



House of Commons
Public Administration Select
Committee

**Work of the
Committee in 2007:
Government Response
to the Committee's
Fourth Report of
Session 2007–08**

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

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The Public Administration Select Committee

The Public Administration Select Committee is appointed by the House of Commons to examine the reports of the Parliamentary Commissioner for Administration and the Health Service Commissioners for England, 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.

Current membership

Dr Tony Wright MP (*Labour, Cannock Chase*) (*Chairman*)
Mr David Burrowes MP (*Conservative, Enfield Southgate*)
Paul Flynn MP (*Labour, Newport West*)
David Heyes MP (*Labour, Ashton under Lyne*)
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Mr Charles Walker MP (*Conservative, Broxbourne*)
Jenny Willott MP (*Liberal Democrats, Cardiff Central*)

Powers

The Committee is one of the 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.

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/pasc>.

Committee staff

The current staff of the Committee are Steven Mark (Clerk), James Gerard (Second Clerk), Pauline Ngan (Committee Specialist), Louise Glen (Committee Assistant), Anne Woolhouse (Secretary) and James Bowman (Senior Office Clerk).

Contacts

All correspondence should be addressed to the Clerk of the Public Administration Select Committee, Committee Office, First Floor, 7 Millbank, House of Commons, London SW1P 3JA. The telephone number for general enquiries is 020 7219 3284; the Committee's email address is pasc@parliament.uk.

Contents

Report	<i>Page</i>
Fifth Special Report	1
Appendix	1
List of Reports from the Committee during the current Parliament	5

Fifth Special Report

The Public Administration Select Committee reported to the House on *Work of the Committee in 2007* in its Fourth Report of Session 2007–08, published 24 January 2008 as HC 236. The Government Response was received on 20 March 2008 and is published below as an Appendix to this Report.

Appendix

1. We consistently make it our goal not just to scrutinise the performance of departments, but to make constructive proposals which lead to real improvements in the governance of Britain. We also seek to pursue those proposals over time. In doing so, there are signs that Committees in general, and this Committee in particular, have had a real effect on people's lives. Our proposals on constitutional reform are shaping Government thinking, and will no doubt shape the law. Our recommendations on the vexed questions of propriety and peerages aim to give the public greater confidence in Parliament. Most directly, our work on following up the recommendations of the Ombudsman has helped to bring justice to those who have suffered. That we have helped more than 100,000 victims of pension scheme wind-ups, ensuring that they will not retire into undeserved hardship, is more than enough justification for our work. (Paragraph 8)

The Government greatly values and appreciates the work of the Committee. Although the Committee naturally takes a close interest in the work of the Cabinet Office, the Committee's remit allows it:

"to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service."

The Committee is therefore able to hold inquiries into a broad range of subjects and topics as has been demonstrated throughout the past year.

As the Committee notes, it has made constructive proposals which have led to real improvements in the governance of Britain. In particular, the Government welcomes the Committee's contribution to the Constitutional Reform agenda, and looks forward to working closely with the Committee as it takes forward its proposals in the Governance of Britain Green Paper.

2. We were heartened to learn that the Prime Minister apparently agrees that parties' powers of patronage should be reduced, and that changes are needed to the tests applied for prospective peers. We look forward to seeing the Government's considered response to our Propriety and Peerages report, which is due by mid-February 2008. (Paragraph 17)

3. We remain greatly concerned by the Government's apparent willingness to contest the Ombudsman's special status in determining whether maladministration has occurred. (Paragraph 23)

The Government notes the recommendation. It will reply to the Committee's report on Propriety and Peerages shortly.

The Government has made it clear that it continues to have every respect for the constitutional position of the office of Parliamentary Ombudsman. It takes the Ombudsman's role seriously, and it is exceptionally rare for Government not to accept the findings of an Ombudsman's investigation and report. The Government has no doubt that this will continue to be the case, and looks forward to working constructively with the Ombudsman in the future.

4. Some former civilian internees during the Second World War remain excluded from compensation, even under the new criteria. We continue to call for some independent adjudication of the few individuals who continue to be excluded but whose complaints seem, on the face of it, to be just. (Paragraph 24)

Over 25,000 former British WWII prisoners of war of the Japanese—military and civilian—have received ex gratia payments of £10,000 each under the UK scheme introduced—in November 2000; this has been at a total cost of over £250M. The Government acknowledges that a small number of former civilian internees who were held by the Japanese during the Second World War and were British subjects are not eligible under the scheme. This is because they have not met the fundamental criterion of the scheme that claimants should be able to demonstrate a close link to the UK. Many internees who were British subjects at the time are now the citizens of independent states who have assumed the responsibility for them in such respects; the Government does not believe the UK should retain the responsibility for payments to former internees who cannot show a close link to the UK.

The Government does not accept that there would be merit in introducing a system of independent adjudication for civilian cases that have failed because they do not qualify under the published rules and that have other reasonable avenues of review, e.g. the Ombudsman. The rules in question were drawn up following consultation with the Association of British Civilian Internees-Far East Region (ABCIFER) and the All Party Group on Far East Prisoners of War (FEPOWS), and case-decisions have carefully followed these rules. There has been extensive consideration of the issues behind cases, including detailed discussions with ABCIFER, and careful review of the cases themselves.

The Government considers the scheme to be fundamentally sound and believes it has met its obligations to the many deserving former internees to whom the UK properly has a responsibility.

5. The Government's acceptance of Sir Andrew Young's review's findings means that, at long last, we feel able to say that justice has been done for the victims of pension scheme wind-ups. Although this result was a long time in coming, we recognise that this represents a very significant commitment of public funds, albeit to a very deserving cause. The continual pressure of this Committee, other parliamentarians and tireless campaigners has paid off, and represents a superb advertisement for what parliamentary democracy can achieve. (Paragraph 29)

We welcome the acknowledgement by the Committee that the Government's response to the review undertaken by Andrew Young means that the Committee feels able to say that 'justice has been done'. The Government agreed with his conclusion that, to provide a guaranteed benefit level, the best value would come from Government absorbing all the residual assets in the schemes and then making the associated payments as they fall due. This enabled the Government to guarantee scheme members would receive 90% of their accrued pension.

The extension to members of schemes which were wound-up as a result of being underfunded where the employer is still solvent, was of particular concern to the Committee and their reports on this issue were a constructive contribution to helping resolve the issues.

6. We are concerned that the task of implementing the "public benefit" requirements in the Charities Act 2006 is an essentially political task, involving political judgements and accountability for those judgements. As such, it is understandable if the Charity Commission is finding it difficult. Although we are glad that they are involving us in the process, there remain real issues of democratic legitimacy. (Paragraph 37)

The Charities Act 2006 ("the Act") removes a long-standing historical presumption that charities for the advancement of education, the advancement of religion, or the relief of poverty are for the public benefit. As a result, the Act creates a level playing field for all charities to demonstrate how their purposes are for the public benefit. The Act gives the Charity Commission ("the Commission") an objective of raising awareness and understanding of the operation of the public benefit requirement, and requires the Commission to consult on and publish guidance on public benefit, to which charity trustees must have regard in running their charity.

The concept of public benefit is not new. Historically, the definition of public benefit has not been set down in legislation, but has developed as a body of case law, as cases have been determined by the Commission and the Courts over time. Rather than have an inflexible definition in statute, the Act relies on the existing case law definition, enabling the law on public benefit to continue to evolve and develop over time. The Commission's published guidance does not create a definition, but instead sets out the principles of public benefit derived from the existing case law in the context of modern conditions.

The Commission will remain accountable to the Courts for its legal decisions, including those on public benefit. One of the criticisms of the current law on public benefit is that there is an insufficient body of case law which has not kept pace with changes in society. Currently Commission decisions can be challenged only through the High Court—a costly, lengthy, and daunting process, and one that is rarely taken up. The Government has recognised this, and the Act creates a new Charity Tribunal as a court of first instance, which will enhance the Commission's accountability and enable the law on public benefit to develop more coherently in future.

The Government believes that the Commission is best placed for the task of issuing guidance on public benefit. The Commission, as the independent regulator of charities in England and Wales, is not subject to Government direction or control, and this serves to insulate both the guidance and any decisions on public benefit from political interference. During the passage of the Charities Bill, there were strong calls from the charity sector arguing that there should be no Government control over any aspect of the definition of charity. The Government supports that view.

We welcome the consultative approach that the Commission has taken in developing its guidance, and its proposals to develop more detailed guidance for those charity sub-sectors that are likely to be most affected by the removal of the presumption of public benefit. As a further safeguard, the Government agreed to review the operation of the public benefit test within three years of its implementation (i.e. by April 2011).

7. The Cabinet Office has consistently failed to produce responses to our recent reports within two months—quite often failing by a great distance. While there may on occasion be good reason for this failure, the cumulative effect has a negative impact on our ability to follow up our work. We hope that there will be substantial improvements in 2008. (Paragraph 50)

As the Committee itself acknowledges, on occasions there may have been good reason for a delayed Government response to a report. For example, providing substantive responses to the report on ethical regulators and some of the recommendations in the report on Politics and Administration are sensitive in advance of a formal statement in the context of the Constitutional Reform Bill. However, we wish to assure the Committee we take seriously its work and aim to respond within two months. Exceptionally, where this may not be possible we will ensure we consult the Committee and keep it informed of progress.

8. More constitutional reforms may be on the table in 2008, whether they are greater parliamentary oversight of prerogative powers, more independence for ethical regulators, or changes arising out of questions about propriety and peerages. We hope to be able to look back a year from now on twelve months of significant change. (Paragraph 52)

The draft Constitutional Renewal Bill, which will be published soon, will obviously be of considerable interest to the Committee. The Government looks forward to discussion with the Committee on issues arising from the draft Bill and on other topics throughout 2008.

March 2008

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2007–08

First Report	Machinery of Government Changes – A follow-up Report	HC 160
Second Report	Propriety and Peerages	HC 153
Third Report	Parliament and public appointments: Pre-appointment hearings by select committees	HC 152
Fourth Report	Work of the Committee in 2007	HC 236 (<i>HC 458</i>)
Fifth Report	When Citizens Complain	HC 409

Session 2006–07

First Report	The Work of the Committee in 2005–06	HC 258
Second Report	Governing the Future	HC 123 (<i>Cm 7154</i>)
Third Report	Politics and Administration: Ministers and Civil Servants	HC 122
Fourth Report	Ethics and Standards: The Regulation of Conduct in Public Life	HC 121 (<i>HC 88</i>)
Fifth Report	Pensions Bill: Government Undertakings relating to the Financial Assistance Scheme	HC 523 (<i>HC 922</i>)
Sixth Report	The Business Appointment Rules	HC 651 (<i>HC 1087</i>)
Seventh Report	Machinery of Government Changes	HC 672 (<i>HC 90</i>)
Eighth Report	The Pensions Bill and the FAS: An Update, Including the Government Response to the Fifth Report of Session 2006-07	HC 922 (<i>HC 1048</i>)
Ninth Report	Skills for Government	HC 93 (<i>HC 89</i>)
First Special Report	The Governance of Britain	HC 901

Session 2005–06

First Report	A Debt of Honour	HC 735
Second Report	Tax Credits: putting things right	HC 577 (<i>HC 1076</i>)
Third Report	Legislative and Regulatory Reform Bill	HC 1033 (<i>HC 1205</i>)
Fourth Report	Propriety and Honours: Interim Findings	HC 1119
Fifth Report	Whitehall Confidential? The Publication of Political Memoirs	HC 689 (<i>HC 91, Session 2007–08</i>)
Sixth Report	The Ombudsman in Question: the Ombudsman's report on pensions and its constitutional implications	HC 1081 (<i>Cm 6961</i>)
Seventh Report	The Ministerial Code: the case for Independent Investigation	HC 1457 (<i>HC 1088, Session 2006–07</i>)
First Special Report	The Attendance of the Prime Minister's Strategy Adviser before the Public Administration Select Committee	HC 690