



House of Commons  
Procedure Committee

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# **Accountability to the House of Commons of Secretaries of State in the House of Lords**

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**Third Report of Session 2009–10**





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**Third Report of Session 2009–10**

*Report, together with formal minutes and  
written evidence*

*Ordered by the House of Commons  
to be printed 17 March 2010*

## Procedure Committee

The Procedure Committee is appointed by the House of Commons to consider the practice and procedure of the House in the conduct of public business, and to make recommendations.

### Membership during the Session

Rt Hon Greg Knight MP (*Conservative, Yorkshire East*) (Chairman, from 9.11.05)  
Ms Celia Barlow MP (*Labour, Hove*)  
Mr Ian Cawsey (*Labour, Brigg & Goole*)  
Mr Christopher Chope MP (*Conservative, Christchurch*)  
Ms Katy Clark MP (*Labour, North Ayrshire and Arran*)  
Mr Mark Field MP (*Conservative, Cities of London and Westminster*)  
Mr Roger Gale MP (*Conservative, North Thanet*)  
John Hemming MP (*Liberal Democrat, Birmingham, Yardley*)  
Mr Eric Illsley MP (*Labour, Barnsley Central*)  
Mrs Siân C. James MP (*Labour, Swansea East*)  
Mrs Linda Riordan MP (*Labour, Halifax*)  
Sir Robert Smith MP (*Liberal Democrat, West Aberdeenshire and Kincardine*)  
Sir Peter Soulsby MP (*Labour, Leicester South*)

The following Members were also members of the Committee during the Parliament:

Mr David Anderson MP (*Labour, Blaydon*)  
Mr Jim Cunningham MP (*Labour, Coventry South*)  
Annette Brooke MP (*Liberal Democrat, Mid Dorset and Poole North*)  
Mr David Gauke MP (*Conservative, South West Hertfordshire*)  
Andrew Gwynne MP (*Labour, Denton and Reddish*)  
Rosemary McKenna MP (*Labour, Cumbernauld, Kilsyth and Kirkintilloch East*)  
Sir Nicholas Winterton MP (*Conservative, Macclesfield*) (Chairman till 9.11.05)  
Mr Rob Wilson MP (*Conservative, Reading East*)

### Powers

The powers of the Committee are set out in House of Commons Standing Orders, principally in SO No 147. These are available on the Internet via [www.parliament.uk](http://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 <http://www.parliament.uk/proccom>.

### Committee staff

The current staff of the Committee are Dr Lynn Gardner and Miss Sara Howe (Clerks) and Rowena Macdonald (Committee Assistant).

### Contacts

All correspondence should be addressed to the Clerk of the Procedure Committee, Journal Office, House of Commons, London SW1A 0AA . The telephone number for general enquiries is 020 7219 3318; the Committee's email address is [proccom@parliament.uk](mailto:proccom@parliament.uk)

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# Accountability to the House of Commons of Secretaries of State in the House of Lords

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## Introduction

1. On 12 January 2010 the Speaker wrote to the Procedure Committee asking us to consider the matter of accountability to the House of Commons of Secretaries of State in the House of Lords. This matter had been the subject of debate since the then Business, Enterprise and Regulatory Reform (BERR) select committee published on 25 November 2008 a report in which it expressed serious concern about the capacity of the House of Commons to hold to account the Secretary of State for Business, Enterprise and Regulatory Reform, following the appointment to the post of Lord Mandelson. The Committee suggested that a mechanism should be found to enable parliamentary questions to be answered by Lord Mandelson in the Commons, and it recommended that the Procedure Committee should hold detailed discussions about the appropriate mechanism.<sup>1</sup>

2. The Procedure Committee wrote to Rt Hon Harriet Harman QC MP, Leader of the House, on 10 December 2008, asking for the Government's view. The letter was answered by means of the Government Response to the BERR Committee in February 2009. The response was unequivocal that the Government "does not support the proposal for Ministers who are Members of one House to answer parliamentary questions in the other House".<sup>2</sup>

3. This position changed later that year, when, on 24 September 2009, Mr Speaker expressed his view that Lord Mandelson and Lord Adonis (who had become Secretary of State for Transport in the summer reshuffle) should answer questions in Westminster Hall.<sup>3</sup> The Prime Minister then wrote to the Speaker, reportedly proposing that the Lords Secretaries of State should be questioned in the Commons Chamber.<sup>4</sup> This new attitude on behalf of the Government was reflected by the Leader of the Lords when she commented on 7 January 2010 that the Government saw "no reason why Secretaries of State in the Lords should not appear before the House of Commons, if that were the will of the House".<sup>5</sup>

4. The Speaker's letter to us of 12 January 2010 asked us to consider the matter and to address, in particular:

- a) whether any proposal should also apply to Lords holders of particular portfolios within departments.

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<sup>1</sup> Business and Enterprise Committee, Fourteenth Report of Session 2007–08, *Departmental Annual Report and Scrutiny of the Department for Business, Enterprise and Regulatory Reform*, HC 1116, paragraph 15.

<sup>2</sup> Government Response to the Fourteenth Report of the Business and Enterprise Select Committee of 2007–08, Cm. 7559.

<sup>3</sup> Speech to the Hansard Society, 24 September 2009.

<sup>4</sup> Daily Telegraph, 25 October 2009

<sup>5</sup> HL Debates, 7 January 2010, c199

- b) what forum would be appropriate.
- c) what form accountability should take.
- d) practicalities such as frequency and length, relationship to the existing Question Times for Business, Innovation and Skills and Transport, where Ministers might sit, how questioning should be organised, and chairing arrangements.

5. On 11 March 2010 the Public Administration Select Committee published its report into ministerial appointments from outside Parliament. The Report also addressed the matter of the accountability to the House of Commons of senior Ministers in the House of Lords. The Committee concluded:

So long as there is an unelected second chamber, there is a strong argument of principle that senior ministers should be directly accountable to the democratically elected chamber as a whole. However, there is a debate to be had about how this can be achieved. [...] Such a move should not be used as a justification for appointing more senior ministers via the House of Lords. The purpose of such a change would be to assert the primacy of the Commons, not to undermine it.<sup>6</sup>

## Precedents and Models

6. There are several precedents for the attendance in the House of Commons of Ministers who are members of the House of Lords. Until the first part of the nineteenth century, important inquiries were entrusted to committees of the whole House. Witnesses were examined at the Bar. If a member of the House of Lords was so examined, chairs were placed for them within the Bar and they were introduced by the Serjeant. Peers sat down, but stood to answer questions.<sup>7</sup>

7. There is also a long tradition of grand committees which as general committees broadly follow the procedure of the House and are frequently used to conduct business which, if time were available, would be conducted on the floor. The Scottish, Welsh, Northern Ireland and Regional Grand Committees allow statements to be made, and questions to be answered, by Ministers of the Crown ‘whether or not a Member of the House’. In the first three cases such Ministers may not make their statements ‘from the body of the Committee’ and may not ‘vote, make any motion or be counted in the quorum’.<sup>8</sup>

8. Following recommendations from the Modernisation Committee, proposals were drawn up for a Parliamentary European Committee which would in effect have been a joint general committee.<sup>9</sup> Attendance was to be open to all members of both Houses; there would be no ‘core’ membership. Business would include statements from Ministers. No

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<sup>6</sup> Public Administration Committee, Eighth Report of Session 2009–10, *Goats and Tsars: Ministerial and other appointments from outside Parliament*, HC 330, paragraph 58.

<sup>7</sup> Erskine May, 10th edition, 1893, p 362-3 and 409 (chairs were also place for judges and the Lord Mayor of London, but they were only permitted to ‘rest with their hands upon the chair backs.’)

<sup>8</sup> Standing Orders Nos. 96(4), 105(4), and 112(4).

<sup>9</sup> Select Committee on Modernisation of the House of Commons, Second Report of Session 2004–05, *Scrutiny of European Business*, HC 461-I and –II, paragraphs 55-64.

progress has been made with these proposals but they illustrate the potential for adapting current procedures for innovative ends.

9. The most familiar precedent for Lords Ministers appearing in the Commons is giving evidence before select committees. This is a frequent occurrence. Members of the House of Lords may not be summoned to give evidence to select committees, but this has not presented difficulties to select committees and there is no suggestion that they would not appear willingly under any new arrangement to allow scrutiny by the whole House. House of Lords Standing Order No. 25 gives leave to any Lord requested by a committee of the Commons to attend as a witness before it to attend if he or she thinks fit.

## Consultation

10. On 9 February 2010 we wrote to all Members of the House of Commons inviting their views on this subject. Of those Members who replied, a clear majority believed that Lords Ministers should be more accountable. Those against the proposal of greater accountability included those who opposed blurring the lines between the different institutions, as well as Members who were strongly of the opinion that ministers should not be drawn from the Lords.

11. Members were also asked where such scrutiny should take place. A slight majority favoured Westminster Hall over the Chamber. A number of those responses favouring the Chamber suggested restrictions such as limiting attendance by Lords Ministers to the bar of the House or to exceptional occasions.

12. Members were also asked whether they would rather see Lords Ministers responding to questions only, or to both questions and debates. A small majority supported the 'questions only' option, and of those who supported questions *and* debates, several expressed a stronger preference for questions.<sup>10</sup>

## Proposals

13. We recognise the concerns expressed by several Members regarding the potential consequences of changing procedures in this way. On a constitutional level, it may be argued that agreeing to allow a non-Member to be questioned on the floor of the House or even in Westminster Hall might set a precedent which was later felt to be undesirable. We recognise that any proposal to change the status quo must take into account not only procedural practicalities, but also potential constitutional implications.

14. Although we recognise that the exceptionally high profile of the current Secretaries of State in the Lords may not be a feature of all Cabinets, we believe that these questions are likely to recur in future years and need to be properly addressed. In the light of this, and the representations received from Members of the House and the Speaker himself, **we consider that it would be appropriate at this time to conduct an experiment of procedures for Lords Ministers being questioned in the Commons.**

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<sup>10</sup> See Annex 1 for analysis of responses and Ev pp 1-6 for the responses in full.

15. In considering the conditions under which such an experiment would take place, we were guided by the following principles. First, any experiment should not impinge upon the constitutional primacy of the House of Commons. Secondly, any experiment should take place as far as possible within the existing procedures of the House. It is for this reason, in line with the preferences expressed by the Members who responded to our consultation, that **we believe the experiment should consist solely of questions and should take place in Westminster Hall.** At present business in Westminster Hall on a Thursday afternoon is the responsibility of the Chairman of Ways and Means under Standing Order No. 10(3).<sup>11</sup> Recent proposals from the House of Commons Reform Committee recommend that this becomes time available for Backbench Business. However, we anticipate that the House would be prepared to pass a motion to allow questioning of Secretaries of State from the Lords to take forty-five minutes out of this time on an experimental basis.

16. If the experiment were considered successful and if it were felt necessary to further develop and strengthen the scrutiny it permitted, there might then be a case for considering more radical options including, perhaps, questions on the floor of the House. Until that point we would consider it prudent to take a measured approach. The experiment in Westminster Hall may reveal new issues, be they constitutional or practical in nature, which could be valuable in deciding whether and how such scrutiny should continue.

**17. We consider that an experiment of oral questions in Westminster Hall should take place under the following conditions:**

- a) **the experiment should last for one Parliamentary Session,**
- b) **the experiment should apply only to departmental Secretaries of State in the House of Lords,**
- c) **subject to the length of the Parliamentary Session, each Secretary of State should be subject to two question sessions,**
- d) **each session should consist of a thirty minute period of ‘normal’ questions, followed by a fifteen minute period of topical questions,**
- e) **the session should complement rather than replace the regular departmental Question Time on the floor of the House, which should continue to take place as normal,**
- f) **Secretaries of State should not be able to delegate questions to junior ministerial colleagues from either House,**
- g) **the question session should be chaired by a Deputy Speaker,**
- h) **supplementary questions should be permitted,**

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<sup>11</sup> Standing Order No. 10(3) states: "Subject to paragraph (13) below [debates on Select Committee Reports], the business taken at any sitting in Westminster Hall shall be such as the Chairman of Ways and Means shall appoint and may include oral answers to questions under arrangements to be made by him."

- i) **opposition frontbench spokesmen should be accorded the same priority as at question time in the Chamber,**
- j) **tabling and shuffling arrangements, and notice periods, should be the same as for question time in the Chamber,**
- k) **the session should take place as the first item of business on Thursday afternoons.**

One question that must be answered is that of where the Secretary of State would sit during the session. The Standing Orders provide for instances where a Minister of the Crown who is not a Member of the Commons makes a statement to a Grand Committee, and prevents the Minister from doing so 'from the body of the committee'. Arrangements are instead made for the Lords Minister to sit at the dais, immediately to the right of the Chair, at a seat which would otherwise be occupied by an official. We acknowledge the importance of maintaining a measure of 'otherness' so that Lords Ministers are not seen to be taking a conventional part in proceedings. A Lords Minister participating in a question session from the dais is not being accorded a special status; rather his position outside the body of the room is underlining precisely that he does not possess the special status of a Member of the House of Commons. However, we accept that using the dais in this way for this experiment may give a misleading impression that the Secretary of State is occupying a privileged position, not least because he would then be sitting alongside the person chairing the session. We therefore believe that it would be more appropriate to follow the Select Committee model, where the witness is on the same level as the Members of the Committee but at a separate table.

18. We have proposed this experiment on the basis of concerns regarding the accountability of the House of Lords as currently constituted. In the event that a future Government introduced legislation to alter the composition of the House of Lords, we would expect the matter to be revisited.

**19. We recommend that the House be given the opportunity in this Parliament to approve a motion enabling Lords Secretaries of State to appear in Westminster Hall under the conditions listed above in the first Session of the next Parliament.**

# Annex 1

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## Analysis of Responses by Members

The Committee sent an email to all Members asking for their views on the following points:

- Do you think that Secretaries of State in the House of Lords should be more directly accountable to the House of Commons?
- If so, do you think that such scrutiny should take place in the Chamber, Westminster Hall or another forum?
- Should such scrutiny take the form of questions or also include debates?

As of 25 February, 34 Members had responded. The results are summarised in the tables below:

- Should Lords Ministers be more accountable?

YES	NO
29	7

Those against the proposal were against blurring the lines between the different institutions, as well as Members who were strongly of the opinion that ministers should not be drawn from the Lords.

One Member considered that such scrutiny should be carried out through select committees, with practices modified so that all Members could take part in that section of the proceedings.

- Where should such scrutiny take place?

Westminster Hall	Chamber	Either	Other fora
14	11	2	2

The other fora suggested were committees, including select committees, and question sessions in a committee room.

Those suggesting the Chamber included responses limiting attendance by Ministers to the bar of the House or to exceptional occasions.

- What form should scrutiny take?

Questions only	Debates and questions
15	14

Of those responses supporting debates and questions, several expressed a stronger preference for questions than for debates.

## Annex 2

### Summary of Responses

Member	More accountability?	Where?	Questions and/or Debates?
Evans, Nigel	Yes	W Hall	Questions
Dismore, Andrew	Yes	Chamber	Both
Marshall-Andrews, Bob	Yes	Chamber	Both
Holmes, Paul	Yes	W Hall	Both
Baker, Norman	Yes	Chamber	Questions, not debates
Kaufman, Gerald	No		
Harvey, Nick	Yes	Chamber	Questions
Field, Mark	Yes	W Hall	Both
Marris, Rob	Yes	W Hall	Both
Starkey, Phyllis	Yes	Chamber	Questions
Donohoe, Brian	Yes	Chamber	Both
Afriyie, Adam	Yes	Other forum	Questions
Rifkind, Malcolm	Yes	W Hall	Both
McCabe, Steve	Yes	Other forum	Questions
Wilson, Rob	Yes	W Hall	Both
Brady, Graham	Yes	Chamber	Questions
Redwood, John	Yes	W Hall	Questions
Stuart, Gisela	No, should not have Lords Ministers		
Cormack, Patrick	Yes	W Hall	Questions
Milton, Ann	Yes	Either	Both
Clark, Katy	Yes	W Hall	Both
MacShane, Dennis	No, should not have Lords Ministers		
Pritchard, Mark	Yes	Chamber	Questions
Iddon, Brian	Yes	W Hall	Questions
Howarth, George	No, should have more SC scrutiny		
Roy, Lindsay	No		
Horam, John	Yes	Chamber	Both
Clarke, Charles	No, should not have Lords Ministers		
Beith, Alan	Yes	Chamber	Questions, primarily
Bayley, Hugh	Yes, although there should be less Lords Ministers	Chamber	Questions
Heathcoat-Amory, David	No, there should be less Lords Ministers		
Morgan, Julie	Yes	W Hall	Questions
Osborne, Sandra	Yes	W Hall	Both
Amess, David	Yes	W Hall	Both
Jenkin, Bernard	Yes	Either	Questions
Young, Sir George	Yes	W Hall	Both
Tyrie, Andrew	Should only be questioned by ctees	-	
Betts, Clive	Yes	Chamber	Questions
Meacher, Michael	Yes	W Hall	Both
Clapham, Michael	Yes	Chamber	Questions
Jackson, Glenda	Yes	W Hall or Committee Room	Both
	Yes = 33 No = 7	W Hall = 16 Chamber = 13 Either = 2 Other forum = 3	Questions = 17 Both = 16

# Formal Minutes

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**Wednesday 17 March 2010**

Members present:

Mr Greg Knight, in the Chair

Mr Roger Gale  
John Hemming

Sir Robert Smith

Draft Report (*Accountability to the House of Commons of Secretaries of State in the House of Lords*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 19 read and agreed to.

Annexes 1 and 2 agreed to.

*Resolved*, That the Report be the Third Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

Written evidence was ordered to be reported to the House for printing with the Report.

[Adjourned till a time to be appointed by the Chairman.]

## List of written evidence

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1	Email from Chairman to Members of the House	Ev 1
2	Rt Hon Sir Gerald Kaufman MP	Ev 1
3	Rob Marris MP	Ev 1
4	Dr Phyllis Starkey MP	Ev 1
5	Mr Brian H Donohoe MP	Ev 1
6	Nick Harvey MP	Ev 1
7	Adam Afriyie MP	Ev 1
8	Rt Hon Sir Malcolm Rifkind MP	Ev 2
9	Steve McCabe MP	Ev 2
10	Mr Graham Brady MP	Ev 2
11	Ms Gisela Stuart MP	Ev 2
12	Sir Patrick Cormack MP	Ev 3
13	Rt Hon Denis MacShane MP	Ev 3
14	Dr Brian Iddon MP	Ev 3
15	Rt Hon George Howarth MP	Ev 3
16	Lindsay Roy MP	Ev 4
17	Rt Hon Charles Clarke MP	Ev 4
18	Rt Hon Sir Alan Beith MP	Ev 4
19	Hugh Bayley MP	Ev 4
20	Rt Hon David Heathcoat-Amory MP	Ev 4
21	Rt Hon Sir George Young, Shadow Leader of the House	Ev 5
22	Mr Andrew Tyrie MP	Ev 5
23	Office of Rt Hon Dr Gavin Strang MP	Ev 5
24	Mr Bernard Jenkin MP	Ev 6
25	Glenda Jackson MP	Ev 6

# List of Reports from the Committee during the current Parliament

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The following reports have been published during this Parliament:

## Session 2009-10

First Report	Election of the Speaker and of the Deputy Speakers	HC 341
Second Report	Explanatory statements on amendments to bills	HC 410
Third Report	Accountability to the House of Commons of Secretaries of State in the House of Lords	HC 496
First Special Report	Written Parliamentary Questions: Government Response to the Committee's Third Report of Session 2008-09	HC 129

## Session 2008-09

First Report	Interleaving of Bills and Explanatory Notes	HC 377
Second Report	e-Petitions: Call for Government action	HC 493
Third Report	Written Parliamentary Questions	HC 859
Fourth Report	Election of the Deputy Speakers: Principles	HC 1080
Fifth Report	Tabling of amendments by select committees	HC 1104
First Special Report	e-Petitions: Call for Government Action: Government Response to the Committee's Second Report of Session 2008-09	HC 952

## Session 2007-08

First Report	e-Petitions	HC 136
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## Session 2006-07

First Report	Public Petitions and Early Day Motions	HC 513
Second Report	Corrections to the Official Report	HC 541

## Session 2005-06

First Report	Legislative and Regulatory Reform Bill	HC 894
Second Report	Application of the <i>sub judice</i> rule to proceedings in coroners' courts	HC 714

# Written evidence

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## EMAIL FROM CHAIRMAN TO MEMBERS OF THE HOUSE

The Speaker has asked the Procedure Committee to inquire into increasing the accountability to the House of Commons of Ministers in the House of Lords.

To assist in our work, we should be very grateful for your views on the following points:

- Do you think that Secretaries of State in the House of Lords should be more directly accountable to the House of Commons?
- If so, do you think that such scrutiny should take place in the Chamber, Westminster Hall or another forum?
- Should such scrutiny take the form of questions or also include debates?

*February 2010*

## SUBSTANTIVE RESPONSES FROM MEMBERS

*Rt Hon Sir Gerald Kaufman MP*

My answer to the first question is no, so there are no consequential points I need to make except that eternal warning to politicians: “If it ain’t broke, don’t fix it.”

*February 2010*

*Rob Marris MP*

1. Yes, all ministers in the Lords (ie not just Secretaries of State) but see 2 (*infra*).
2. Westminster Hall.
3. Questions and debates.

*February 2010*

*Dr Phyllis Starkey MP*

1. Yes, they should be directly answerable in the same way as other Secretaries of State.
2. I would want them to be part of the ministerial team at the normal Oral Questions sessions and presenting statements. So in the Chamber.
3. Not sure about debates but definitely statements and questions.

*February 2010*

*Mr Brian H Donohoe MP*

1. Yes and they are willing. As Parliamentary Private Secretary to Lord Adonis I know he is.
2. In the Chamber.
3. Both

*February 2010*

*Nick Harvey MP*

Ministers in either House should answer questions and make statements in the other—in the Chambers in both cases.

This could be extended to cover debates but it would be preferable for that to be conducted exclusively by the Members of the House in question.

*February 2010*

*Adam Afriyie MP*

The following response is made in a personal capacity as food for thought:

- *Do you think that Secretaries of State in the House of Lords should be more directly accountable to the House of Commons?*

Yes.

- *If so, do you think that such scrutiny should take place in the Chamber, Westminster Hall or another forum?*

Other forum. In my personal view, without a great deal of debate and consideration by Parliament, it would be unwise to “confuse” the separation and delineation of the Lords and Commons and their functions for a quick fix of this nature. Indeed, I would argue strongly that it’s perfectly acceptable for ministers and Secretaries of State in the Lords to be answerable through the Prime Minister, in the Commons, who is ultimately accountable for the decisions of the unelected representatives he appoints. It’d give the PM a lot more work to do, but that would be the consequence of making an appointment in the Lords. Clearly there is a strong argument for more/very regular select committee appearances by ministers in the Lords—perhaps long sessions on weekly/biweekly basis; and there might be a case for a “special” committee solely for that purpose.

- *Should such scrutiny take the form of questions or also include debates?*

My personal view it that it would work better if it were restricted to questions, with perhaps a little more latitude for follow-up questions for closer examination of answers. Ideally the session would be a long one. But I am yet to be convinced that we should seek to treat Lord’s ministers in the same manner as Commons ministers.

One final suggestion would be to “limit” the number of Lords ministers, given the number of recent appointments. Maybe a maximum of two Secretary’s of State and three ministers—but clearly the precise limit would need to be debated.

*February 2010*

*Rt Hon Sir Malcolm Rifkind MP*

I would like to see Lords Secretaries of State more accountable.

Questions and debates in Westminster Hall should be the usual forum. I would not exclude a Secretary of State in the Lords being invited by the Commons to speak from the despatch box in the Commons chamber on an exceptional occasion. For example Lord Carrington could have been invited to speak in the debate on the Falklands in the immediate aftermath of the Argentine invasion.

*February 2010*

*Steve McCabe MP*

I am in favour of Lords ministers being more accountable but I think they shouldn’t speak in the Chamber of the House. I am also slightly doubtful about using Westminster Hall. I think we should organise question sessions in a committee room.

*Mr Graham Brady MP*

- *Do you think that Secretaries of State in the House of Lords should be more directly accountable to the House of Commons?*

Yes. (In fact I would go further and suggest that Secretaries of State need not be members of either House.)

- *If so, do you think that such scrutiny should take place in the Chamber, Westminster Hall or another forum?*

Perhaps we could find a way of bringing them to the bar of the House. This would help to emphasise the fact that both sides of the House are meant to scrutinise Government.

- *Should such scrutiny take the form of questions or also include debates?*

Questions are most important, but there is no reason why they shouldn’t also open debates too.

*February 2010*

*Ms Gisela Stuart MP*

Ministers should be held to account in the House in which they sit. Blurring lines simply undermines the institutions and the role they are supposed to have under the British Constitution.

We already allow Prime Ministers to chose their Ministers by appointing them to the Lords without them having to seek an electoral mandate—and rewarding them with life peerages for sometimes very short periods of service. By bringing them into the Commons, we blur lines even more.

If we do want to move to a Presidential system where ministers are drawn from outside Parliament, then let’s have proper separation of power.

I do think it is worth asking why this question arises in the first place. It used to be accepted that a government had to have ministers in the Lords to get its business through. The current question arises because it is perceived that some of the politically more powerful ministers are in the Lords and not the Commons. Maybe we should ask ourselves why have the elected Commons been so weakened over the years that a Prime Minister feels the need to draw on appointed members of the other place.

*February 2010*

*Sir Patrick Cormack MP*

I would favour a session in Westminster Hall, or in Committee Room 14 once every parliamentary "term" in other words three times a year when Cabinet Ministers in the Lords could answer questions from colleagues in the Commons. In my view it would not be appropriate for Ministers in the Lords to appear in the Chamber of the Commons.

Each Cabinet Minister should be subject to up to an hour's questioning and questions should be tabled in advance. I do not see the need for non Cabinet Ministers in the Lords to take part in this exercise.

*February 2010*

*Rt Hon Denis MacShane MP*

I do not welcome a return to the era of Trollope. I think the norm should be that Secretaries of State should be in the Commons. If we move to eliding the two Houses we will lose the twentieth century concept that ministers are accountable to elected MPs not just at question times or debates but because they share the same rights, responsibilities, duties and connection to the electorate that all MPs have. If this change is implemented nothing can stop a future PM stuffing his government with cronies he can appoint to the Lords as the argument will be advanced they can answer questions from the Commons and therefore are the same as MP Ministers.

If we want to move to a new constitutional settlement with a full separation of powers and the Commons becoming just a legislature and no longer where the executive comes from then so be it. But that will mean either the Commons becomes relatively powerless like the French National Assembly or it has to have real powers of initiating legislation like the US Congress. I fear these ideas which originate from the Executive are more likely to lead to the Commons becoming increasingly like the National Assembly in France and other relatively impotent parliaments.

The proposal to allow Lords ministers to be questioned in Westminster Hall or wherever is purely tokenistic. But it will further weaken the status of the Commons if there are more and more members of the executive who are appointed not elected with the cover that they can be questioned by MPs. Select Committees can call Lords ministers to give evidence and hold them to account.

Most of the external Lords appointments under successive governments have been unhappy with ex-MPs usually being the more competent Lords ministers.

It was different in Trollope's era as being a Lords politician was full-time and for much of the nineteenth century the Lords was the house of parliament which held the executive to account, especially on foreign policy (Castlereagh, Derby, Aberdeen, Palmerston, Salisbury etc). But in the twentieth century this changed. Mr Churchill remained a Mr not a Lord. I am worried that under the heading of seeking more accountability we can, if these proposals are advanced, accelerate the process of reducing the centrality of the elected Commons at the expense of the unelected and appointed Lords. If that constitutional change is desirable then it should be openly debated and decided upon not quietly introduced by the back-door as your three proposals suggest.

*February 2010*

*Dr Brian Iddon MP*

In answer to your question as to whether Secretaries of State who sit in the House of Lords should be accountable to the House of Commons the answer is yes, I believe that they should.

However, if accountability is to be in the House of Commons Chamber it should be outside the present sitting hours. Alternatively, I would accept that Westminster Hall would be a suitable venue.

Putting questions to the relevant Secretary of State would be acceptable to me.

*February 2010*

*Rt Hon George Howarth MP*

I am of the opinion that scrutiny and accountability should be carried out through Select Committees and, rather than revising the procedures for the Chamber of Westminster Hall, Select Committee practices should be modified so that those who are not actually members of the relevant Select Committees, can take part in a section of the proceedings.

*February 2010*

*Lindsay Roy MP*

As a relative newcomer to the House of Commons, I believe that the current system of accountability is “fit for purpose” in that a Minister of State represents the Secretary of State (if in the Lords) in the House of Commons.

Teamwork is vital in any department and it is appropriate in my view that a Minister of State, (a senior position) carries out this function. There is ample opportunity for scrutiny.

*February 2010*

*Rt Hon Charles Clarke MP*

I am not in favour of Ministers in the Lords being more accountable to the House of Commons.

I believe that Ministers should principally be drawn from the Commons, with the exception in general of one junior Minister per department, to handle Lords business. I regard the recent expansion of Ministerial appointments in the Lords as bad for Government and bad for democracy. I see little or no evidence that the appointment of so many Ministers of All Talents since 2007 has improved the quality of Ministers and the quality of Ministerial decisions. This is not a comment on the talents of some of the individuals but, on balance, I think that the overall contribution is negative, particularly from the large number of new junior ministers in the Lords.

The democratic benefit of Ministers being Members of the Commons is that they are not only directly accountable to Parliament in a much wider way than just the set-piece occasions, such as Questions, but that they are accountable as legislation is considered and as other debates take place. Moreover they are accountable on a regular and continuous basis to their constituents, which Lords are not. The higher the number of Ministers in the Lords, the lower the power and influence of backbench MPs, and their constituents.

I am therefore not in favour of encouraging more Ministerial appointments in the Lords. I believe that the legitimisation of accountability to the Commons would encourage this and so I oppose more accountability.

I hope that if there were to be any proposals for change they would be presented to the Commons for formal debate and agreement, on a free vote.

*February 2010*

*Rt Hon Sir Alan Beith MP*

My view is that Secretaries of State in the Lords should be required to answer to the Commons in the Chamber; my priority would be to provide for questions, but I see no reason why debate opportunities should not also be created.

*February 2010*

*Hugh Bayley MP*

1. Secretaries of State in the House of Lords should come to the bar of the House of Commons when their department is answering oral questions and should be able to respond to questions from one of the cross-benches behind the bar.

2. I do not think they should be able to take part in debates in the House of Commons.

3. I believe we should legislate to limit the number of Cabinet ministers drawn from the House of Lords—say to two: the Leader of the House of Lords and one other.

*February 2010*

*Rt Hon David Heathcoat-Amory MP*

I do not believe that Secretaries of State in the House of Lords should be directly accountable to the House of Commons, beyond the existing opportunities for committees of the House to question Lords’ ministers. To do so would legitimise and encourage the appointment of more ministers in the Lords.

There is already a regrettable tendency for Prime Ministers to appoint increasing numbers of outsiders to senior government positions without them having to undertake the fatigue of getting elected. This expands the “quango state” in which more and more decisions are taken by unelected people.

This also expands the size of the upper, unelected House at a time when the lower, elected House is likely to be reduced in size (this being a probable Conservative Party election promise).

The two Houses should remain separate, and ministers should remain primarily accountable to the House in which they sit. There should be a strong presumption that Secretaries of State should be in the House of Commons. A move to give Lords’ ministers audience rights in the House of Commons will undermine this.

*February 2010*

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*Rt Hon Sir George Young MP, Shadow Leader of the House*

#### Background

1. The Conservative Party believes that there are arguments for strengthening the lines of accountability for ministers who serve in the Lords to the House of Commons.

2. This follows a growing trend in recent years to appoint ministers from outside the elected legislature. Since July 2007, ten individuals have been awarded peerages so that they can function as ministers, including two secretaries of state: Lord Mandelson and Lord Adonis.

3. While there is nothing new in secretaries of state sitting in the Upper House (there have now been nine in total since 1979), it is unusual for departments to be accountable to Members only through junior ministers. Under Conservative governments, there has typically been another minister of Cabinet rank who handles departmental business in the Commons. For example, during Margaret Thatcher's Government, Ian Gilmour covered for Lord Carrington as Foreign Secretary; when Lord Young was secretary of state for Trade and Industry, there were two subsequent Ministers of Cabinet rank in the Commons (Kenneth Clarke and Tony Newton).

4. Conservatives first raised concerns about this potential accountability gap to the Business Select Committee when Lord Mandelson was brought back into Government in October 2008. In their 14th Report of Session 2007–08, the Committee noted that, "a mechanism for parliamentary questions to the Secretary of State for Business, Enterprise and Regulatory Reform [would be] best taken forward by the Procedure Committee".<sup>1</sup>

#### Our view

5. We are pleased that this inquiry is now underway, regardless of the procedure that has recently been introduced in the House of Lords to allow for oral questions to departmental ministers.

6. We note that there is a growing demand that Lords ministers ought to be more accountable to the Commons. This has been publicly supported on several occasions by Lord Mandelson and Lord Adonis and has been reportedly backed by the Prime Minister, as well as Mr Speaker.

7. My view is that Westminster Hall is the best place to experiment with new procedures of this sort. Where responsibility for a particular issue—for example the Child Support Agency—rests with a Departmental minister in the Lords (as was the case with Baroness Hollis), that minister should reply to the debate.

8. This would ensure that the debate was better informed than if another Minister, not as familiar with the subject, replied. In the light of this experience, the House should then decide whether further integration should take place.

9. At this stage, I would not advocate appearances in the Chamber of Lords Ministers. As the shadow Business Secretary Kenneth Clarke has said: "Only a Commons minister should have the privilege of being able to take part in the proceedings of the House of Commons".<sup>2</sup>

*February 2010*

*Mr Andrew Tyrie MP*

The accountability of Secretaries of State in the House of Lords should be restricted to cross-examination by Select Committees.

The appointment of Ministers who have not been elected should be heavily curtailed in the absence of democratic reform of the second chamber. After democratic reform the complete removal of the Executive from the second chamber should be considered, leaving elected Commons' ministers with responsibility for accounting for the Executive in the second chamber.

*February 2010*

*Office of Rt Hon Dr Gavin Strang MP*

Gavin Strang has asked me to write and thank you for the email of 9 February—he would have liked to have replied sooner. He is strongly opposed to the proposition behind the three points raised, and answers as follows:

"Lords Secretaries of State" are regularly summoned before the appropriate departmental Select Committees. This is a very important forum for interrogating Ministers on Government policy. If they are not regularly called, then that is a reflection of the fact that the Committee in question sees no need to do so because of other priorities. This procedure does provide full accountability.

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<sup>1</sup> *Departmental Annual Report and Scrutiny of the Department for Business, Enterprise, and Regulatory Reform: Fourteenth Report of Session, 2007–08, HC 1116*

<sup>2</sup> As reported in *The Times*, 11 November 2009

Gavin Strang finds it remarkable that the Speaker and the Committee should be considering the admission of Peers (whether appointed or hereditary) to the floor of the House of Commons, since the most important democratic feature of the House of Commons is the fact that all its Members, including the Speaker himself, are democratically elected by the people of the UK. As far as Westminster Hall is concerned, he suggests that this, if granted, would be suspected by some as being a first step in the process of introducing Ministerial Peers to the floor of the House of Commons.

On the question of scrutiny by questions or debate, questions from members of a Select Committee are more meaningful and effective as a general rule. If something is worthy of debate, then the Upper House can be relied on to have the debate—in which, of course, the Lords Secretary of State would be expected to speak.

*February 2010*

*Mr Bernard Jenkin MP*

— *Do you think that Secretaries of State in the House of Lords should be more directly accountable to the House of Commons?*

Yes: they should answer questions from the Bar of the House.

— *If so, do you think that such scrutiny should take place in the Chamber, Westminster Hall or another forum?*

See above: and from similar position in Westminster Hall.

— *Should such scrutiny take the form of questions or also include debates?*

Not debates.

*February 2010*

*Glenda Jackson MP*

1. Yes.

2. Westminster Hall or one of the large rooms in Portcullis House, not the Chamber.

3. Questions and statements. Debates if major Government proposals are being launched, Green and White papers etc . . . the Commons should be capable of responding to noble Secretaries of State, as we now do to the merely elected.

*March 2010*

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