

## REPRESENTATIVE DEMOCRACY

### Briefing Paper 1: House of Commons Reform

#### INTRODUCTION

Recent events herald a new opportunity to develop a more substantial and far reaching programme for reform of Parliament generally and the House of Commons in particular. A rare moment in politics has arrived when a confluence of circumstances and events means the current political imperatives point firmly in the direction of radical rather than incremental change.

An effective, well functioning Parliament has a unique and essential role at the apex of our representative democracy. It exercises two core but contradictory functions. Firstly, it sustains the executive by giving assent to its legislative programme, and secondly, through detailed scrutiny and monitoring, it is the principal means for holding the executive to account on behalf of the public.

Parliament's authority rests on public confidence and consent. Last year our research demonstrated that only 19% of the public thought Parliament was working for them.<sup>1</sup> So public trust and confidence, already at a low ebb, has been exacerbated still further by the expenses scandal. In the normal order of things, a general election would serve as a cleansing moment for the body politic. However, this scandal affects not just the incumbent party of government but all parties across the political spectrum. It is a crisis affecting the entire political class. Consequently, it raises difficult and far-reaching questions about the institutional design, structure and functions of our representative parliamentary democracy.

Parliamentary and constitutional reform – or the lack thereof – was not the cause of, and will not be the solution to, the problems with parliamentary expenses, allowances and potential conflicts of interest. But as a direct result of the enormity of

recent events, a rare cross-party consensus on the need for far reaching systemic reform in order to re-establish the authority and legitimacy of parliamentarians individually and Parliament institutionally may now be emerging.

#### PUBLIC ATTITUDES TO PARLIAMENT AND REFORM

Research for our annual *Audit of Political Engagement*, conducted in December 2008, revealed that 64% of the public believe the present system of governing could be improved either 'quite a lot' or 'a great deal'.<sup>2</sup> 85% of the population believe they have 'no influence at all' over decision making nationally, the most commonly cited reason for this being rooted in the belief that politicians and the political system overlook the public's views.<sup>3</sup> 29% of respondents to our *Audit* research said that 'nobody listens to what I have to say', 20% said that 'decisions are made without talking to the people', 19% believe 'the system doesn't allow for me to have an influence' and 17% felt the problem was that 'politicians are just out for themselves'.<sup>4</sup> Importantly, 87% of respondents confirmed that they thought it 'essential' or 'important' to vote in an election in order to be a good citizen.<sup>5</sup> Yet, only 53% of them actually planned to vote in the event of a general election.<sup>6</sup> This chasm between good intentions and positive action is indubitably linked to the public's sense of disillusionment, disengagement and dissatisfaction with politicians and the political process.

Looking specifically at the relationship between Parliament and government, there is an inherent tension in public attitudes. Our research revealed that 75% of the public believe a strong Parliament to be good for democracy. However, 60% of respondents also said that governments are elected on a mandate and should therefore have

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the powers to act on it. Yet strong parliaments tend to limit the actions of government and, conversely, ensuring that a government has the power to act on its mandate can serve to disempower the legislature.<sup>7</sup>

Any reform programme must therefore be carefully thought out and prioritised if it is to stand the test of time and command wide ranging public support. If not, ill thought out, far reaching reforms, may fall prey to the law of unintended consequences and further damage public trust in and engagement with the political process.

## THE HANSARD SOCIETY AND REFORM OF PARLIAMENT

The Hansard Society has an unrivalled commitment to and long interest in the reform of Parliament stretching back over 60 years. Three of our most recent independent Commissions have looked at different aspects of the parliamentary process, producing reports setting out far reaching reform proposals: the Rippon Commission in 1992 examined the legislative process; the Newton Commission in 2001 explored the parliamentary scrutiny process; and the Puttnam Commission in 2005 investigated the communication of parliamentary democracy.<sup>8</sup>

Some of the recommendations from these Commissions and our other research work have been implemented in the intervening years, particularly in the years immediately after the 2001 general election when a number of important reforming measures were introduced. The introduction of pre-legislative scrutiny; the carry-over of bills from one parliamentary session to another; the creation of a new career path for MPs by enhancing the role of select committee chairs; reforms to the committee stage of legislative scrutiny; changes to parliamentary questions; and an overhaul of how Parliament communicates and engages with the public all drew heavily on Hansard Society research and recommendations.<sup>9</sup>

All governments tend to take an *a la carte* approach to reform, cherry-picking the most attractive and populist measures (and often the easiest ones to implement). But to be truly effective any reforms must be intellectually

coherent and cohesive. They come as a blueprint package of interrelated proposals not a disparate group of independent options.

This briefing paper therefore sets out a broad, interrelated set of reform proposals, drawing on nearly two decades of research about the structure and operation of Parliament.

## KEY PRINCIPLES TO GUIDE REFORM

Our reform proposals are guided by a key set of principles:

### Primacy of scrutiny

- That Parliament stands at the apex of the scrutiny system and should be organised and resourced in such a way that parliamentarians can more systematically and effectively scrutinise the executive.
- That effective scrutiny of financial matters in particular is crucial to ensure accountability of the executive.

### Cultural change

- That MPs must recognise individually and collectively that their role is multi-faceted: that they are there to represent the interests of their constituency and party, but so too they have a constitutional obligation, beyond these partisan and local influences, to scrutinise the executive, holding the government of the day to account on behalf of the public.
- That any reforms should seek to judiciously balance the constitutional obligations and interests of parliamentarians, particularly in relation to scrutiny, with the interests and right of the executive to secure its legislative programme in a timely fashion.
- That there should be a shift towards an increasingly committee based culture in the House of Commons, providing for more detailed, in depth scrutiny in a less partisan atmosphere than is found in the main chamber.

### Procedural change and streamlining

- That the quality of the law making process should be improved, with an equal if not greater focus on the effectiveness of parliamentary

activity as much as the efficiency of it.

- That the internal systems through which Parliament and particularly the House of Commons is administered need to be modernised, streamlined and put on a more professional footing.

## Public Engagement

- That Parliament must communicate with and respond more effectively to the public for it is at its strongest when it is responsive to, articulates and mobilises public opinion.

## Strategic vision and leadership

- That Parliament must develop a fresh sense of mission at the centre of which lies a renewed commitment to effective scrutiny.
- That both Houses of Parliament must develop a new collective ethos, with each member having a clear appreciation of the collective damage that can be inflicted on their institution when mistakes are made.
- That the organisation and strategic focus of the work of the House of Lords should complement the work of the House of Commons not rival or duplicate it.
- That to lead a programme of reform the office of Speaker in both the House of Commons and the House of Lords needs to be empowered to embody the institutional ethos and integrity of their respective Houses, to act as a forthright defender of the rights of MPs and peers respectively, and to perform an important ambassadorial function, linking Parliament with the people it serves.
- That any reforms must be introduced as a holistic package with a clear strategic focus, rather than a set of individual ideas cherry-picked because they are perceived to be potentially popular or relatively easy to implement.

## RECOMMENDATIONS FOR REFORM

### 1. THE LEGISLATIVE PROCESS

#### 1.1 Establish a House of Commons Business Committee

At present, Westminster parliamentary business is organised through the 'usual channels', an arrangement that benefits the executive rather than the interests of Parliament as a whole.<sup>10</sup>

We propose that this secretive process should be replaced by a more transparent system predicated on the establishment of a Business (or Steering, or Legislative) Committee, similar to that used in many other legislatures around the world. The committee should be designed to meet the following principles:

- Provide greater certainty to the parliamentary timetable.
- Allow for more involvement by the main political parties in the management of business.
- Facilitate greater discussion between all interested parties in the Commons about the shape and timing of the legislative programme.
- Introduce greater flexibility for consideration of topical issues of public interest.
- Ensure greater transparency in the overall process.

The committee should be made up of representatives of all parties, with representation weighted to reflect the strength of the parties in Parliament. A clear demarcation between the executive's share of the parliamentary timetable and the share allocated for all other parliamentary activity might be determined by this committee. The executive would therefore remain assured of securing its business but the system of managing that business would be placed on a formal footing. All parties would also be involved in the management and timetabling of the rest of parliamentary business, and it would ensure that the Commons determined its own Standing Orders, thus protecting the House of Commons from excessive encroachment by the executive.<sup>11</sup>

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Individual MPs would also be able to call for 'public interest debates' on issues of public concern on a cross-party basis and have some prospect of success.<sup>12</sup>

## 1.2 Improve pre-legislative scrutiny

The benefits of pre-legislative scrutiny have not yet been fully realised. Prior to publication in final form, a bill may be published in draft and referred to a departmental select committee, a joint committee of the Commons and Lords, or a temporary committee for pre-legislative scrutiny. These committees can call witnesses to give evidence and seek written submissions on the draft proposals before reporting their findings and proposing amendments where they are deemed necessary and appropriate. There is no obligation on the Government to accept these suggested changes but culturally ministers are often receptive. They do not tend to regard the need to make changes to a draft bill as a political defeat.<sup>13</sup> Less political capital is expended at the draft end of the law making process. Indeed, it can often be politically advantageous to accept amendments at this stage as the bill may then secure a smoother and more expeditious passage later on. In contrast, once a bill enters the formal legislative process ministers 'tend to adopt a proprietary attitude towards them'.<sup>14</sup>

Between the 1997-98 and 2003-04 parliamentary sessions, 42 bills were published in draft: in the 2003-04 parliamentary session alone 12 draft bills were published. However, in subsequent sessions there has been a marked decline: only five were published in draft in 2004-05; and only four in 2006-07. The Government did take pre-legislative scrutiny a step further when it introduced pre-legislative scrutiny of the Queen's Speech with effect from 2007 and reiterated its commitment to publish as many of its bills in draft as possible.<sup>15</sup> But of the 23 bills announced in the first ever draft programme in July 2007 only one bill was then subsequently published in draft (the draft Constitutional Renewal Bill) and referred for full pre-legislative scrutiny to a parliamentary committee.

We believe pre-legislative scrutiny by

parliamentary committee should be the norm for most bills. Where possible, MPs who take part in pre-legislative scrutiny should also subsequently become members of the public bill committee thereby ensuring that specialist knowledge of the legislation at draft stage is carried over into formal consideration of the final bill. All bills which are subject to carry-over from one parliamentary session to another should have had pre-legislative scrutiny of the draft bill. Thus the advantages gained by the executive in securing greater flexibility in the timetabling and passage of the legislation would be balanced out by greater parliamentary scrutiny of the bill. Finally, as much as possible, draft bills should be accompanied by a comprehensive set of draft secondary legislation as it is these regulations which generally provide the substantive detail of a bill.

Pre-legislative scrutiny is not without its challenges – not least the time constraints that impact on the legislative process and the additional burden of work it imposes on select committees (see Section 2 recommendations for how select committees might be restructured to address this). Nevertheless, we believe the benefits of pre-legislative scrutiny outweigh the problems, many of which can be addressed by other procedural reforms to streamline the legislative process. For example, the introduction of a Business Committee would provide, on a consensual basis, a mechanism for discussion of those bills that might be candidates for pre-legislative scrutiny.<sup>16</sup>

## 1.3 Reform the programming of legislation

Programming motions are regarded as one of the most fundamental reforms undertaken in the House of Commons in the last decade. Programme motions outline the time that will be spent on each stage of the bill as it goes through the legislative process. When first implemented in 1998 the aim was to introduce more certainty into the legislative process and provide for greater scrutiny. In the early years of its operation there was political consensus between the parties but after 2001 this has declined and programming motions are now largely carried by the Government against the wishes of the opposition parties. As such the process has become ever more controversial with

two particular criticisms levelled at it: that it strengthens the executive because it deprives the opposition of one of its rare parliamentary weapons, namely time, and therefore the ability to obstruct and delay legislation; and that the timetable is often so tight that a lot of legislation is passed entirely without scrutiny.

In 2008 the Hansard Society recommended that programming be subject to a major review by a relevant parliamentary committee 'to establish whether it has achieved what should be its main aim, namely to improve the quality of legislative scrutiny'.<sup>17</sup> This recommendation has been taken up by the House of Commons Procedure Committee which announced on May 14 2009 that it would undertake a review of the timetabling of business.

An early Hansard Society assessment of programming in 2004 concluded: 'Programming was intended to eradicate or at least greatly reduce the gaps in scrutiny which occurred when time on a bill ran out, resulting in many important clauses being left undebated. Programming is meant to be flexible but it is not always possible to predict in advance the time that will be needed to give full consideration to parts of the bill or predict which clauses will attract most attention or controversy.' And yet, 'despite the controversies and difficulties, programming has brought greater certainty, even rationality, to a legislative process that could previously appear bizarre and unpredictable.....Since in a programmed system, filibustering and delay simply reduce the time available for constructive debate, programming may discourage such practices.'<sup>18</sup>

The problems with programming or timetabling of parliamentary business are a good example of what can happen when a reform is introduced in isolation, decoupled from other reforms intended to accompany it as part of a broad package of change. When the Hansard Society's independent commission on the legislative process recommended the introduction of timetabling, it saw this reform in the context of other proposed changes, namely greater use of pre-legislative scrutiny, the carry-over of legislation and the introduction of a Business Committee.<sup>19</sup> We

believe that changes to the programming process should therefore be made in the context of the introduction of a new Business Committee and a renewed commitment to pre-legislative scrutiny.

## 2. THE COMMITTEE PROCESS

### 2.1 Reform select committees

Thirty years after they were founded departmental select committees have extended the range and breadth of scrutiny undertaken in Parliament and have provided an alternative career path for some MPs with a particular interest in a niche area of public policy. The appointment of media officers to support their work coupled with the live and on demand availability of their deliberations in audio and video format has made them an increasingly visible (and popular) form of parliamentary activity. The Treasury Committee in particular has had a prominent role during the recent banking crisis.

In the last decade the work of select committees has become more focused as a result of the 2002 adoption of 10 'Core Tasks' setting out their core objectives. The role of committees in scrutinising public appointments between the announcement of an appointment and the taking up of a post has also been broadened in recent years although they do not possess the formal power to veto an appointment.

#### **Structural reform**

Select committee chairs are now paid an additional salary increment, providing an alternative career path for those MPs willing to eschew the lure of ministerial office, as recommended by the Hansard Society's Newton Commission.<sup>20</sup> But the structure and membership of select committees remains a concern. Firstly, because of the frequency of ministerial reshuffles and linked changes in the architecture of departmental administration the turnover of select committee membership is unhelpfully high. This, coupled with increased demands on select committee time, which would be heightened by an increase in pre-legislative scrutiny, requires changes to be made.

We recommend that every backbencher should serve as a member of a select committee.

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If necessary, the number of Parliamentary Private Secretaries should be reduced to one per department in order to expand the pool of MPs available for select committee work.<sup>21</sup>

Selection of committee chairs and members should be more clearly placed in the hands of MPs as a collective body. In principle membership of committees lies with the Commons but in practice members must indicate their interest in a particular committee to their respective whips if they are to have any chance of appointment. There are a number of possible mechanisms for the appointment of chairs and members. For example, chairs could be elected by MPs and then members could be selected (or elected) by the chairs through the Liaison Committee.

## Procedural reform

In order to provide for greater focus on select committee work and resolve the difficult timetabling issues that confront MPs who often face diary clashes between select committee obligations, other work in the House and sometimes constituency work, we recommend that one half or preferably one full day per week be set aside in the parliamentary timetable for committee work during which time the main chamber would not sit. This could be determined by a new Business Committee.<sup>22</sup>

Reflecting the shift towards greater committee work, we recommend that the core tasks of the chamber of the House of Commons be refined and clarified. The floor of the House remains the main public focus for activity but attendance is low for anything other than big, set piece parliamentary occasions. The extent to which discussion in the chamber dominates political debate has also declined. To improve attendance and influence, the work of the chamber should therefore be refined to reflect its emergence as the plenary session of Parliament and the place where ministers are held to account on the topical issues of the day.<sup>23</sup>

## Cultural reform

Structural and procedural changes alone however, will not enhance the effectiveness of select committees. What is required is a more

fundamental cultural change in which 'able and ambitious' MPs are 'willing to devote time and their careers to them, rather than being tempted by service on the front bench'.<sup>24</sup> Select committees already have 'expansive powers to demand 'persons, papers and records' but members are sometimes unwilling to use these powers'.<sup>25</sup> Equally, it also requires a shift in the mentality of the executive because committees are 'de facto heavily reliant on the co-operation of ministers and civil servants'.<sup>26</sup>

Two primary changes can be made to influence the cultural mindset of select committee members and the executive. Firstly, the development of expertise should be augmented still further through the creation of a wider range of sub-committees and an expansion of committee work particularly in the area of financial scrutiny. Secondly, the independent resources, particularly research, available to select committee members should be increased so that they are less reliant on information provided by the executive.

## Expertise

Financial scrutiny generally needs to be given a much higher priority by parliamentary committees. Because the Treasury Committee is currently overburdened, we recommend the establishment of a separate HM Revenue and Customs Committee in the House of Commons, building on the Treasury Committee's HMRC sub-committee. Consideration should also be given to the creation of a separate Tax Administration or Taxation Committee or a Joint Committee on Tax Administration involving MPs and peers.<sup>27</sup> Designated departmental sub-committees should carry out a clearer set of functions in relation to following up National Audit Office and Public Account Committee recommendations as well as scrutinising spending plans, and a Finance and Audit Sub-Committee should be piloted in a number of committees.<sup>28</sup>

Additionally, we recommend that Parliament should increase its impact on the Budget process by enabling select committees in the period between the pre-budget report and the main Budget, to take expert and public evidence on the Government's plans, make a case for the priorities

it wishes government to consider, and ensure the government provides full information and explanations for its proposals. The entire Finance Bill should also be subject to pre-legislative scrutiny by parliamentary committee and the interim Comprehensive Spending Review report should be made available at a time in the parliamentary calendar that allows for consideration by parliamentary committee.<sup>29</sup>

In order to improve scrutiny, particularly in relation to finance, the organisation of select committees must better evolve to match the changing architecture of modern governance. Scrutiny of departments is required but so too is cross-departmental consideration of issues. Greater focus should therefore be given to cross-committee work in the Commons and a more flexible approach to the creation of joint committees with the House of Lords.

This additional scrutiny workload and the timetable burden it imposes could partly be offset by changes to the parliamentary timetable and the expanded membership of committees. However, further support and expertise can also be provided by enabling greater consideration of financial matters by House of Lords committees while respecting the financial precedence of the Commons. We recommend, for example, that more consideration of European Union spending could be undertaken by the European Union Committee of the House of Lords.<sup>30</sup>

The work of select committees needs to be better integrated into the activity of other parts of Parliament, particularly the chambers. There should therefore be greater provision for short debates and questions on recently published reports during peak periods in the chambers to which ministers should give a preliminary response.<sup>31</sup>

### Resources

Finally, to enable the committees to undertake a wider range of work and be more effective, they need to be much better resourced. The staffing and funding of the Scrutiny Unit should be reviewed in light of the structural and workload changes introduced to committees. The work of

the Unit should be augmented by the creation of a Parliamentary Finance Office modelled on the American Government Accountability Office. It would provide parliamentarians with high quality research, access to specialist advice and expertise, support for collection and analysis of evidence and report drafting. Its remit would be to support all financial functions of committees, including work on estimates, scrutiny of government expenditure and analysis of spending outcomes. Such a resource would provide parliamentarians with more capacity to hold the executive to account on financial issues.<sup>32</sup>

### 2.2 Reform Public Bill Committees (PBCs)

Introduced in 2007, public bill committees provide more flexible scrutiny of legislation than their predecessor standing committees because they allow members to invite evidence from outside bodies during the formal legislative process. After two years the performance of these committees is ripe for review as previously promised by the Modernisation Committee.

Given that PBCs have opened up legislative scrutiny to those outside Parliament, we believe that the work of the committees should be promoted more widely. Written evidence is permitted for all PBCs but oral evidence cannot be taken for any bill originating in the House of Lords or which has not been subject to pre-legislative scrutiny. These are unhelpful restrictions and we recommend that where pre-legislative scrutiny has taken place this should be the starting point for examination by the PBC, regardless of where the bill originated, a position previously recommended by the Modernisation Committee. Chairing of PBCs needs to be reviewed in order to enhance their effectiveness. Improvements might be made by greater involvement of select committee chairs or a more enhanced role for members of the Chairmen's Panel supported by greater assistance and briefing from clerks. The time between second reading and commencement of a PBC is often insufficient and sometimes as little as 24 hours. This lack of notice and preparation time necessarily impacts on the quality of PBC deliberations and should be reviewed.

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A new Business Committee could play a role here. Programming arrangements for PBC hearings should be made more flexible, with greater discretion for chairs to continue questioning witnesses where they deem it appropriate. Chairs (rather than whips) might also be invested with the power to call witnesses. Consideration should be given to allowing experts, lawyers or officials, to speak at committees. These experts would not be part of the debate but would be allowed to provide clarification or explanation to assist committee members with the complex issues involved in line by line scrutiny of legislation.

Additionally, we suggest that a pilot scheme should be instituted to combine the features of select committees and public bill committees, as happens in Scotland. Their use might improve both the quality of legislation and accountability through the development of the extra expertise that comes with the detailed knowledge of a subject area. Alternatively, specialist committees could be created to look at all legislation (draft or formal) within a certain legislative area. These would have the advantage of injecting the select committees' more collegiate and consensual mode of working into PBCs which remain a more adversarial form of committee work.<sup>33</sup>

## **2.3 Improve scrutiny of secondary (or delegated) legislation**

Primary legislation often provides only a framework for particular policies, leaving secondary legislation to fill in much of the detail. There has been a huge expansion in secondary (or delegated) legislation over the last quarter century: the number of statutory instruments doubled from around 2,000 per year in the mid 1980s to over 4,000 per year in 2005; and in 1990 statutory instruments filled 6,500 pages; by 2005 they filled 11,868 pages.<sup>34</sup> Despite this increase, scrutiny of statutory instruments remains wholly inadequate.

In 2003 the House of Lords established a sifting mechanism – the Merits of Statutory Instruments Committee – to determine which statutory instruments are of sufficient legal or political import that they merit further debate. This reform

has strengthened the role of the Lords and its scrutiny function. We recommend that a Merits of Statutory Instruments Committee be established by the House of Commons to complement the work on scrutiny of delegated legislation carried out by peers.<sup>35</sup>

Additionally, we believe that the current affirmative resolution procedure for regulations should be reformed. Currently the procedure does not allow for amendment, only for adoption or rejection of a resolution in its entirety. We recommend that affirmative resolutions therefore be made amendable.

## **3. ENGAGE THE PUBLIC AND DEAL WITH TOPICAL ISSUES OF CONCERN**

### **3.1 Reform Private Members Bills (PMBs)**

Private Members Bills provide a rare opportunity for individual MPs to initiate legislation, respond to public concerns and help shape the legislative agenda. PMBs are commonly introduced to address a gap in the law, to challenge the government to change policy, and to raise controversial issues for further discussion. They thus have an important role in the relationship between parliamentarians and the executive. The current PMB procedure means, however, that few make it onto the statute book.

Enhancing the positive elements and outcomes of the PMB process would strengthen Parliament. But reform should be based around certain principles. First, the PMB system should allow a certain number of well supported bills to pass through Parliament without the need for active government support. Second, PMBs should not be able to be hijacked by minority opponents but provide for legitimate objection by a significant minority. Finally, some reform of select committee input or voting thresholds should be considered to prevent party political manipulation.

Many of the procedural devices that can be deployed to destroy a PMB derive their potency from the fact that PMBs are not timetabled. We recommend that a procedural device be



established to allow certain bills to enjoy the advantages of timetabling and therefore the likelihood to pass all stages, if both Houses consent. It should be the ability to secure a majority – not the inability to be so inoffensive as to attract no opposition – which a PMB should have to demonstrate.

The creation of a PMB Committee would offer a means of providing the bills with a timetabled passage. Such a committee could be constituted by nomination of the whole House or by appointment of the Liaison Committee. If the committee decided – through unanimous or majority vote – that a PMB had merit it should have the power to present the bill for timetabling.<sup>36</sup>

### **3.2 Introduce a Petitions Committee and e-Petitions**

Petitions are an important part of the contemporary democratic process. Our *Audit of Political Engagement* shows that the public are more likely to sign a petition than they are to engage in any other form of democratic activity.<sup>37</sup> Petitions should therefore be made a much more significant feature of the work of Parliament in order to better engage the public and be more responsive to matters of topical public concern. At present, petitions are governed by strict rules about wording and there is little sense that petitions to Parliament result in any concrete action on the part of MPs. In contrast the Scottish Parliament has a Public Petitions Committee which plays a pivotal role in connecting the public and the legislature. It assesses the merits of each petition, if necessary through the taking of evidence. It filters out petitions where action is already being taken or where the case is weak. But where there is a case to be answered it refers petitions for further consideration. We recommend that a similar Petitions (or Public Engagement) Committee should be established in the House of Commons to assess issues of public concern and, if appropriate, to make referrals for debate or committee inquiry.<sup>38</sup>

Parliament should also adopt a system of e-Petitions to help revitalise public engagement.

These should be incorporated with paper petitions and processed through the new Petitions Committee to ensure that the views of citizens are not ignored but are properly integrated into parliamentary procedures and processes.

The introduction of a petitions system would have symbolic value in better linking Parliament and the public. To be truly effective however, a petitions system must become an integral and core part of the parliamentary process not a bolt-on accessory. Any petitions system, particularly e-Petitions, needs to sit at the heart of a well defined procedural process which is transparent and clear to the public. The scope of petitions – what is the responsibility of Parliament and what is not, what is therefore admissible and what is not – must be clearly set out. Where an issue is not a matter for Parliament clear information should direct the petitioner to the correct political or governmental institution. Responses must be provided in timely fashion and it must be clear from whom, when and how these responses are to be provided. Good tracking mechanisms are required. And clearly defined outcomes through the parliamentary process must be sign-posted (for example, whether, as a result of a petition, an issue may simply appear on the order paper, or a written response be provided, a debate triggered or some other form of escalation).

Parliament must also recognize that e-Petitions are one stepping stone towards e-Democracy and should be considered within the broader context of other digital engagement tools to help bring the public closer to the heart of Westminster. e-Petitions are an essential first step but Parliament must look at the benefits to be gained from digital engagement in a wider sense.<sup>39</sup>

### **3.3 Reform parliamentary language and procedure**

The Puttnam Commission reported in 2005 that many members of the public found much of Parliament's style and presentation to be 'alienating'. Having held a number of Citizens' Panels across the country, it reported that 'Parliamentary language is often obscure and confusing, reinforcing the view that Parliament is

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relevant only to a bygone age.<sup>40</sup> The Commission was critical of the fact that much is often made of occasions when single parliamentary terms – such as ‘strangers’ – are modernised, when in fact a much wider review is needed. Although occasional parliamentary ceremonies can retain archaisms with little harm done, the Commission concluded that this was not the case for Parliament’s day to day work.<sup>41</sup>

It therefore recommended a comprehensive review of parliamentary language and procedure, in accordance with clear communication principles and taking advantage of the availability of considerable expertise on the implementation of plain English.<sup>42</sup> But thus far no review has taken place. We recognise that procedural issues are difficult and there are issues of concern in relation to language when dealing with highly complex technical and legal matters. However, we believe much more effort could be made to make process and procedure more accessible and therefore recommend that a review take place as soon as possible.

## 4. STREAMLINE PROCESSES AND PROCEDURES

### 4.1 Revitalise the committees dealing with reform of Parliament and its procedures

The House of Commons Modernisation Committee has not met for over a year. This fact underlines the importance of our long-standing recommendation that the committee be restructured in order to give greater weight to Parliament. At present, the Leader of the House, a cabinet member, chairs the committee. As such, the work of the committee can readily be diverted from an agenda concerned with accountability to one more in tune with the executive’s interests. We recommend that the committee membership be reviewed, and the Chair of the Procedure Committee, who already sits on the committee be appointed as the permanent Deputy Chair in order to provide an influential, expert parliamentary voice and give the committee’s leadership a degree of constancy. The Chair of the Procedure Committee should always be a member of the opposition party.<sup>43</sup>

The Liaison Committee should also be reviewed. Its work attracts particular attention when it interviews the Prime Minister every six months. However, there is scope for enhancing the effectiveness of the committee by a possible reduction in its size. Each chair is accorded equal weight in the Committees deliberations regardless of the issues that are of greatest topicality and interest. As a result, the questioning of the Prime Minister can be unfocused and is not always responsive to public issues of greatest concern at the time the Committee meets. Reforming the operation of the committee would make it less unwieldy, and more able to provide direction and co-ordination of parliamentary activity.<sup>44</sup>

### 4.2 Reform internal administration

In 2005 the Puttnam Commission called for a fundamental restructuring of the way in which Parliament administers its affairs. It recommended that ‘the administration of the House of Commons be headed by a Chief Executive, experienced in the realm of public management of complex organisations in the public realm, reporting directly to the House of Commons Commission’.<sup>45</sup> In light of the proposal to create an independent Parliamentary Standards Regulator body which will take over the duties of the House of Commons Fees Office, there is an opportunity to substantially reform and modernise the internal administrative organisation of the House of Commons. At present the House is managed by the Clerk of the House of Commons with the dual title of Chief Executive. However, clerks are expert professional advisers on procedural and constitutional matters. Their expertise is not in the field of management, budgets and logistics. A Chief Executive should therefore be appointed to take over these administrative and organisational aspects of the House of Commons.

### 4.3 Provide induction and ongoing training for MPs and peers

A comprehensive induction programme for new MPs, peers and their staff as well as parliamentary officials needs to be provided, particularly after a general election. Preparations for a new Parliament

and a new group of MPs and staff has traditionally been poor though induction processes have improved in recent years. We recommend that induction must include substantive information and training in relation to parliamentary procedure as our research indicates that in the past such information has been either insufficient or poorly presented, or time pressures meant new members could not fully utilise the resources available.<sup>46</sup> Detailed knowledge about procedure will enable members to advocate for change at an earlier stage in their parliamentary careers and be more resistant to the institutionalisation that can develop after a period of time in office. Beyond induction, Parliament should also provide ongoing training for MPs and peers related to their work on committees, parliamentary procedure, and specialist subject policy areas.<sup>47</sup>

### **5. ENHANCE THE OFFICES OF SPEAKER OF THE HOUSE OF COMMONS AND LORD SPEAKER**

To lead a substantial programme of reform, as set out in this paper, requires energetic leadership, vision and commitment. Such leadership must of course come from the executive, and particularly from the respective Leaders of both Houses.

The new Speaker of the House of Commons will also have a critical role to play in pushing forward a reform agenda. The first Speaker elected in the internet age, he or she will have to be more mindful of public opinion and responsive to public concerns. Having participated in public hustings and set out their manifesto in the public domain, the new Speaker should possess a mandate to lead reform of the House of Commons. They must be empowered to embody the institutional ethos and integrity of the House, to act as a forthright defender of the rights of MPs, and to perform an important ambassadorial function, linking Parliament with the people it serves.

Parliament would also benefit from a clear leadership figure in the House of Lords. Like the Commons Speaker the Lord Speaker is elected by the House, is independent of the executive and eschews partisanship. The Lord Speaker's office could therefore be vested with greater and clearer

authority to represent and speak for the House of Lords institutionally and for peers collectively in the future.

Both Speakers must play a leading role in developing a new and fresh sense of mission and ethos for their respective House and for Parliament as a whole. MPs and peers must be inculcated with a clear appreciation of the collective damage that can be inflicted on their institution when mistakes are made. A return to a traditional appreciation of public service not as a career from which one should expect to profit but rather a vocation demanding personal sacrifices would be beneficial.

# REPRESENTATIVE DEMOCRACY

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## SUMMARY OF RECOMMENDATIONS

### 1. REFORM THE LEGISLATIVE PROCESS

- Establish a House of Commons **Business Committee**.
- Improve **pre-legislative scrutiny**.
- Reform the **programming** of legislation.

### 2. REFORM THE COMMITTEE PROCESS

#### Select committees

- Every backbench MP should serve on a select committee and if necessary the number of Parliamentary Private Secretaries should be reduced.
- Choice of chairs and members should be placed in the hands of MPs not whips.
- MPs must be more willing to devote time to select committees and utilise the powers already available to them.
- One full day per week of parliamentary business should be given over to select committee work.
- Committee work should be better integrated into other parliamentary business with the Commons chamber acting as the plenary.
- Improve financial scrutiny: establish an HMRC Committee; pilot Finance and Audit Sub-Committees; insist on scrutiny of the pre-Budget report, the Budget, the Finance Bill and the Comprehensive Spending Review process.
- Empower the House of Lords to undertake more financial scrutiny.
- Improve committee resources: review the staffing and funding of the Scrutiny Unit and establish a new Parliamentary Finance Unit.

#### Public Bill Committees (PBCs)

- Invest the Chair with more powers to call witnesses.
- Permit experts to speak at committee in order to provide members with specialist advice.
- Pilot a scheme to combine the features of select

committees with those of PBCs to better utilise expert knowledge in the law making process.

#### Improve scrutiny of secondary legislation

- Introduce a **Merits Committee for Statutory Instruments**.
- Make the affirmative resolution procedure for secondary legislation amendable.

### 3. ENGAGE THE PUBLIC & DEAL WITH TOPICAL ISSUES OF CONCERN

- Reform the **Private Members Bills** (PMBs) process: establish a PMB Committee to provide bills with timetabled passage.
- Create a **Petitions Committee and introduce e-Petitions** in order to re-engage the public with Parliament.
- Review **parliamentary language and procedure**.

### 4. STREAMLINE PROCESSES & PROCEDURES

- Revitalise the committees dealing with reform of Parliament and its procedures: review membership and functioning of the **Modernisation Committee** and the **Liaison Committee**.
- Appoint a **Chief Executive** for the House of Commons.
- Support a comprehensive **induction programme** for new MPs, peers and staff and provide specialist **ongoing training** for members.

### 5. ENHANCE THE OFFICES OF SPEAKER OF THE HOUSE OF COMMONS & LORD SPEAKER

- Lead an agenda for reform, embodying the institutional ethos and integrity of each House.
- Vest each office with greater and clearer authority to represent and speak for each House, to defend the rights of MPs and Peers, and perform an ambassadorial function, linking Parliament with the people it serves.

This briefing paper brings together the ideas and recommendations of more than 20 years worth of research on Parliament by the Hansard Society. The Hansard Society is the UK's leading independent, non-partisan political research and education charity. We aim to strengthen parliamentary democracy and encourage greater public involvement in politics.

We are happy to invite analysis and discussion of the views put forward in this paper. For more information, contact Dr Ruth Fox, Director of the Parliament and Government Programme at the Hansard Society.

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