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### Democratic Audit & Patrick Dunleavy

## Reinventing Parliament : making the Commons more effective part 2 : practical reforms to make the Commons more effective

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# Reinventing Parliament: Making the Commons more effective

A joint report by Charter88, Democratic Audit & Professor Patrick Dunleavy

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## PART TWO

# Practical reforms to make the Commons more effective

by Professor Patrick Dunleavy

Revitalizing Parliament is a key step in restoring greater checks and balances to the British government system as a whole. But to achieve worthwhile improvements from where we are now will not be easy. Despite its ineffectiveness in policy terms, and the low regard in which it is held by many ministers, civil servants, outside commentators and increasingly the public at large, the House of Commons is a proud institution, which attracts strong loyalties from insiders. MPs are extremely sensitive about outside criticisms, partly because they have invested a large part of their lifetimes in fitting into existing arrangements, either as frontbenchers, aspirant frontbenchers or 'career' backbenchers. They experience the weight of tradition as a blanket on imagination that things could ever be done differently, an effect as evident in the Labour, Liberal Democrat and nationalist party ranks as it is among Tory members.

To counter this weight of institutional inertia and pessimism, effective reforms must be easy to implement, not requiring changes in legislation or major alterations in Commons standing orders - for there is unlikely to be either debating time or sufficient consensus between the major parties' MPs to sustain far reaching proposals. Viable reforms must also be incremental, building on those positive changes and trends within Parliament which have already become evident over the last decade and a half. And finally, any changes which are to be feasible must offer some significant incentives to MPs, holding out the prospect for backbenchers in particular to improve the interest of their work, their public standing and practical influence over policy-making. Reforms which 'go with the flow' of MPs' existing efforts to rebuild their policy influence are likely to be the most useful in helping the Commons to rebuild an overarching 'corporate' identity, coming out from the shadow of excessive control by the government and the parliamentary political parties.

Since the start of the 1980s there have been two main positive developments in the Commons competences, both involving Parliament's grip on the government's executive actions, which previously were very weakly scrutinized by haphazard and episodic select committees.

First, during 1979-80 Norman St John Stevas piloted through a major reform, the introduction of a comprehensive system under which each major Whitehall department is scrutinized by a permanent select committee. Since then select committees have steadily built up their influence and competences, seeking to produce unanimous reports, regularly calling ministers and civil servants to give evidence, and producing some insightful and influential reports. The main limitations on their work have been their extremely slender staffing resources, which forces them to rely heavily on external consultants and interest groups in assembling evidence, and the fact that at present committees have no

sanctions or powers of their own. They can compel ministers and some civil servants to attend, although whether they can force civil servants to tell the truth about issues uncomfortable for ministers is still keenly disputed. But at present committees simply publish their reports, and wait for the government to give a response - without the committee report feeding in directly or regularly to the business of the Commons as a whole.

The second major reform, again dating from the period of the first Thatcher government, was the introduction of 'value for money' audits by Parliament's own top-level auditing agency, the National Audit Office (NAO) in 1983. Reporting to the Commons' Public Accounts Committee (the PAC), NAO's critical grip has greatly improved in the last few years. Now the best NAO reports (such as the 1995 report on the Immigration Services) present a very authoritative picture of policy implementation, offering not just the PAC but MPs as a whole a very valuable, independent insight into how government is working. To appreciate the huge gap which the NAO's work has filled, it is worth recalling that it was only in 1985 that Parliament began to receive any genuinely reliable information on the progress and costs of major defence procurement contracts, now institutionalised in a key NAO annual report.

Building on these two encouraging trends, there is scope for enacting four further important reforms which would develop the Commons' ability to hold the executive to constructive account:

- giving the select committees a pre-legislative role;
- boosting the select committees' prestige and independence;
- creating policy review staffs for select committees; and
- focusing the Public Accounts Committee's work on general management and inter-departmental issues.

### **1. Giving the select committees a pre-legislative role**

If the Commons is to regain some of its lost policy influence the achievements of the select committees need to be linked to the development of legislation in some way. At present, the two aspects of parliament's work are completely separate. The emphasis upon achieving unanimity has led many select committee chairs to religiously avoid any topics or issues which might be controversial in party political terms, as most important legislation will be. For example, in the late 1980s the chair of the Environment Select Committee Sir Hugh Rossi repeatedly declined to let his committee get involved in any way in assessing the introduction of the poll tax - because Tory and Labour MPs were so certain to disagree. In the event the 'Rossi doctrine' made its own important contribution to one of Britain's largest and most avoidable policy disasters, which cost taxpayers a minimum of £0.5 billion in completely wasted implementation costs.

Overcoming this otherwise crippling limitation, and giving the select committees a role in informing debates about prospective legislation, yet without jeopardizing their carefully nurtured bi-partisan approach, will require careful management. But one approach which could work well is to give select committees rather than government departments the responsibility for collating and organizing responses to government Green Papers (which announce the outlines of proposed legislation). At present the

minister and department in charge of a forthcoming bill publish the green paper, collect together the comments made, consulting privately with some groups and ignoring others. The department then publishes a highly sanitized summary of them before announcing any changes they have made in a further and more detailed White Paper. Most of the comments made do not reach the ears of MPs as a whole, nor get much press publicity. And Britain has no 'sunrise' legislation requiring ministers to reveal all the evidence they considered when making policy decisions, so that the influence of groups with private access to ministers goes undocumented. At the critical formative stages of policy-making, major interest groups and others involved in the policy area have no ready public forum for articulating their positions in a constructive fashion, nor any venue where they can in turn be critically questioned in the public view about their evidence.

A substantial improvement in these arrangements is fairly straightforward to enact by a resolution of the House of Commons. Ministers would publish the green paper as now, but the task of collecting and organizing comments, enquiring into them and summarizing their overall character would fall to the Commons' select committee covering that department. To help them in this onerous task, departmental civil servants would be seconded to work with the select committee (rather than ministers) on collating and summarizing the comments. The committee could hold hearings, ask ministers and civil servants to justify their analysis and assumptions in the open, and provide a key forum where the views of major social interests would also be publicly expressed and questioned. The committee's published report on the consultation process would provide an independent and authoritative summary of all the evidence and reactions. It would explore the possibilities of achieving the largest feasible consensus, and it would require a considered public response from ministers and their senior officials. The evidence from Scandinavia and Germany is that this method of working can considerably improve policy-making and help government ministers and departments to adapt policy better without losing face.

## **2. Boosting the select committees' prestige and independence**

The departmental select committees already operate in a somewhat more independent manner than any other aspect of Parliament. But further changes to prevent excessive partisan influence over their deliberation are a necessary condition for the Commons' influence to increase. At present both the government and opposition whips play an unhelpful role in the select committees' operations, often delaying the start of their operations for up to six months after a general election, trying to influence who gets appointed to which departmental committee, and sometimes seeking to ensure that what gets said in committees by their MPs conforms with party policy.

Parliament needs to strengthen the rules which govern the committees' operations to ensure that they are very promptly and automatically set up after a general election, that the whips' influence is rigorously excluded from influencing which members serve on each committee, and that the whips are absolutely prohibited from seeking to influence what goes on in committee sessions, or involving MPs conduct there in any disciplinary proceedings. Making the allocation of committee chairs proportional to parties' MPs in the Commons would also be useful in opening up the possibility for Liberal Democrat or other third party chairs.

Two other changes will foster the committees' prestige and bring their status within Parliament into line with their existing important role:

First, select committee chairs who bear the burdens of much report writing and careful management of staff and committee members should be paid proper additional salaries at least on a par with those of ministers of state, to reflect the importance of their role in the overall policy development process. By creating an alternative career path capable of attracting the best parliamentary talent, this change would greatly enhance the committees' influence.

Second, the select committees have functioned for a decade and a half now without any fixed or definite linkage between their activities and the debates of the Commons as a whole. The argument that the Commons' timetable is too tightly packed to permit of any alteration is regularly belied by 'full' House debates attended for hours on end by only a tiny handful of members (a sight increasingly familiar to TV viewers). A long overdue reform would be to allocate each select committee, and the PAC as well, two whole House slots per parliamentary session to use as they choose - for debating one of their normal reports, considering their pre-legislative scrutiny of a green paper, or reviewing the department's administrative efficiency in the light of an NAO report. Each slot might be an hour long and be timetabled after question time to attract the best possible audience. Whatever detailed arrangements are adopted, the committees' powers must be expanded along with their competencies.

### **3. Creating policy review staffs for select committees**

Parliament does not make effective enough use of the information which it already produces about government, in particular the 'value for money' work of the national Audit Office, which absorbs around 300 highly qualified staff and costs the taxpayer around ?¼ million annually. An immediate and hugely valuable improvement would follow from simply routing most NAO 'value for money' reports covering a single department to the relevant department select committee, instead of sending them all to the Public Accounts Committee (PAC) as at present. Currently exclusive PAC consideration of NAO material is a great constraint on Parliament getting the most effective use from it. The NAO produces around 50 quite detailed reports per parliamentary session, only half of which are considered by the PAC in very brief and rushed hearings, allocating less than two hours consideration to each report. The PAC's 15 members are also generalist MPs, trying to cover the full range of government policy areas, and understandably enough failing for the most part.

If single-department NAO reports went instead to select committees, then each report could be carefully considered at greater length by MPs who are expert in the policy areas under discussion. The key policy-relevant work of the NAO staff would immediately become vastly more influential. At present ministers and departments have split accountabilities, to an almost unstaffed select committee specializing in their area, and much more episodically to the PAC, which is burdened with far more information than its members can ever possibly absorb or make use of. Under the new arrangements ministers and officials would know that they must account to much better informed select committees who would effectively be equipped at a

stroke with their own substantial policy review staffs (averaging around 15-20 people).

Making this change in the routing of NAO reports can be done immediately and at virtually no net cost. The head of the NAO, the Comptroller and Auditor General, is an official of Parliament as a whole, and it is only matter of convention that NAO reports at present go solely to the Public Accounts Committee. Already some of the more enterprising select committee chairs have asked for and received specific NAO briefings on topics which concern them, and the Chair of the PAC has already conceded in principle that NAO reports could go to select committees for consideration. A resolution of the House would suffice to make this potentially far-reaching change happen. And by simply systematizing and developing the existing haphazard arrangements under which NAO staff are seconded to help select committee clerks, and encouraging the NAO to broaden its recruitment of staff beyond its original focus on accountants to include people with policy evaluation skills, the Commons would create powerful policy staffs for the select committees at little or no extra cost - making better use of the NAO's existing substantial budget.

#### **4. Focusing the Public Accounts Committee's work on general management and inter-departmental issues**

Some readers may worry about apparently diverting resources away from the PAC, which over its 134 year history has become one of the most successful and widely respected pieces of parliamentary machinery. But when most NAO reports flow to the department select committees, the Public Accounts Committee would not suddenly become less important. For the last two decades at least the PAC has been at its most successful in picking up issues which affect a great many Whitehall departments or other public agencies - such as the procurement of information technology, the dangers of corruption in contracting, and the importance of computer security. Under the new arrangements suggested above the PAC would still supervise all the NAO's mainstream auditing work, checking that public monies have been spent on what Parliament intended - and this work accounts for around 60 per cent of NAO's 750 staff and £42 million annual budget. Freed from the burden of reviewing detailed 'value for money' reports on single department issues, the PAC could now develop its role as the parliamentary powerhouse of good management practice across the public services.

Under present arrangements the flow of detail to the PAC has stopped it from giving the smallest consideration to much larger and more pressing issues, where the scope for saving public money and improving the overall efficiency of government is actually far greater. Currently the NAO tends not to review inter-departmental issues, because the burden of 'clearing' complex reports with many different Whitehall departments is too great. PAC needs to insist that this clearance burden is reduced (or even removed altogether) so that the NAO can develop the kind of 'management review' reports produced in America by Congress's General Accounting Office. To give an example, the PAC has never in all its years of existence investigated the scale and operation of tax expenditures in the UK, although these concealed subsidies annually cost the Exchequer hundreds of millions of pounds.

A final area where PAC's role could be considerably expanded concerns the Audit Commission, a supposedly independent 'quango' set up by the government in the early 1980s to survey local government management practices. After the introduction of a health service 'quasi-market' in 1988, the Commission's role was extended to cover the new NHS bodies also, even though they are completely appointed by and funded from Whitehall. The dividing line between the NAO's work and that of the Audit Commission has never been clearly drawn, and the two bodies currently compete unhelpfully, notably in the NHS area. In addition the accountability arrangements of the Audit Commission are highly unsatisfactory. Its only current accountability obligation is to submit an annual report to the Department of the Environment. Since 1988 the DoE can no longer review the Commission's work effectively since 40 per cent of it focuses on controlling health service bodies, about which the DOE has absolutely no expertise. An obvious solution would be for the Public Accounts Committee to take on the overall supervision of the Audit Commission, ensuring that its efforts are co-ordinated with those of NAO, providing committee sessions for scrutiny of the most important Audit Commission reports, making government and public agency witnesses account directly for mismanagement uncovered, and reviewing the Commission's own performance. However, this change would require new legislation to alter the Act under which the Commission was set up, which is likely to be a barrier to speedy change.

## **Conclusions**

There is no immutable law of British politics, no feature of the British 'constitution', which condemns Parliament to ineffectiveness or to its current low rate of esteem amongst informed opinion or the public at large. By making a series of quite small and easily implemented changes, we could revitalize and rejuvenate the Commons' ability to influence policy-making. And in the process we could go a long way towards improving policy-making in central government as a whole, making it more interactive, more public and far more accountable than it has been for generations. In the light of the evidence cited elsewhere in this report, and the declining public legitimacy of an ineffective, ill-informed and toothless Parliament, the onus is now firmly on those who defend the status quo to explain why changes on the lines set out here should not happen.

This issue is not and should not become a party-political one. Nor is it strictly even a left-right issue, for people of all political persuasions can appreciate the importance of accountability and the best-informed public and parliamentary scrutiny. The two most important recent changes on which these reform proposals build both date from the first term of Mrs Thatcher's government, when many Conservative MPs were still concerned to build up the most effective system for scrutinizing central departments and the public services. This aim has subsequently been somewhat blurred by the natural defensiveness which falls on any apparently permanent party of government,



with ministers and party managers anxious not to create any future rods for their own backs. But with the prospect of party alternation in government now closer than at any other time in recent history, the time is right for an urgent reappraisal of entrenched attitudes on all sides. The reinvention of Parliament is literally within our grasp.