

FIRM FOUNDATIONS FOR A NEW POLITICS?

The Governance of the House of Commons after the MPs' expenses crisis

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Executive summary

The expenses scandal put the way that Members of Parliament had been governing themselves into the spotlight. The media rapidly gave the public hundreds of examples of the ways in which MPs had been able to spend public money for years without effective scrutiny. The hurried response was to create the Independent Parliamentary Standards Authority (IPSA) and outsource the payment of MPs' expenses, and later their salaries. Tensions remain around the creation of IPSA and its early operation, but this report focuses on the rest of the administration, with its failed checks and balances, that remains in the House of Commons.

This report is an assessment of the state of that Administration one year on, and its ability to respond to the challenges that it now faces. We have worked with members of the Commission and House Service and have been pleased to see recent progress, particularly in the recent publication of a very encouraging new five-year strategy. We are also surprised, however, by the weaknesses that remain in the governance of the House Administration and by the lack of urgency in tackling remaining risks to the reputation of the Commons.

The House experienced a series of shocks in the final 18 months of the last Parliament. In November 2008, Damian Green MP's House of Commons office was searched by police without a warrant. Then, in May 2009, the *Daily Telegraph* published details of MPs' expenses claims to widespread public anger. As a result, the Speaker, Michael Martin, was forced to resign in June 2009.

The combined effect of these events should provide a mandate for change. If further reasons are needed, we would argue that the House does not currently meet generally accepted standards of good governance, and that a fresh approach is needed to reflect the new government's emphasis on transparent, clean politics.

In this report we make the case for a re-interpretation of the principle of self-regulation. We argue that the House of Commons needs to move away from the current, almost totally, insular model of governance of MPs, by MPs and for MPs. Instead we suggest that MPs use their ability to agree their own governance arrangements to create a more open, transparent model which has the confidence to welcome external scrutiny and challenge as a benefit rather than see it as a threat.

Our recommendations are that the House of Commons:

- increases the levels of transparency and accountability for the House Administration.
- improves its capacity and capability to respond to the quantity and complexity of the changes ahead of it.
- improves its ability to identify and respond to reputational and financial risk.

Summary of recommendations

Accountability and scrutiny

- 1. The House, National Audit Office and HM Treasury should agree and pass legislation to give the NAO full audit and value-for-money powers.
- 2. The Commission should include two or three non-executives, and the Management Board an additional one or two non-executives.
- 3. Public hearings should be held on the administration of the House by a specially augmented Public Accounts Committee.

Capacity and capability

- 4. The role of the Speaker needs to be properly assessed and new support put in place to enable him to properly carry out the full range of his responsibilities.
- 5. The Commission should include MPs with the skills, experience and time to take particular responsibility for financial management, reform and public engagement.
- 6. The Office of the Chief Executive should be expanded (by, for example, four or five people) to include an explicit mandate for managing change and reform.

Managing risk

- 7. In order to ensure that the House is put on a firm footing going forward, an external reviewer with financial, audit and business management experience should be brought in for a short period to carry out a thorough financial health check on behalf of the Commission.
- 8. Any other issues that could pose a risk to the House's reputation need to be identified as a matter of urgency and brought to the attention of the Commission for decision.

The Administration of the House of Commons

Responsibility for the administration of the House of Commons rests with the House of Commons Commission, which consists of the Speaker (who is the Chair), the Leader of the House, the Shadow Leader, and three other MPs (who cannot be Ministers on appointment). The Commission delegates some of its responsibilities to a Management Board, which consists of the Clerk (who is the Chair), the five heads of the House Service Departments (Chamber and Committee Services, Information Services, Information and Communication Technologies (ICT), Resources and Facilities) and a non-executive member. The Clerk is also the Chief Executive and Accounting Officer and is supported by a small Office of the Chief Executive (approx 20 people)

For the purposes of this report we refer to the combined leadership of the Commission and the Management Board as 'the Administration'. It has a budget of £219mⁱ for 2010/11 and a staff of 1,700 peopleⁱⁱ. It provides the services of the House including supporting Select Committees and the Chamber itself, running the House Library, IT services (shared with the House of Lords) and catering facilities, maintaining the Palace of Westminster (which is a World Heritage Site) and providing human resources and financial support to the organisation.

Recent history

Significant weaknesses in the governance of the House of Commons were revealed following the expenses scandal (May 2009) and, to a lesser extent, by the search of Damian Green's office without a warrant (November 2008). These were particularly high-profile events, but problems had previously been highlighted in a series of reviews of the Administration – the most recent of which was the Tebbitt Reviewⁱⁱⁱ (June 2007).

The Tebbitt Review found examples of progress that were 'encouraging and reassuring'' but also revealed that there had been slow implementation of previous recommendations and, of particular relevance to this report, that more needed to be done to strengthen the leadership of the Administration and the independence of the audit functions'. Tebbitt highlighted the absence of sufficient external pressure for change. "...the House of Commons Service has not experienced the same level of external pressures experienced by Government Departments or commercial organisations in recent years, whether from resource constraints, demands for improved quality of public services, or changes in the marketplace. There is no similar compulsion or 'burning platform' to implement management reform."

Almost three years after the Tebbitt Review, and following the arrest of Damian Green, the 'Report on Police Searches on the Parliamentary Estate' in March 2010^{vii} concluded that "there were lapses in communication, induction and lines of accountability and responsibility at the very top of the organisation^{viii}". Between them the Serjeant at Arms, Clerk of the House and Speaker had not grasped the significance of what was about to happen, and police activity within the Palace of Westminster had moved out of their control.

Speaking to the Women's Institute on 2 June 2010, the newly re-elected Speaker, John Bercow, candidly added to these assessments and once again acknowledged the weaknesses in the administration. "The events which led to the expenses explosion last year were symptomatic of a failure to make a transition from private club to public institution. We were not as internally democratic as we could have been, nor as open and transparent to the outside world as we should have been".

This is a welcome admission but the key question is how the Administration has responded to each failure. Two exercises took place. A Select Committee was established to consider the Damian Green situation^{ix}, and the non-executive member of the Management Board was asked to review progress since the Tebbitt Review. While the expenses affair has been widely covered by the media, the House itself has not conducted a 'lessons-learnt' exercise, choosing to view the creation of IPSA and the general election as sufficient catharsis. However, neither of these allow the House to identify and respond to weaknesses in the systems that remain in the Commons and the House makes itself vulnerable by continuing to avoid these difficult questions.

We recommend that MPs examine the following three areas in order to ensure that the organisation that underpins their everyday lives does not fail again.

Accountability and scrutiny

The Commission publishes an annual report and accounts. There is also an annual MPs' debate on its work and a regular slot for questions in the Chamber, which are answered by a nominated member of the Commission. Brief minutes of Commission and Management Board meetings are also published on the Parliament website.

The National Audit Office does not have a statutory basis to carry out audit or value-formoney studies in Parliament after Parliamentarians excluded themselves from the terms of the Government Resources and Accounting Act 2000 and the National Audit Act 1983. The Commons has agreed to such reports on a voluntary basis but this allows it to limit the scope of the NAO's work and to control publication of its findings. We recommend that the House removes these limitations and becomes subject to both the regime of full audit and that of economy, efficiency and effectiveness. This would require a short piece of legislation to create an equivalent for the House of the Government Resources and Accounts Act 2000 audit powers, and the value-for-money powers in the National Audit Act 1983.

There are no non-executive members on the Commission. The Management Board has one non-executive member and counts the Head of the Parliamentary ICT Service as a second, although the latter is clearly not fully external or non-executive. Good practice suggests that "the board should include independent non-executive members to ensure that executive members are supported and constructively challenged in their role. There should be a minimum of two independent non-executive members, ideally more^x". The rest of the public and the private sector acknowledge that non-executives bring enormous value, expertise and perspective to an organisation.

The annual debate on the work of the Commission provides some opportunity for scrutiny and challenge. However, it is often poorly attended and (as it takes place in either the Chamber or Westminster Hall) the Clerk and other members of the Management Board cannot answer questions, leaving it to the nominated MP member of the Commission to answer for the entire Administration. In its duty to hold Government to account, the House operates a far more stringent system through a well-developed Select Committee system. Select Committees can commission their own research, have access to independent evidence from the NAO and others, and are able to question independent witnesses and people at any level in an organisation.

Capacity and capability

There are two key leadership roles within the Administration: the Speaker and the Clerk. These two individuals represent the centres of power within the House and reflect the importance of the Chamber itself. In addition to the Speaker and the Clerk, the Leader of the House represents the Government. His leadership role within the Administration is not as formal as that of the Speaker or the Clerk, but in practice no significant decision can be made without his support.

The Speaker is politically impartial and is the Chief Officer and highest authority of the House of Commons, whose primary role is to preside over debate in the Chamber. He also represents the House with visiting dignitaries, has a substantial outreach programme and a significant role to play in the relationship between the House and the Electoral Commission, the Parliamentary Commissioner for Standards and the Independent Parliamentary Standards Authority. This gives the Speaker a potentially powerful leadership position, but the Chairmanship of the Commission inevitably receives only a limited amount of his time.

The Clerk of the House is the principal adviser to the House, and to the Speaker, and he spends part of each day in the Chamber. In giving evidence to a Select Committee in November 2009, the current Clerk estimated that approximately 70% of his time is spent on his role as Chief Executive^{xi}.

Neither the Speaker nor the Clerk is therefore entirely dedicated to the running of the House, which makes it all the more important that they are supported by systems, processes and staff of the highest quality. The new Parliament presents a clear opportunity to reassess the task and match it with some stronger capabilities.

Managing risk

The expenses scandal exposed two major areas of risk that the House has not yet done enough to respond to. The first was a lack of proper financial control and the second was a series of misjudgements about public expectations and the power of the media to hold these up in minute detail. The pending election distracted and complicated the ability of the Administration to properly reflect on these weaknesses, but in our view more should have to be done to ensure that remaining risks were removed. There has been no comprehensive exercise to identify further risks to reputation, and (given the absence of a statutory basis under which the NAO can operate) no external view about whether, post IPSA, the House's financial controls are now fit for purpose.

While MPs' expenses have now been exported to IPSA, there are a number of other areas which the public may judge to be below the standards that they now expect. A few examples include the provision of subsidised food for MPs, and the sponsoring of All Party Parliamentary Groups and their overseas trips by organisations with a political agenda. The Speaker raised the second of these as being something that concerns him during Q&A after his speech to the Hansard Society on 9 June 2010. The House has recently moved to begin to address these concerns (see next section). The late payment of MPs' restaurant bills was revealed by a Freedom of Information (FOI) request that was published on 19 May 2010, and the Commission has now tightened the rules to make it impossible for MPs to run up bills for so long in the future. Each of these, and other examples like them, need to be examined in the light of the post-expenses era, and hard decisions need to be made where they fail the test of probity or proper use of public money.

New challenges

The House of Commons has a substantial and complex set of changes to navigate during the rest of this Parliament. It is starting from a difficult position and needs to recover from the events of the last 18 months, not least by working out how to begin to improve its reputation among the public. In June/July 2009 (just after the expenses scandal broke) the Eurobarometer survey found that only 17% of the British public trusted Parliament, a fall of 11 percentage points since the previous survey earlier the same year. This compares unfavourably with France at 33% (up 2 percentage points), and Germany at 46% (no change)xii. The Hansard Society's Audit of Political Engagement shows that Parliament suffers from a generally low public opinion – since 2004 around 62% of the public think it needs improving either 'quite a lot' or 'a great deal'. The expenses scandal pushed this dissatisfaction up to 75% in May 2009; by 2010 it had begun to improve but was still at 69%xiii.

In order to rebuild public confidence in politics and politicians, the new Government has set out a very extensive programme of change, much of which will affect the House of Commons either directly or indirectly.

Proposals include introducing fixed-term Parliaments; a referendum on the alternative vote system for the House of Commons; creating fewer and more equally sized constituencies; enabling petitions to be debated or brought as a Bill; a new public reading stage for Bills; and developing proposals for a wholly or mainly elected second Chamber. There are also measures that will affect individual MPs, including supporting people with disabilities to become MPs; introducing a power for people to recall their MP; introducing a statutory register of lobbyists; preventing the misuse of privilege in cases of serious wrongdoing; and working with IPSA to reduce final salary pensionsxiv.

Alongside these specific proposals there is also a desire for a renewed emphasis on integrity. The Prime Minister's foreword to the new Ministerial Codex reflects the urgent need for politicians to be both different and to be seen to be different following the election campaign. "Our new government has a particular and historic responsibility: to rebuild confidence in our political system. After the scandals of recent years, people have lost faith in politics and politicians. It is our duty to restore their trust. It is not enough simply to make a difference. We must **be** different." Further on, the Prime Minister adds that Ministers must be "Careful with public money. Transparent about what we do and how we do it. Determined to act in the national interest, above improper influence."

These statements of intent are important for two reasons:

- Firstly, they set high standards for the Executive that the public will expect the House of Commons to meet.
- Secondly, the leadership and administration of the House needs to be able to prepare for the practical consequences of these changes and to understand the financial and other organisational challenges that they will bring.

The House will need to reduce its budgets as part of the overall deficit-reduction plan, and be able to demonstrate increasingly high levels of value for money in the services that it provides. The new strategy, makes an initial commitment to cut costs by 9% by 2012/13. As well as being a financial challenge, this will start to question the very strong customer satisfaction ethos that the House Service has focused on for the last few years and will bring it into conflict with those MPs who will resist potential reductions in services.

While all this change takes place, the House of Commons will also have to continue to deliver business as usual and to serve its two primary purposes: to legislate and to hold the executive to account. This involves an enormous logistical and procedural challenge that the House Service manages very successfully. In 2008/09; 24,508 columns of debate were recorded in Hansard; Select Committees met 1,123 times; 41,083 enquiries came in to the Information Office; 78,957 publications were sent out by the Education Service; and over 300,000 people visited^{xvi}.

Finally, as if the above list was not enough, the House Administration needs to deliver all of this in a hostile media environment and to a cynical public. This means that changes will have to withstand serious scrutiny and sometimes unfair criticism. While it may be impossible to gain much credit in the current climate, the best chance will come when meaningful change is combined with expert communication.

Recent progress

In the first few weeks of the new Parliament there have been encouraging signs of change:

- The House has just published its new five-year strategy, 'New Parliament, Strategy for the House of Commons Service 2010 to 2015^{xvii'}. This represents a real advance from the last strategy. In particular, that the focus is now outward looking, including an aim to increase public respect for Parliament, rather than inward looking and concerned primarily with providing services for MPs.
- The Commission has reduced the generosity of MPs' catering arrangements in two ways: outstanding bills are now deducted from MPs' bank accounts if they are not paid within a month^{xviii}, and the size of the catering subsidy has been reduced by £500,000^{xix}.
- The budget for overseas travel by Select Committees has been reduced by £800,000^{xx}.
- The non-executive member of the Management Board has been appointed as Chair of the Administration Audit Committee and the Members Estimate Audit Committee, ending the tradition of an MP member of the Commission taking the role.
- In response to the 'Report on Police Searches on the Parliamentary Estatexxi' a clear line of accountability has now been agreed, meaning that the Serjeant at Arms now reports to the Clerk Assistant who, in turn, reports to the Clerk of the House^{xxii}.
- Changes are under way to modernise the Speaker's private office.

- Minutes of Management Board meetings will now be published on the internet.
- The Commission and the Management Board have agreed that there needs to be a change in organisational culture, and in the relationship between staff and Members. This includes a recognition that the old culture – in which staff did not feel able to challenge Member decisions about the House Administration, or to promote a strong agenda for the House Service, on the ground that this would appear political – did not serve the House, or Members, well, and needs to change. The Commission has agreed that this should start at the top, with a closer and more open relationship between the Commission and the Management Board and a clearer understanding of their mutual roles^{xxiii}.

In making these changes, and in the implementation of the Wright Committee reforms^{xxiv} the House has shown that it can respond to new ideas and deliver change. The question is whether it can do so more quickly and without the extreme external pressure that the expenses scandal provided.

Lord Norton of Louth argued in November 2009 that "a number of conditions have to be met for significant parliamentary reform to be achieved (as in 1979): a window of opportunity, a reform agenda, leadership, and political will. Ultimately, though, schemes of reform count for nought if Members themselves are not willing to embrace and sustain such reform. Without political will, the House cannot enhance its capacity to scrutinise government and engage more effectively with the public. The present public mood may (and I hope) engender the political will"xxv.

How big is the current window of opportunity and how long will the political will last? We have outlined a set of circumstances that should keep the burning platform ablaze. Public confidence is still very low, budgets need to be cut, complicated political and constitutional change needs to be translated into actions that the public will notice and approve of, and the House must avoid any further damage to its reputation.

Members of Parliament themselves will be responsible for deciding whether they 'embrace and sustain' reform (in the words of Lord Norton). The House has begun to make changes, and they are very welcome, but they are not yet enough.

Recommendations for change

Accountability and scrutiny

Self-regulation is a highly valued principle in both Houses of Parliament and it has become synonymous with excluding people who are not Members of each House from the governance of that House. The consequence of this is that the House of Commons has effectively declared itself exempt from many of the standards that it insists on for other parts of the public and private sector. Recent events suggest that this model is not working for either MPs or the public and that the House needs to re-interpret the principle of self-regulation as an opportunity to design and implement a stronger system for itself.

As part of the Budget Statement on 22 June 2010, the Chancellor of the Exchequer announced that "In addition, the Royal Household has agreed that, in future, Civil List expenditure will be subject to the same audit scrutiny as other Government expenditure, through the National Audit Office and the Public Accounts Committee of this House of Commons. I believe that this will mean clear accountability in this House and that it will strengthen public confidence". xxvi"The House of Commons must surely now accept that these arguments apply equally to

Parliament represents the highest level of accountability for much of the rest of the country and it is not straightforward to work out how it should be held to account for its own administration. However, the House of Commons should find a way to open itself to greater public scrutiny and to regularly include the views and concerns of the general public. One option would be for the Public Accounts Committee (PAC) to hold hearings, based on the reports that the NAO would be providing on a statutory basis. The PAC could invite a small number of people who are not MPs to add to the questioning and ensure that the views of the public are represented. This 'PAC plus' model could build on the existing strengths of the PAC with adaptations to prevent the weaknesses of the current insular model from reappearing.

The Commission might also like to consider following the example of the Welsh Assembly and the Scottish Parliament, both of whom publish online the papers considered at each of their equivalent meetings.

- 1. The House, National Audit Office and HM Treasury should agree and pass legislation to give the NAO full audit and value-for-money powers.
- 2. The Commission should include two or three non-executives, and the Management Board an additional one or two non-executives.
- 3. Public hearings should be held on the administration of the House by a specially augmented Public Accounts Committee.

Capacity and capability

The House of Commons Administration has a formidable task ahead of it. It needs to play its part in demonstrating high standards of political probity while engaging with, and responding to, a very ambitious reform programme – as well as cutting its budgets. Making the most of these opportunities and avoiding further risks to its reputation is a significant leadership challenge, and key aspects of the current model will need reinforcing to be fit for this new task.

The Speaker has a pivotal leadership role in his Chairmanship of the Commission. His ability to provide clear leadership and to make decisions based on evidence will be a critical factor in the success or failure of the Administration. A reforming Speaker therefore needs to be supported by a reformed office. This is likely to require a small number of high-quality private office staff who are able to analyse information, build relationships, shape strategy and pursue progress on his behalf.

The key individuals of the Commission (the Speaker, Leader and Shadow Leader) all have significant other responsibilities. The three other MP posts therefore become key sources of additional capacity. This presents an opportunity to appoint MPs who have significant public or private sector experience of financial management, change management and public/media engagement, as well as the time and inclination to devote significant attention to Commission business. It is also an opportunity to include newly elected MPs who could bring recent external experience and represent the 227 new Members in this Parliament.

The House faces an extremely challenging period and the Administration will need strong change management and strategic support to enable it to make the right decisions with the correct information at the right time and to then properly follow through with action. The Office of the Chief Executive has made real progress since the Tebbitt Review but it remains under-resourced to properly support the Leadership in the years ahead. This would be a good opportunity to bring in on secondment, a small number of staff with strategy and change management experience.

- 4. The role of the Speaker needs to be properly assessed and new support put in place to enable him to properly carry out the full range of his responsibilities.
- 5. The Commission should include MPs with the skills, experience and time to take particular responsibility for financial management, reform and public engagement.
- 6. The Office of the Chief Executive should be expanded (by, for example, four or five people) to include an explicit mandate for managing change and reform.

Managing risk

The damage that the Commons sustained at the end of the last Parliament puts a very high premium on preventing further damage in this one. The Administration needs to actively identify risk, ask itself hard questions before others do, and make quick decisions when problems arise. As a first step, the House should systematically look for further risk in the two areas already revealed to be weak: reputation and financial control. For the latter, we recommend that it should seek external and independent assurance that its financial systems are now fit for purpose.

- 7. In order to ensure that the House is put on a firm footing going forward, an external reviewer with financial, audit and business management experience should be brought in for a short period to carry out a thorough financial health check on behalf of the Commission.
- 8. Any other issues that could pose a risk to the House's reputation need to be identified as a matter of urgency and brought to the attention of the Commission for decision.

Conclusion

Political reform is at the heart of the new Government's agenda and a cleaner politics has been promised by all the major parties. The stage is set for a serious debate about the electoral system, the House of Lords, and moving power away from Westminster and towards the public. In order to enable both Parliamentarians and the public to focus on this debate, rather than be dragged back to examining the inner working of the House of Commons Administration, the House needs to do more to strengthen its governance and improve its capacity to manage change and deal with risk. These were the foundations that crumbled in the last Parliament; they must be rebuilt now.

If the House pursues this agenda urgently, it will demonstrate that it has not forgotten the public's anger over the expenses scandal and that it is setting and enforcing its own high standards. If, on the other hand, it does not change we believe that there is a real danger that weak governance, insufficient change management and poor risk management will give the public more reasons to mistrust the people that they elect.

The Institute for Government has a keen interest in this area and will continue to monitor the progress of the House over the coming months.

Endnotes

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