



House of Commons  
Public Administration  
Select Committee

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# **The Attendance of the Prime Minister's Strategy Adviser before the Public Administration Select Committee**

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**First Special Report of Session  
2005-06**

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## The Public Administration Select Committee

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

### Current membership

Dr Tony Wright MP (Labour, Cannock Chase) (Chairman)  
Mr David Burrowes MP (Conservative, Enfield Southgate)  
Mr Paul Flynn MP (Labour, Newport West)  
Ms Julia Goldsworthy MP (Liberal Democrats, Falmouth and Camborne)  
Mr Ian Liddell-Grainger MP (Conservative, Bridgewater)  
Mr David Heyes MP (Labour, Ashton under Lyne)  
Mr Kelvin Hopkins MP (Labour, Luton North)  
Ms Julie Morgan MP (Labour, Cardiff North)  
Mr Gordon Prentice MP (Labour, Pendle)  
Mr Grant Shapps MP (Conservative, Welwyn Hatfield)  
Ms Jenny Willott MP (Liberal Democrats, Cardiff Central)

### 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 146. These are available on the Internet via [www.parliament.uk](http://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 [http://www.parliament.uk/parliamentary\\_committees/public\\_administration\\_select\\_committee/remit.cfm](http://www.parliament.uk/parliamentary_committees/public_administration_select_committee/remit.cfm)

### Committee staff

The current staff of the Committee are Eve Samson (Clerk), Clive Porro (Second Clerk), Lucinda Maer (Committee Specialist), Anna Watkins (Committee Assistant), Sue Holt (Secretary) and Phil Jones (Senior Office Clerk).

### Contacts

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# Report

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## Introduction

1. We are making this special report to the House to draw its attention to continued difficulties for select committees in eliciting evidence from the centre of government. We believed there was now a presumption that Special Advisers should give evidence to select committees in appropriate cases. Our experience suggests that this is not so. Despite new assurances that select committees would be given access to the witnesses they need, we have found our work hampered by an unwillingness to permit key advisers from No. 10 Downing Street to give evidence.

2. In July this year, as part of its work programme for the new Parliament, the Committee resolved to inquire into the place of long-term strategy and planning in government. This inquiry focuses on the role of the centre in strategic planning, the relationship between the centre and individual departments in the strategic planning process, and the outcomes of strategic work within government.

3. Although it is mainly civil servants who are engaged in strategic work, both at the centre and in departments, strategy work is also often carried out by people brought into the Civil Service for this specific function. In addition to the Prime Minister's Strategy Unit where staff are, in part, employed on short-term contracts, outsiders are also brought into No. 10 to advise the Prime Minister. These strategists often carry out work which is much less visible to public and parliamentary view.

4. The Committee considered that, in view of his key role as the Prime Minister's Strategy Adviser, Lord Birt would be ideally placed to help us in explaining how long-term strategic thinking is undertaken at the centre of government, how issues are identified and what then happens as a result. After an unsuccessful approach by the Clerk of the Committee through the Cabinet Office, the Chairman wrote to Lord Birt on 27 October inviting him to give oral evidence to the Committee. Despite making public interventions earlier this year in the *Guardian* and at the Edinburgh Television Festival, Lord Birt replied on 2 November declining the invitation to explore these relatively technical and non-contentious process issues with the Committee.

5. In his reply, Lord Birt maintained that "both the lecture and the interview reflect my experience in broadcasting rather than my role as an unpaid adviser to the Prime Minister". We do not believe this distinction can easily be sustained. Lord Birt's views were no doubt of interest because of his past experience as Director General of the BBC; but they were of much additional interest because of his current position and influence. Lord Birt managed to conduct an interview dealing with the future governance of the BBC (an extremely live policy issue) with perfect propriety. We do not understand why he could not give evidence to us on the much less controversial issue of the mechanics of strategic thinking within government. Whether or not he is paid for the work he undoubtedly undertakes for the Prime Minister seems to us to be irrelevant. On that logic, the Government could be completely unaccountable, as long as those who worked for it were rich enough.

## The Osmotherly Rules and their revision

6. Civil Service guidance to officials on select committee appearances, the so-called "Osmotherly Rules", sets out the general principle that officials give evidence on behalf of their Ministers or under their direction. Government has recognised that if an official is unable to answer a committee's questions because of his duty to—or instructions from—the Minister, the relevant departmental Minister would be prepared to attend instead. If there is continuing dissatisfaction, the Government has undertaken to make time for a debate on the floor of the House.<sup>1</sup> The Osmotherly Rules are an internal government document which has never been accepted or approved by the House or its committees.<sup>2</sup>

7. These Rules were recently revised.<sup>3</sup> The inquiry undertaken by Lord Hutton into the death of Dr David Kelly revealed a clear disparity between public inquiries set up by Ministers and by select committees with regard to the provision of persons and papers.<sup>4</sup> As a result the Liaison Committee urged the Prime Minister to review the rules relating to the availability of witnesses and evidence to select committees.<sup>5</sup>

8. Giving evidence to the Liaison Committee on 3 February 2004, the Prime Minister agreed:

"Yes, I am very happy indeed to do that and to look at what lessons we can learn from how the Hutton Inquiry was conducted. ... though I cannot make any promise as to what the conclusion will be, but it is certainly worth looking, in the light of that, at what information we can make available to select committees in the future".<sup>6</sup>

9. Asked about progress when he gave evidence again on 6 July 2004, he added that:

"... I am most sympathetic to change ... areas where you have got departmental issues that cut across not just one department but several departments, and there is something somewhat limiting therefore about saying it is only the actual departmental ministers that deal with the departmental select committees".<sup>7</sup>

10. In addition he conceded that:

"It may be more difficult on the issues to do with advisers, but we are continuing to discuss it and we will be in a position to come back to you in September [2004] with some precise proposals that I hope, even if you do not agree with all of them, you will find that there is some movement in that direction".<sup>8</sup>

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<sup>1</sup> Cabinet Office, *The Working of the Select Committee System*, Cm 1532, p 11.

<sup>2</sup> Erskine May, 23<sup>rd</sup> Edition, (London 2004), p 761.

<sup>3</sup> Cabinet Office, *Departmental Evidence and Response to Select Committees*, July 2005.

<sup>4</sup> Lord Hutton, *Report of the Inquiry into the Circumstances Surrounding the Death of Dr David Kelly C.M.G.*, HC (2003-04) 247.

<sup>5</sup> Liaison Committee, Minutes of Evidence, HC 310-i, Q 1

<sup>6</sup> *Ibid.*

<sup>7</sup> Liaison Committee, Minutes of Evidence, HC 310-ii, Q 144.

<sup>8</sup> *Ibid.*

On 19 October 2004, the then Leader of the House, Rt Hon Peter Hain MP, provided the Liaison Committee with copies of the revised guidance. He stated that:

“we have looked carefully at the concerns which the Liaison Committee and other Select Committees have highlighted. We have made a number of positive and very significant changes in response: namely, making clear the presumption that Committees' requests on attendance of civil servant witnesses, including Special Advisers, will be agreed to”.<sup>9</sup>

Asked directly if there had been a clear change, and that the Government was now specifically offering up Special Advisers, he replied “Yes”,<sup>10</sup> adding that:

“ The guidance makes clear, [...] that the position of Special Advisers is the same as for permanent civil servants. [...] On occasion the right person might be a Special Adviser, and that has happened, in the case of Alastair Campbell, for example, and Number 10; [...] requests for named individuals, including Special Advisers, should be dealt with on a case-by-case basis”.<sup>11</sup>

He concluded by resting on the principle that it is for Ministers to decide who is best able to speak for them in particular cases.

11. The Liaison Committee welcomed these developments, but sounded a note of caution:

“In parliamentary terms, this is 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 ... the Liaison Committee will judge ministers and departments on their performance in practice”.<sup>12</sup>

## The Committee's experience

12. We regret to report that this Committee's experience has been disappointing. Given our cross-cutting remit to consider the performance of civil service departments, it is important that we can hear evidence from those at the centre of government who are called on to advise on those public policy issues affecting the whole of government. Only in this way can the Committee, and Parliament, understand better how such cross-cutting policies and strategies are devised and implemented. In refusing to allow its key Special Advisers to appear before the Committee on inquiries which are directly germane to their work, the Government, and No. 10 in particular, has failed to live up to its undertakings of last year. This is hampering, unnecessarily, the ability of Parliament to undertake effective scrutiny.

13. This is not the first time the Committee has invited expert advisers to the Prime Minister to give evidence. On 14 December 2004, two months after Peter Hain's evidence to the Liaison Committee, we invited the Prime Minister's senior policy adviser on choice

<sup>9</sup> Liaison Committee, Minutes of Evidence, HC 1180-i, Q 1.

<sup>10</sup> Liaison Committee, Minutes of Evidence, HC 1180-i, Q 26.

<sup>11</sup> *Ibid.*, Q 27.

<sup>12</sup> Liaison Committee, First Report of Session 2004-05, *Annual Report for 2004*, HC419, para 132.

(Professor Julian le Grand) to give evidence. The Committee was then inquiring into choice in the public services and he would clearly have been an important witness.<sup>13</sup> We also had reason to think that he wanted to give evidence to us. However, on 22 December he replied that:

“I have checked with the powers-that-be, and unfortunately it still seems to be the policy that it is not appropriate for the Prime Minister's Special Advisers [to give evidence]. My apologies for this” .<sup>14</sup>

14. In response to our first letter requesting Lord Birt's appearance, the Cabinet Office told us “The Prime Minister has given the matter serious consideration” and that “he feels that Stephen [Aldridge] as the Acting Director of the Strategy Unit is best placed to answer any questions which the committee may have on strategic thinking and planning in government.” But our focus was not just about the work of the Strategy Unit. It was also on the role of outsiders in the policy making process. Our interest was in Lord Birt's specific contribution, since one of the issues we are addressing is the way in which outsiders are, and might be, brought into the Government's work on long-term strategy.

15. It is clear that there is strong resistance to the appearance of Special Advisers from No. 10 Downing Street. We are disappointed that the Prime Minister appears to feel that there is no presumption that his own key Advisers will appear before select committees when they are requested to do so, notwithstanding the general undertakings that have recently been given to select committees on this matter.

### Attendance of Members of the House of Lords

16. In this case we face additional difficulties because Lord Birt is a member of the other House. In 2003 the Transport sub Committee of the Committee on Transport, Environment and the Regions was similarly rebuffed in relation to Lord Birt, who was at that time advising on transport policy. As the Committee said:

“18. This Committee, like other Select Committees, faced by a recalcitrant witness, has the power to summon him or her to appear. We would undoubtedly have used that power to summon Lord Birt, but cannot because he is a Member of the House of Lords, like so many of the Prime Minister's advisers. Accordingly, he is able to hide behind the convention, established long ago, for utterly different circumstances, that Members of the other House cannot be summoned to appear before House of Commons' Committees. We understand the reasons for this convention in general, but it should not be used to enable the Prime Minister's or other Ministers' advisers to evade scrutiny by Departmental Select Committees” .<sup>15</sup>

It recommended that the two Houses should examine this problem, but there has been no progress. We recommend that this should be addressed in the next stage of reform of the

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<sup>13</sup> Public Administration Select Committee, Fourth Report of Session 2004-05, *Choice, Voice and Public Services*, HC 49.

<sup>14</sup> Letter to the Committee.

<sup>15</sup> Transport, Local Government and the Regions Committee, Fourth Report of Session 2001-02, *The Attendance of Lord Birt at the Transport, Local Government and the Regions Committee*, HC 655, para 18.

House of Lords. Government advisers should not be able to evade parliamentary scrutiny simply because they are Members of the other House.

## **Conclusion**

17. The Liaison Committee has undertaken to monitor the extent to which the assurances accompanying the new Osmotherly Rules are being put into practice. We have agreed to this Special Report as a way of putting our experiences on the record, and to bring to the attention of the House our dissatisfaction with a situation which prevents the Committee having access to inquiry witnesses it needs.

### **Appendix 1: Letter from Clive Porro, Second Clerk of the Committee, to Sue Gray, Cabinet Office**

20 October 2005

As you know, following Eve Samson's telephone conversations with you on this, the Committee is taking evidence on strategic thinking and planning in government. We are in the process of arranging evidence sessions.

The Committee wish to invite Lord Birt to give evidence on this topic.

Meetings usually take place on Thursday mornings, but they can also be arranged for Thursday afternoons or Tuesday mornings. I would be grateful if you could advise us about possible dates which would be convenient for Lord Birt.

Clive Porro  
Second Clerk

### **Appendix 2: Letter from Sue Gray, Cabinet Office, to Eve Samson, Clerk of the Committee**

2 November 2005

Thank you for your letter of 20 October, inviting Lord Birt to give evidence to the Committee on strategic thinking and planning in Government.

The Prime Minister has given the matter serious consideration. He is aware that you have also asked for Stephen Aldridge to give evidence and feels that Stephen, as the Acting Director of the Strategy Unit, is best placed to answer any questions which the Committee may have on strategic thinking and planning in Government. Separately, you provided me with a couple of dates for Stephen to consider for his evidence session. He would like to go with Thursday 15 December.

Sue Gray  
Head of Propriety and Ethics Team  
Cabinet Office

### **Appendix 3: Letter from Dr Tony Wright MP to Lord Birt**

27 October 2005

As you will know the Committee will be inquiring into strategic thinking and planning in government, under the heading 'Governing for the Future'. In view of your role as the Prime Minister's strategy adviser we thought you would be ideally placed to help the Committee on this by explaining how strategic thinking is undertaken at the very centre of Government.

As part of putting our programme of work in place for the autumn, my clerk has been in touch with Cabinet Office officials since July about our invitation to you to give evidence. It is disappointing, and surprising, that the Committee has been kept waiting for a reply. Following the review of the so-called Osmotherly Rules we were led to believe that there

would be a more helpful approach from Government in meeting requests for witnesses. Indeed, until very recently the indications from the Cabinet Office were very positive.

In his oral evidence to the Liaison Committee in October last year, Peter Hain (then Leader of the House) encouraged us to believe that there had been “a number of positive and very significant changes” made to this guidance, in particular, making clear the presumption that Committees' requests on attendance of civil servant witnesses, including Special Advisers, would be agreed to. This is reflected in the new published guidance.

Even as recently as this month, Sir Gus O'Donnell told us emphatically that he “was supportive of people coming before [the Committee]”.

Your recent interview with the Guardian and your McTaggart Lecture at the Edinburgh Television Festival this summer suggest to us that your current duties clearly do not inhibit you from undertaking some public speaking. For our part, we would very much value your insight on how good strategy is made. I hope, therefore, we can now look forward to receiving a prompt, and positive, reply to our invitation.

Dr Tony Wright MP  
Chair of the Public Administration Select Committee

#### **Appendix 4: Letter from Lord Birt to Dr Tony Wright MP**

2 November 2005

Thank you for your letter of 27 October.

You will be now have seen Sue Gray's letter to your Clerk of 31 October.<sup>16</sup> As you will see, the Prime Minister has decided that Stephen Aldridge, Acting Director of the Strategy Unit, is best placed to deal with your questions relating to strategic thinking and planning in Government. As the Acting Director of the Strategy Unit, Stephen is ideally placed to explain how strategic thinking is undertaken at the centre of Government. Stephen has also agreed a date of 15 December for his evidence session.

You refer to my interview in the Guardian and the McTaggart lecture at the Edinburgh Television Festival, and that these engagements demonstrate that my current duties clearly do not inhibit me from undertaking some public speaking. As I am sure you will appreciate, both the lecture and the interview reflected my experience in broadcasting rather than my role as an unpaid adviser to the Prime Minister.

Lord Birt

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<sup>16</sup> Actually 2 November.

# Formal Minutes

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**Thursday 17 November 2005**

Members present:

Dr Tony Wright, in the Chair

David Burrowes

Julia Goldsworthy

David Heyes

Kelvin Hopkins

Ian Liddell-Grainger

Julie Morgan

Gordon Prentice

Grant Shapps

**1. Consideration of the Draft Report: The Attendance of the Prime Minister's Strategy Adviser before the Public Administration Select Committee**

Draft Special Report, proposed by the Chairman, brought up and read.

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

Paragraphs 1 to 17 read and agreed to.

Resolved, That the Report be the First Special 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.