24.03.03	13.05.03	31.07.03	8	161
Draft Gambling Bill	Joint Committee	15.07.03 ³	16.12.03	07.04.04	16	657
Draft Electricity (Trading and Transmission) Bill	Trade and Industry	30.01.03	25.02.03	08.04.03	5	54
Draft Gender Recognition Bill	Human Rights	11.07.03	N/A	20.11.03	0	112
Draft Housing Bill	ODPM	31.03.03	16.06.03	22.07.03	6	115
Draft Mental Incapacity Bill	Joint Committee	27.06.03	10.09.03	28.11.03	9	365
Draft Nuclear Sites and Radioactive Substances Bill	Trade and Industry	24.06.03	08.07.03	29.10.03	2	64
Draft clauses of the Police (NI) Bill	NI Affairs	25.11.02	12.12.02	28.01.03	2	36
Draft Public Audit (Wales) Bill	Welsh Affairs	03.04.03	09.06.03	10.07.03	3	44

2 Defence Committee Report, HC 694. The Committee's inquiry began before the draft bill was published.

3 This publication was around 50 clauses. Further information was published on 19 November 2003, and additional clauses on 5 February 2004

Title of draft bill	Considered by:	Publication date of draft bill	Date of first evidence session	Date of publication of report	No. of evidence sessions	No. of paras in report
Session 2003–04						
Draft Animal Welfare Bill	EFRA	14.07.04	07.09.04	08.12.04	12	398
Draft Criminal Defence Service Bill	Constitutional Affairs	17.05.04	22.06.04	27.07.04	7	183
Draft Charities Bill	Joint Committee	27.05.04	09.06.04	30.09.04	8	403
Draft Civil Service Bill		15.11.04				
Draft Disability Discrimination Bill	Joint Committee	03.12.03	11.02.04	27.05.04	9	399
[Gambling (Regional Casinos)]	Joint Committee	14.06.04 ⁴	01.07.04	22.07.04	4	93
Draft Identity Cards Bill	Home Affairs	26.04.04	11.12.03 ⁵	30.07.04	9	280
Draft Mental Health Bill	Joint Committee	08.09.04	20.10.04	23.03.05	10	365
Draft Regional Assemblies Bill	ODPM	22.07.04	08.09.04	05.01.05	4	183
Draft School Transport Bill	Education & Skills	08.03.04	31.03.04	07.07.04	5	75
Draft Single European Currency (Referendum) Bill	Constitutional Affairs	10.12.03		No report made		
Draft Transport (Wales) Bill	Welsh Affairs	27.05.04	21.06.05	19.07.04	4	105

4 Government's response to the Joint Committee on the Draft Gambling Bill, 14 June 2004, Cm 6253.

5 The inquiry began before the draft bill was published.

Title of Draft Bill	Considered by:	Publication date of draft Bill	Date of first evidence session	Date of publication of report	No of evidence sessions	No of paras in report
Session 2004–05						
Draft Children (Contact and Adoption) Bill	Joint Committee	02.02.05	24.02.05	12.04.05	4	214
Draft Commissioner for Older People (Wales) Bill	Welsh Affairs	22.03.05	05.04.05 ⁶	No report made	1	
Draft clauses of Company Law Reform Bill		March 2005 ⁷				
Draft Natural Environment and Rural Communities Bill	EFRA	10.02.05	02.11.04 ⁸	26.03.05	5	193
Draft clauses of Terrorism Bill	Human Rights	15.09.05 ⁹	24.10.05	05.12.05	2	185
Session 2005–06						
Draft Corporate Manslaughter Bill	Home Affairs/ Work & Pensions	24.03.05	25.10.05	20.12.05	6	352

6 Oral evidence session only.

7 Additional clauses published in October 2005

8 The inquiry began before the draft bill was published.

9 The bill was published on 11 November 2005.

Formal minutes

Tuesday 24 January 2006

Members present:

Mr Alan Williams, in the Chair

Mr James Arbuthnot	Mr John McFall
Mr Kevin Barron	Andrew Miller
Mr Alan Beith	Mr Mohammad Sarwar
Mr Andrew Dismore	Dr Phyllis Starkey
Mr Frank Doran	Mr John Whittingdale
Mrs Gwyneth Dunwoody	Mr Phil Willis
Mr Jimmy Hood	Dr Tony Wright
Mr Michael Jack	Mr Tim Yeo
Mr Edward Leigh	Sir George Young
Peter Luff	

* * *

Government Reply to the Annual Report for 2004

Draft Report (Government Reply to the Annual Report for 2004), 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 3 read and 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 Tuesday 7 February at 8.45 a.m.]

Reports from the Liaison Committee since 1996

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

Session 2004–05

First Report	Annual Report for 2004	HC 419
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Session 2003–04

First Report	Annual Report for 2003	HC 446
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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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