



House of Commons  
Liaison Committee

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# Planning Bill: Parliamentary Scrutiny of National Policy Statements

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**Fourth Special Report of Session  
2007–08**

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## 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*)  
Business and Enterprise – Peter Luff MP (*Conservative, Mid Worcestershire*)  
Children, Schools and Families – Mr Barry Sheerman MP (*Labour/Co-op, Huddersfield*)  
Communities and Local Government – Dr Phyllis Starkey MP (*Labour, Milton Keynes South West*)  
Culture, Media and Sport – Mr John Whittingdale MP (*Conservative, Maldon and Chelmsford East*)  
Defence – Mr James Arbuthnot MP (*Conservative, North East Hampshire*)  
Environmental Audit – Mr Tim Yeo MP (*Conservative, South Suffolk*)  
Environment, Food and Rural Affairs – Mr Michael Jack MP (*Conservative, Fylde*)  
European Scrutiny – Michael Connarty MP (*Labour, Linlithgow and East Falkirk*)  
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 – Keith Vaz MP (*Labour, Leicester East*)  
Human Rights (Joint Committee) – Mr Andrew Dismore MP (*Labour, Hendon*)  
Innovation, Universities, Science and Skills – Mr Phil Willis MP (*Liberal Democrat, Harrogate and Knaresborough*)  
International Development – Malcolm Bruce MP (*Liberal Democrat, Gordon*)  
Justice – Sir Alan Beith MP (*Liberal Democrat, Berwick-upon-Tweed*)  
Northern Ireland Affairs – Sir Patrick Cormack MP (*Conservative, South Staffordshire*)  
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*)  
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 – David Maclean MP (*Conservative, Penrith and The Border*)  
Transport – Mrs Louise Ellman MP (*Labour/Co-op, Liverpool Riverside*)  
Treasury – 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](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 [www.parliament.uk/parliamentary\\_committees/liaison\\_committee.cfm](http://www.parliament.uk/parliamentary_committees/liaison_committee.cfm).

### **Committee staff**

The current staff of the Committee are Helen Irwin (Clerk), Robert Wilson (Second Clerk), Kevin Candy (Committee Assistant) and Catherine Close (Secretary).

### **Contacts**

All correspondence should be addressed to the Clerk of the Liaison Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 5675; the Committee's email address is [liaisoncommittee@parliament.uk](mailto:liaisoncommittee@parliament.uk)



# 1 Parliamentary Scrutiny of National Policy Statements

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1. The Planning Bill proposes radical reform to the planning system. Decisions on nationally significant infrastructure projects will be made by a new independent body, the Infrastructure Planning Commission. In taking these decisions the Commission will be informed by national policy statements, which will be designated as such by the responsible Secretary of State. When the Bill was introduced into this House on 27 November 2007, the Secretary of State for Local Government and the Regions made it clear that the Government wanted parliamentary scrutiny of the national policy statements on planning. While this was generally welcomed, there was concern about the mechanism the Government proposed, which was to be a new committee drawn from the membership of the Business and Enterprise Committee, the Environment, Food and Rural Affairs Committee and the Transport Committee. This immediately raised concerns that the Communities and Local Government Committee had been omitted, and that the work of the committees concerned could be severely disrupted.

2. The Chairmen of the Committees concerned have spent some time discussing with Ministers how scrutiny could best be handled. They have kept us informed about their discussions, most recently in a letter from Mr Peter Luff, the Chairman of the Business and Enterprise Committee to the Chairman of the Liaison Committee. Any scrutiny mechanism will depend on the final form of the Bill on enactment, and on the detailed proposals the Government puts forward in motions for Standing Orders. The House will have the opportunity to consider the scrutiny mechanism more thoroughly at that stage. However, we thought it would assist further Parliamentary proceedings on the Bill itself, and on any Standing Orders proposed by the Government, if we published the summary of the discussions sent to our Chairman by Mr Luff. This, and related correspondence, is accordingly appended to this report.

## Appendix

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### **Letter to the Chairman of the Liaison Committee from the Chairman of the Business and Enterprise Committee, 7 October 2008**

#### ***Planning Bill: Committee Scrutiny of National Policy Statements***

Now that the Planning Bill has left the House of Commons, I thought it might be helpful to summarise the discussions which Select Committee Chairmen have had with the Government. I attach correspondence with Ministers to this letter.

As you will recollect, the Bill will establish a new National Infrastructure Commission to decide on major infrastructure projects. In making those decisions, it will be guided by National Policy Statements (NPSs), which will be designated by the Secretary of State. Before designation, the Secretary of State will have to engage in a consultation process. When the Bill was introduced, the Secretary of State for Communities and Local Government said:

To provide the stronger role for Parliament, we encourage the House to establish a new Select Committee with the main purpose of holding inquiries into draft national policy statements in parallel with public consultation. We suggest that this Committee should be comprised of members from existing Select Committees on Business, Enterprise and Regulatory Reform, on Transport and on Environment, Food and Rural Affairs.

We will consider the Committee's reports together with responses to public consultation and revise draft national policy statements where appropriate, before designating them. In addition, if the Committee has recommended that a national policy statement raises issues which should be debated by Parliament as a whole, we will make available time in each House for a debate before we designate it. [*Official Report*, 27 November 2007, 14WS].

The Chair of the Communities and Local Government Committee was concerned that this excluded members of the committee with responsibility for planning and local government. Moreover, the Chairmen of the departmental select committees directly concerned considered that a system in which ad hoc committees were drawn from existing select committees would seriously disrupt those committees' work. We thought in many cases it would be more appropriate to refer NPSs to individual committees, who already have the expertise needed to deal with them, and would be eager to undertake the task.

The Chairmen wrote to the Minister pointing out that these proposals would have implications for the work and resources of existing committees, and since then we have been engaged in discussions with the Government about how scrutiny of the statements might be handled. I should put on record that although there may still be some differences of opinion between us, the Government's desire for proper committee scrutiny is welcome, and our discussions have been extremely constructive.

### *The Amendments to the Bill*

On introduction, the Bill contained no reference to parliamentary scrutiny, because the Government rightly accepted that it was inappropriate to set out procedure in statute. In our discussions, some of us pressed for the Bill to be amended to make policy statements analogous to Statutory Instruments, and to require the approval of the House before their designation. The Government did not accept that. The Government was however willing to ensure the Bill required the Government to respond to Parliamentary scrutiny. We were concerned about how this could be done without inadvertently breaching Article 9 of the Bill of Rights and exposing Committee proceedings to use in judicial review. The Government took this point, and proposed what is now Clause 9 of the Bill before the Lords (*Parliamentary requirements*), which states:

1. This section sets out the parliamentary requirements referred to in sections 5(4) and 6(4).
2. The Secretary of State must lay the proposal before Parliament.
3. In this section “the proposal” means—
  - a) the statement that the Secretary of State proposes to designate as a national policy statement for the purposes of this Act, or
  - b) (as the case may be) the proposed amendment.
4. Subsection (5) applies if, during the relevant period—
  - a) either House of Parliament makes a resolution with regard to the proposal, or
  - b) a committee of the House of Commons makes recommendations with regard to the proposal.
5. The Secretary of State must lay before Parliament a statement setting out the Secretary of State’s response to the resolution or recommendations.
6. The relevant period is the period specified by the Secretary of State in relation to the proposal.
7. The Secretary of State must specify the relevant period in relation to the proposal on or before the day on which the proposal is laid before Parliament under subsection (2).

Whatever the statutory structure, the way in which the House deals with these National Policy Statements will depend on Standing Orders. Our discussions could not result in a procedure for scrutiny which was agreed in every detail, since the final form of the statute cannot be known until Royal Assent, and, once that is clear, the Procedure Committee and the House itself will have views on what is appropriate. However, we did agree some broad principles which it may be useful to make publicly known.

### *Committee involvement*

The Government now accepts that there will be occasions when a single select committee is best placed to scrutinise a particular policy statement. Equally, we understand that these

statements will cover a wide range of issues, and that on occasion, a specially constituted committee would be more appropriate. We have suggested that a subcommittee of the Liaison Committee should decide whether a particular policy statement should go to an individual committee or a specially constituted committee, appointed by the House. Such a subcommittee would be appointed by the Liaison Committee itself: it might sensibly consist of the chairmen of the relevant departmental select committees, and two other members of the Liaison Committee to ensure an appropriate political balance. That would mean those most directly concerned could discuss how a particular policy statement should be dealt with, but that wider views would also be included.

Given the cross-cutting nature of these documents, we have made a novel suggestion that even if responsibility remained with an existing committee, Members of other relevant committees would have the right to attend meetings, and take part in evidence gathering, although not to take part in agreeing any report.

### *Consultation*

We discussed the relationship between the timing of public consultation and parliamentary scrutiny. While ideally parliamentary scrutiny should follow public consultation, we recognise that one of the aims of the Bill is to speed up the planning process for major infrastructure projects. In our discussions, we agreed it would be desirable for parliamentary scrutiny to run in parallel with public consultation, but continue for some weeks after public consultation had ended.

### *Workload*

Scrutiny of National Policy Statements would lay a heavy burden on the House and its Committees, and the Government should be careful not to overload the system. We have been assured that there will be informal discussions about the timing of the statements between officials and committee staff and that the Government will seek to understand the constraints on our scrutiny. Clause 9 allows the Secretary of State to designate a period which will in effect determine the time available for parliamentary scrutiny. We hope that before making such a designation, Secretaries of State will consult the Liaison Committee subcommittee, who will be able to advise on the resources available, and other constraints on Committees' time.

### *Parliamentary Debate and response to the Committee*

The Government has committed itself to a debate on National Policy Statements, if a committee so recommends. In Committee, the Minister said:

Thirdly, that Select Committee, or the arrangements that Parliament puts in place, will have the scope,<sup>1</sup> as closely as they wish and in the manner that they wish, to scrutinise and comment on the proposals, and we will then take them into consideration in the finalisation of our national policy statement.

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<sup>1</sup> At the time of the debate, the Government was proposing a Committee drawn from four select committees: Business and Enterprise, Communities and Local Government, Environment Food and Rural Affairs and Communities and Local Government.

Finally, we have made it very clear, in parliamentary terms, that if the Select Committee—let us call it that for the moment—believes that the matters are important enough to require parliamentary debate, we will make time for that. Of course, there is also the option for Parliament to decide to move to votes if it wishes to do so. (*Public Bill Committee on the Planning Bill, Thursday 10 January 2009, c138-9*)

My colleagues and I agreed that flexibility would be essential, and that it was quite possible that debate would be very rare.

In our discussions, I pressed for any such debate to take place after a committee had reported, and indeed after the Government had indicated in what ways, if any, a policy statement would be changed before designation. The Committee would then be able to decide whether the Government had responded satisfactorily, and would decide whether to recommend debate, doubtless taking into account both the intrinsic importance of the policy statement, and the extent to which the Government's revisions met its concerns. The House would debate, and possibly come to a resolution on, the final statement of the government's policy.

Clause 9 of the Bill simply requires that before designating a national policy statement, the Secretary of State shall lay a statement before Parliament setting out his response to any committee report or resolution of the House of Commons. It is possible that this would be the only response to a report, and that the House would first see a final national policy statement at the point when it was designated. However, it would be equally possible for the Standing Orders that the Government produces to provide for some kind of intervening process. Colleagues may wish to consider whether this would be desirable.

It may be helpful to set out how a policy statement might flow through the House, with stages in square brackets optional.

**Step 1:** Government and the Liaison Committee subcommittee discuss the likely timing of NPSs, the consultation periods on those NPSs, and the length of time the House will need to deal with them.

**Step 2:** Government lays NPS in draft, specifying a relevant period for consideration—public consultation period begins.

**Step 3:** Liaison Sub-Committee decides how it should be considered. If an ad hoc committee is desired, it is appointed by the House, with the names coming from the Liaison Committee. Otherwise, the NPS is allocated to an existing departmental committee.

**Step 4:** The Committee charged with NPS decides and announces its terms of reference.

The Committee might feel it is already fully aware of the issues, and want to be extremely restrictive in its approach: it might want to be extremely thorough. Consultation responses, and analysis of those responses, would be made available to the Committee as it proceeds.

**Step 5:** Committee inquiry and report. The Committee's inquiry continues in parallel with public consultation, but does not report until some time after the consultation closes.

**As noted above, it is not clear what would happen after the Committee has reported. The minimum the Bill requires is:**

[**Step 6:** The House debates the NPS in the form in which it was originally proposed.]

**Step 7:** Government lays statutory response and designates NPS (possibly with amendments).

**If it was felt important that the House should see proposed revisions to the NPS before the debate, a variety of procedures along the following lines would be possible:**

**Step 6:** The Government responds to the Committee, indicating whether the NPS is going to be changed, and if so how.

**Step 7:** The Committee considers that response, and may recommend a debate on the NPS, or simply indicate that it is content with the document.

[Debate on the NPS]

**Step 8:** Government lays statutory response and designates NPS (possibly with further amendments to take account of opinions expressed in the debate).

Although most work on this will need to be done after the Bill has received Royal Assent, the Bill remains before Parliament, and Lords Amendments may return to the Commons. I therefore ask you to put this letter to the Liaison Committee at its next meeting, so that colleagues can consider whether it is appropriate to release this letter and the attached correspondence to inform further proceedings on the Planning Bill and consideration of the Standing Orders which will come forward after that.

**Peter Luff MP**  
**Chairman, Business and Enterprise Committee**

# Annex 1

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## **Letter to the Secretary of State for Communities and Local Government, Rt Hon Hazel Blears MP, from the Chair of the Communities and Local Government Committee, Dr Phyllis Starkey MP, 5 December 2007**

### ***Proposed joint Committee to examine national policy statements***

At its meeting earlier this week, the Committee considered the Government's proposal, announced in last week's written ministerial statement accompanying publication of the Planning Bill, "to ... encourage the House to establish a new Select Committee with the main purpose of holding inquiries into draft national policy statements in parallel with public consultation."

The Committee notes the Government's suggestion that this Committee should be comprised of Members from the existing Select Committees on Business, Enterprise and Regulatory Reform, on Transport and on Environment, Food and Rural Affairs. Given its responsibility for scrutinising the work of the Department with overall responsibility both for planning and for local government, the Committee is surprised and concerned that it is not among the Committees expected to provide members to scrutinise these important planning policy statements.

It will of course be for the House authorities themselves ultimately to decide upon the shape and membership of this proposed Committee—and indeed whether it is appropriate to establish it at all. I would be interested, however, to hear what the thinking was behind the decision to exclude my Committee from the Government's proposal as originally made, and what the Government's view might be should it be proposed that members of the Communities and Local Government Committee also be invited to join members of those other Committees on any joint Committee to scrutinise national policy statements.

I am copying this letter to the Leader of the House, to the Chairmen of the Business, Enterprise and Regulatory Reform, Environment, Food and Rural Affairs and Transport Committees, and to the Chairman of the Liaison Committee.

**Dr Phyllis Starkey**  
**Chair, Communities and Local Government Committee**

## Annex 2

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### **Letter to the Leader of the House of Commons, Rt Hon Harriet Harman QC MP, from the Chairmen of the Business and Enterprise Committee, Environment, Food and Rural Affairs Committee and Transport Committee, 10 December 2007**

We are writing about the announcement by the Secretary of State for Communities and Local Government on Planning Reform, which accompanied first reading of the Planning Bill [27 November 2007, c 12 WS].

We note that the Planning White Paper referred to the need for Parliamentary scrutiny. However there was little or no suggestion about the form that scrutiny might take.

The ministerial statement less than two weeks ago invited the House to consider establishing a new Select Committee to consider draft national policy statements, with membership drawn from the existing Committees on Business, Enterprise and Regulatory Reform, on Transport and on Environment, Food and Rural Affairs.

We recognise that our Committees do contain the necessary expertise to carry out this type of scrutiny. However we would welcome an early opportunity to discuss the way this process would operate in practice.

You will appreciate that your proposal will have important implications for our Committees, especially with reference to the resources currently made available to us to undertake our existing scrutiny work. If a quality job is to be undertaken by the House of reporting on these items of major national importance, then I hope you would agree the merits of the proposal for such a meeting and explicitly commit the Government to hold such a discussion with us as part of the Government contribution to today's Second Reading of the Planning Bill.

We are copying this letter to the Secretary of State for Communities and Local Government and to the Chairman of the Liaison Committee.

Yours,

**Peter Luff**

**Michael Jack**

**Gwyneth Dunwoody**

## Annex 3

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### Letter to the Chairman of the Business and Enterprise Committee from Minister for Local Government, 20 May 2008

#### *Planning Bill Parliamentary Scrutiny of National Policy Statements*

I am writing to let you know how we have followed up the Bill of Rights issue raised by your Clerk, Eve Samson, in the meeting Harriet Harman held last week, at which Michael Jack, Phyllis Starkey, Helen Goodman, your Committee Clerks and officials were also present.

I should say first how much I appreciate the time and thought that you and your fellow Chairs have devoted to this important issue. The planning reforms in the Planning Bill are intended to facilitate our national infrastructure needs. Parliamentary scrutiny of draft National Policy Statements (NPSs) for the strategic development of nationally significant infrastructure will be an opportunity to help to ensure these are well-based. I see it as an opportunity for Parliament to have a new and important role in a new system.

The three meetings Harriet has convened, together with the effort that has gone into preparing for them, have taken us a long way towards finding an approach that is workable and effective. I think we have now established a good understanding of your committees' potential scrutiny role, and what you would need in terms of liaison with departments working on NPSs to make the process work as smoothly as possible. We do have the relatively detailed point outstanding about how time limits would work which would be useful to try to resolve between officials. I also recognise the strength of your feeling that Parliament should approve these new policy statements. While I won't repeat the points I made last week, we disagree that that is the right way forward.

However, we have been examining urgently the point that your Clerk, Eve Samson, raised in the meeting, that the approach I outlined for a new clause in the Bill—that the Secretary of State would have regard to the views of Parliament and the Report of the committee—would lead to a significant problem in relation to Article IX of the Bill of Rights. I am grateful to Eve for raising this point since our subsequent consultation with the House authorities, as she suggested, and with Parliamentary Counsel, have confirmed the risks of such an approach. I am also grateful to the House authorities for turning round our questions so quickly.

In light of this, we have revised our approach, and are tabling amendments and a new clause on the parliamentary process. This would require the Secretary of State to:

- lay the proposal for a NPS or amendment of a NPS before Parliament;
- lay a statement before Parliament setting out his response to any resolution of either House or recommendation of a committee of the House of Commons concerning the proposal made within a relevant period, which would be specified;
- lay the final NPS or amended NPS before Parliament when designated.

I hope you can agree that this is preferable to my earlier proposal and see merit in this approach and I would be interested in your thoughts.

I am copying this letter to Harriet Harman, Helen Goodman, Michael Jack, Phyllis Starkey, and to the Clerk of the Transport Committee.

**John Healey MP**